



Kitsap County Department of Community Development

Hearing Examiner Staff Report and Recommendation

Report Date: February 1, 2022
Hearing Date: February 10, 2022

Application Submittal Date: August 23, 2021
Application Complete Date: September 16, 2021

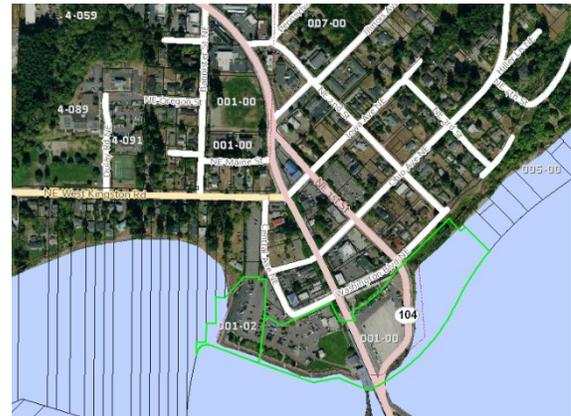
Project Name: Port of Kingston Rezone NC to UVC
Type of Application: Rezone
Permit Number: 21-04580

Project Location
25864 Washington Blvd NE, Kingston, WA 98346
County Commissioner District 1 (North)

Assessor's Account #s

4317-000-001-0207
4316-101-001-0006

VICINITY MAP



Applicant/Owner of Record

Port of Kingston
PO Box 559
Kingston, WA 98346

Recommendation Summary

County staff recommends the rezone be approved subject to the condition in section 15.

1. Background

The Port of Kingston (hereafter, "the Applicant") proposes to rezone two parcels from Neighborhood Commercial to Urban Village Center to accommodate potential future Port projects. The Comprehensive Plan Land Use Designation of the property is Urban Low-Intensity Commercial.

Rezoning is subject to Kitsap County Code 21.04.230 and is a Type IV Review.

2. Project Request

The proposal is to rezone two parcels in the Urban Low-Intensity Commercial Comprehensive Plan Designation from Neighborhood Commercial to Urban Village Center. The request is subject to a Type IV process in which the Hearing Examiner and the County Board of Commissioners have review and approval authority for the Rezone application under KCC Section 21.04.230. As outlined in 21.04.230(D), the Hearing Examiner shall hold a public hearing

to prepare a recommendation to Board. The Hearing Examiner's recommendation may be to approve, approve with conditions, remand, or deny a rezone. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner can be found in KCC Chapter 2.10. The Hearing Examiner's recommendation is transmitted to the Board, where another public hearing is held prior to the decision being rendered by the Board.

3. SEPA (State Environmental Policy Act):

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of "major" environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-800(6)(c) and KCC 18.04, the proposal is determined to be SEPA exempt.

WAC 197-11-800(6)(c):

(6). Land use decision. The following land use decisions shall be exempt:

(c) Where an exempt project requires a rezone, the rezone is exempt only if:

- (i) The project is in an urban growth area in a city or county planning under RCW 36.70A.040;
- (ii) The proposed rezone is consistent with and does not require an amendment to the comprehensive plan; and
- (iii) The applicable comprehensive plan was previously subject to environmental review and analysis through an EIS under the requirements of this chapter prior to adoption; and the EIS adequately addressed the environmental impacts of the rezone.

The proposed rezone is within the Kingston Urban Growth Area boundary in Kitsap County. The proposed rezone of Neighborhood Commercial (NC) to Urban Village Commercial (UVC) does not require an amendment to the Kitsap County Comprehensive Plan. Both zoning classifications NC and UVC are under the Urban Low Intensity Commercial Comprehensive Plan land use designation. Lastly, the current Comprehensive Plan adopted in 2016 with amendments through 2020 was previously subject to environmental review and analysis through an EIS.

4. Physical Characteristics:

The subject site includes two parcels (4317-000-001-0207 and 4316-101-001-006), both under the ownership of Port of Kingston.

Parcel number 4317-000-001-0207 is the smaller property at approximately 1.73 acres or 75,359 square feet. This property is currently used as a marina for recreational purposes. The parcel has approximately 57,000 square feet of pavement used for parking and a boat ramp built in 1999. There is an existing 160 square foot shed built in 1998.

The marine shoreline is hardened with concrete and rock bulkhead to protect the marina and parking area. Kitsap County resource maps indicate critical areas on site. The parcel is surrounded by Puget Sound marine shoreline to the west and south. The proposed rezone area has a mapped 100-year floodplain to the west, bordering Apple Tree Cove estuary embayment. In addition, the site consists of moderate erosion hazard area to the west and seismic moderate hazard area encompassing about 1.16 acres of the parcel to the southeast. Vegetation on this parcel is minimal and includes lawn grass, small shrubs, and ornamental trees in small islands in the parking lot.

Parcel number 4316-101-001-0006 is the larger property at approximately 7.11 acres or 309,712 square feet. This property is currently used for a marina and the Kingston Ferry Terminal facility. There are several buildings and improvements on this parcel including two storage warehouses built in 1968. The larger warehouse is 10,080 square feet and the smaller warehouse is 5,720 square feet. In addition, there is a 388 square feet restroom facility built in 1968, a ferry dock built in 2005, and a 350 square feet snack bar built in 2015.

Approximately one acre of this parcel is lawn grass and used for farmers markets and small outdoor events. Approximately 4.6 acres of the parcel is paved for the ferry vehicle waiting area, parking for walk on ferry passengers, and road access. Kitsap County resource maps indicate an unnamed Type F (fish bearing) stream that runs under the ferry terminal parking lot and drains into Puget Sound. The parcel is surrounded by Puget Sound marine shoreline to the south and east. The marine shoreline is hardened with rockery and concrete bulkhead to protect the ferry terminal and parking area for vehicles. This parcel has a 100-year floodplain mapped along the entirety of its shoreline and approximately 2.8 acres of Department of Natural Resources surveyed wetlands to the east. A geologic seismic moderate hazard area extends across most of the parcel. The eastern shoreline area has a mapped erosion hazard and landslide area.

5. Shoreline Master Program Environmental Designation:

The existing Shoreline Master Program environmental designation for the two parcels proposed for a rezone is High Intensity. The current and proposed rezone will remain in the High Intensity shoreline environmental designation. The following are descriptions of the existing and proposed zoning for the properties under a High Intensity shoreline environmental designation.

High Intensity Shoreline Master Program Environmental Designation

The High Intensity shoreline environmental designation is intended to provide for water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. High Intensity shoreline areas are designated within Urban Growth Areas (UGAs), within industrial or commercial limited areas of more intense rural development (LAMRIDs), in rural areas with an existing major transportation facility of statewide importance, or shorelines suitable and planned for high intensity water-oriented uses. Shoreline policies and regulations in place assure no net loss of shoreline ecological functions as a result of new development and where applicable, shall include environmental cleanup and restoration of the shoreline.

The High Intensity shoreline environmental designation fosters visual and physical public access. Aesthetic objectives are implemented by means of sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. Existing urban areas should be fully utilized before further expansion of intensive development is allowed.

Different shoreline environmental designations require vegetation conservation buffers to provide a means to conserve, protect, and restore shoreline vegetation for ecological and habitat functions as well as human health and safety. Each designation has a standard or starting buffer measured landward from the Ordinary High Water Mark. Buffers may be modified or reduced to accommodate water-dependent uses when consistent with the Washington State Shoreline Management Act, Kitsap County Shoreline Master Program, and when conducted so that no net loss of critical areas or shoreline ecological functions occurs.

Shoreline Environmental Designation

SMP: High Intensity	Existing (NC)	Proposed (UVC)
Standard Buffer Width	50 ft	50 ft
Reduced Standard Buffer Width	50 ft	50 ft
Building Setback	15 ft	15 ft
Maximum Building Height	35 ft	35 ft*

*KCC 22.400.140(B) allows for building heights above 35 ft but consistent with underlying zoning to be authorized via a Shoreline Variance.

6. Comprehensive Plan Designation and Zoning

The existing Comprehensive Plan Land Use Designation for the subject site is Urban Low-Intensity Commercial, and the Zone Classification is Neighborhood Commercial. The proposed Urban Village Center zone is also within the Comprehensive Plan Land Use Designation of Urban Low-Intensity Commercial. The following are descriptions of the existing and proposed zoning for the subject site:

a. Neighborhood Commercial Zone

These centers are intended to provide for the quick stop shopping needs of the immediate neighborhood in which they are located. These centers should be based upon demonstrated need and shall be sized in a manner compatible with a residential setting.

b. Urban Village Center Zone

Purpose – Generally. The general purposes of the urban center zones are as follows:

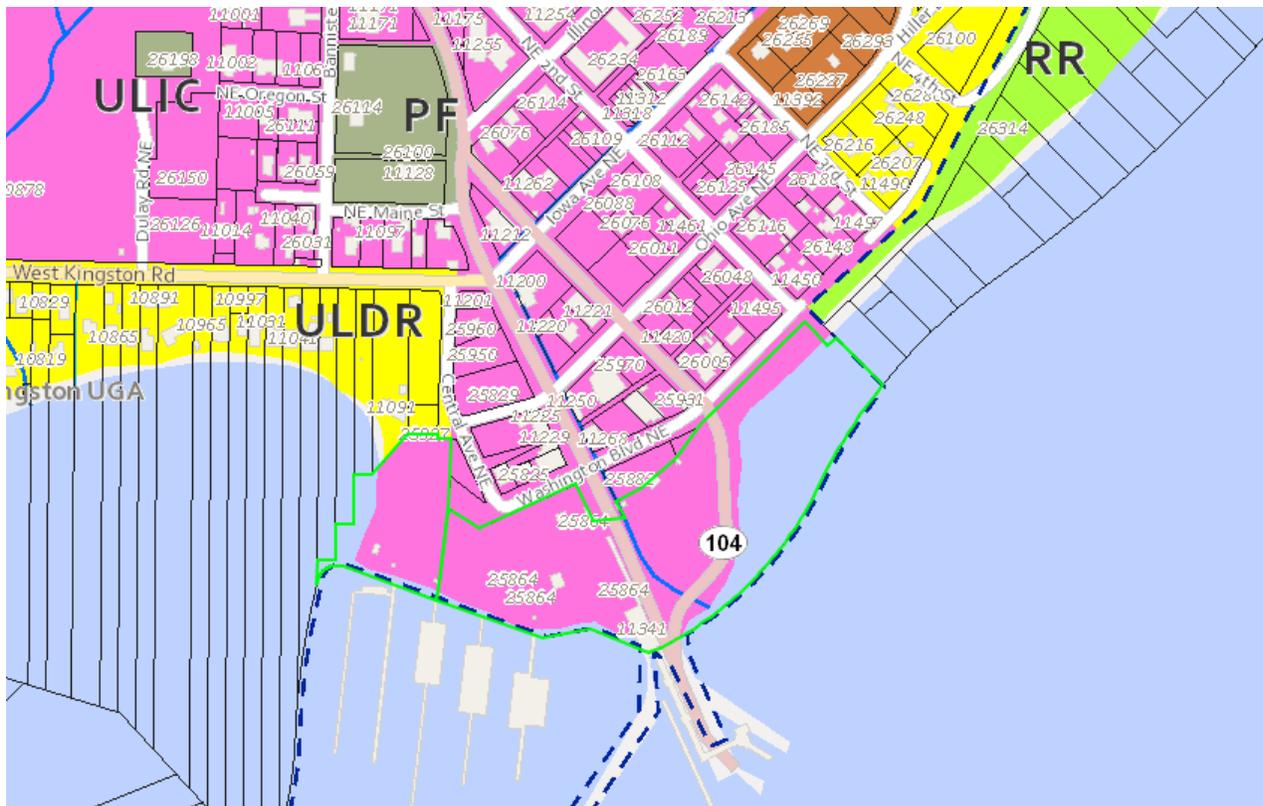
1. To foster a development pattern offering direct, convenient pedestrian, bicycle, and vehicular access between residences and businesses, in order to facilitate pedestrian and bicycle travel and reduce the number and length of automobile trips.
2. To provide for a compatible mix of single-family, multifamily housing and neighborhood commercial businesses and services, with an emphasis on promoting multi-story structures with commercial uses generally located on the lower floors and residential housing generally located on upper floors.
3. To promote a compact growth pattern to efficiently use developable land within UGAs, to enable the cost-effective extension of utilities, services, and streets, to enable frequent and efficient transit service, and to help sustain neighborhood businesses.
4. To foster the development of mixed-use areas that are arranged, scaled, and designed to be compatible with surrounding land.

Specific Purposes for the Urban Village Center (UVC) Zone. This zone provides for a compatible mix of small-scale commercial uses and mixed-density housing, typically in multi-story buildings. Development within the zone should promote neighborhood identity, by providing a range of commercial retail and service opportunities in close proximity to housing.

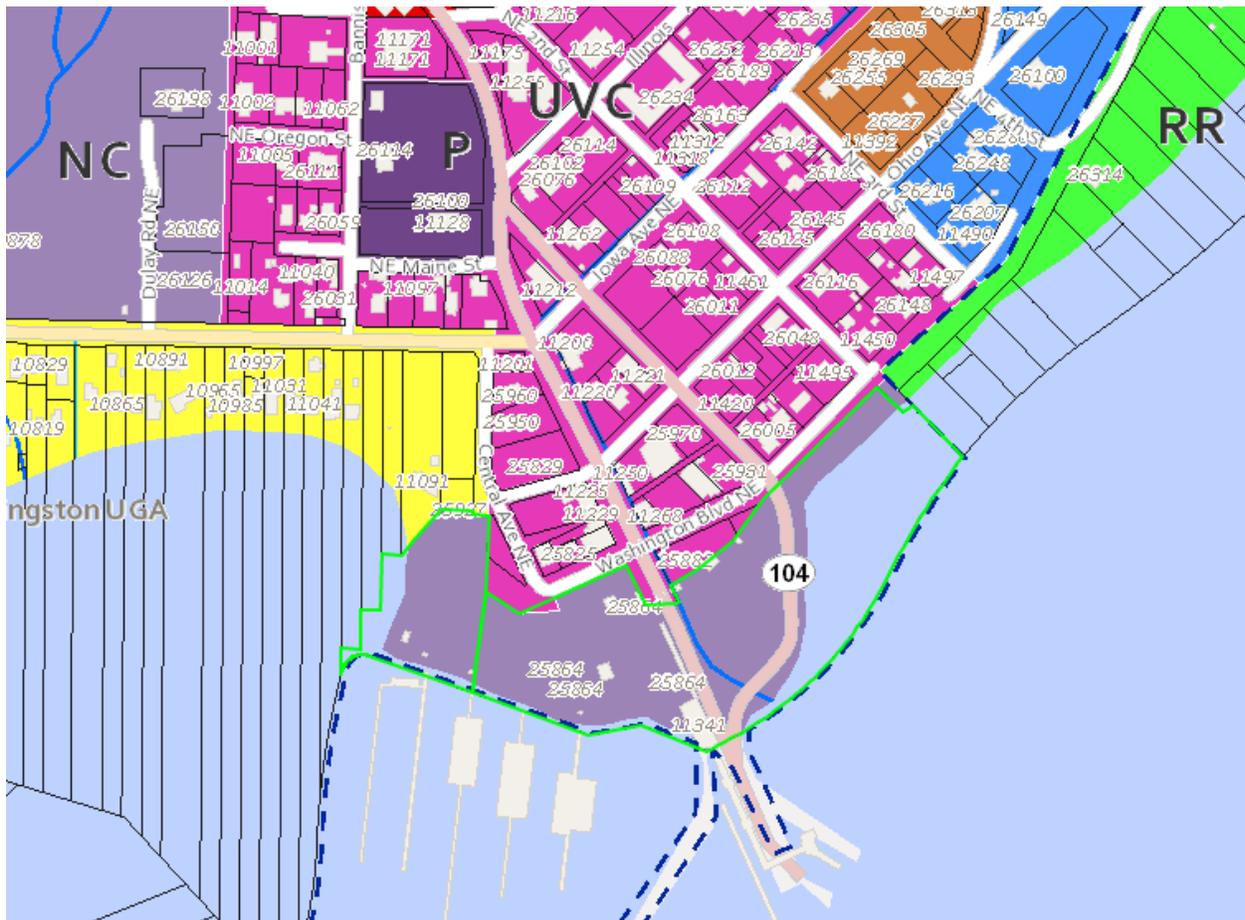
The UVC zone is intended to encourage flexible land uses, recognizing that the exact configuration of uses must be responsive to community needs and market conditions. Accordingly, commercial and residential uses may be mixed either vertically or horizontally in the UVC zone, though the more common configuration locates commercial uses on the lower floors of multi-story structures, with residential units located above. Development within the UVC zone must occur in a manner that results in the design and construction of an interconnected system of pedestrian and bicycle trails and facilities linking the development in the UVC zone to surrounding residential neighborhoods, open spaces, recreational areas, and transportation corridors.

Comprehensive Plan Designation and Zoning

Comprehensive Plan:	Existing (NC)	Proposed (UVC)
Urban Low-Intensity Commercial		
Minimum Density	10	10
Maximum Density	30	N/A
Minimum Lot Size	N/A	N/A
Maximum Lot Size	NA	N/A
Minimum Lot Width	N/A	N/A
Minimum Lot Depth	N/A	N/A
Maximum Height	35 feet	45 feet
Maximum Impervious Surface Coverage	85%	85%
Maximum Lot Coverage	N/A	Total gross floor area devoted to nonresidential use in any one structure shall not exceed 25,000 square feet.



Comprehensive Plan Land Use Designation Map



Current Zoning Map

Setbacks for Zoning District

	Existing (NC)	Proposed (UVC)
Front	20 feet	N/A
Side	10 feet	N/A
Rear	10 feet	N/A

Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Mixed use commercial/residential	UVC
South	Open Water	N/A
East	Vacant land	RR
West	Vacant land and residential	UL

Public Utilities and Services

	Provider
Water	Kitsap PUD
Power	Puget Sound Energy
Sewer	Kitsap County Sewer Utility Division
Police	Kitsap County Sherriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

7. Access

Access is available from Central Ave NE, State Route 104, and NE 1st St as well as along Washington Blvd NE

8. Site Design

The request is for a rezone, no new development is proposed at this time.

9. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

The Kitsap County Comprehensive Plan was last comprehensively amended on June 30, 2016 with annual updates through April 2020.

The following Comprehensive Plan goals and policies are most relevant to this application:

Land Use Goal 1. Focus current and future planning on infill and redevelopment of existing Urban Growth Areas.

Land Use Policy 2. Support innovative, high quality infill development and redevelopment in existing developed areas within the Urban Growth Areas.

Land Use Policy 17. Support compact commercial areas in order to encourage pedestrian and non-motorized travel and transit use.

Land Use Goal 4. Coordinate with other jurisdictions, tribal governments, agencies, special districts, and property owners to ensure coordinated and compatible land use planning and utilize Urban Growth Area Management Agreements with cities, as feasible.

Land Use Policy 20. Work with port districts to understand Land Use/Zoning designation needs and encourage new opportunities for and preservation of existing public waterfront access.

Land Use Goal 6. Direct development to designated Urban Growth Areas consistent with projected population growth, Growth Management Act and Countywide Planning

Policies while considering development patterns that reduce sprawl, use urban land more efficiently, and that incorporate feasible, innovate, and sustainable practices. Economic Development Goal 1. Promote a healthy and diverse economy that provides for a strong and diverse tax base, encourages business formation, retention, and expansion; creates industrial and professional business and employment opportunities to attract new business to the County.

Economic Development Policy 5. Work with the official county tourism agency, port districts, private sector, other qualified tourism related entities and user groups to identify current and potential visitor and event amenities and services.

Economic Development Policy 8. Promote revitalization within existing developed industrial and commercial areas.

Economic Policy 9. Encourage mixed use developments within commercial districts that will enhance the visual, economic, and environmental quality of these areas and improve the transition between commercial and residential districts.

Economic Development Goal 3. Provide for the location and design of targeted sector industry needs, transportation, port district activities as well as tourism and visitor amenities, commerce and other developments that are dependent upon a shoreline location and/or use, when the shoreline can accommodate such development.

Economic Development Policy 16. Continue to work with port districts and recognize their role as one of Kitsap’s important contributors to the County’s economic vitality.

Environment Goal 3. Reduce the risk of damage to life, property, and the natural environment through appropriate regulatory and incentive-based approaches in land use, transportation, and development engineering programs.

Transportation Policy 6. Prioritize maintenance, preservation, and operation of existing transportation infrastructure in a safe and usable state.

Kingston Policy 12. Foster partnerships with the North Kitsap Tourism Coalition, Visit Kitsap, the Port of Kingston, the Kingston Chamber of Commerce, the Greater Kingston Economic Development Committee, and other organizations to promote tourism and business development.

The County’s development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 21.04	Land Use and Development Procedures
Title 22	Shoreline Master Program

10. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1-9.

Exhibit #	Document	Dated	Date Received
1	Staff Report	2/1/2022	
2	Required Permit Questionnaire		8/24/2021
3	Project Narrative		8/24/2021
4	Notice of Application	10/22/2021	
5	Public Comments from Lynnae C. Donnen		11/1/2021, 11/2/2021
6	Notice of Public Hearing	1/26/2021	
7	Certification of Public Notice	1/27/2022	

11. Public Outreach and Comments

A Notice of Application was distributed pursuant to Title 21 Land Use and Development Procedures, which provided recipients with project information and an opportunity for public comment.

Lynnae C. Donnen responded to the Notice of Application on November 1 and 2, 2021 with the following objections to the request and which are included in the record as Exhibit 7:

- Not in favor of rezoning or commercial development of the Hill property or waterfront lot with all the trees
- Environment of Kingston and cove should be top priority, commercial development not acceptable
- All the development of Kingston over the years increased traffic, noise, drainage into the Sound, deterioration of beach and environment
- Not in favor of changes for economic development in the parking lot, no hotel/glamping

Staff Comment: Rezone proposal does not affect hill property or waterfront property with trees, only the two mostly paved parcels. Environmental concerns will be dealt with at the project application stage via SEPA and Shoreline permit requirements. Kingston is a designated Urban Growth Area, continued development of an appropriate scale is necessary.

12. Analysis

a. Planning/Zoning

Per KCC 21.04.230 applications for a rezone may be recommended for approval by the hearing examiner, and may be approved by the board if the following criteria have been met:

1. The proposed rezone is consistent with the purpose and intent of the Comprehensive Plan, respective community or sub-area plan or other applicable regulations.

Staff Analysis: The proposed rezone is consistent with the Comprehensive Plan as well as the Kingston Sub-Area plan as outlined in Section 9 above. The proposed rezone is consistent with the purpose of the Urban Village Center zone as one stated purpose for

the zone is to offer direct, convenient pedestrian, bicycle, and vehicular access, and the subject parcels are directly located where ferry terminals for foot, bicycle, and vehicle traffic occur. It also allows for compact growth pattern consistent with the surrounding area, as addressed further in 2 below.

2. The proposed rezone will not adversely affect the surrounding community.

Staff Comment: The two subject parcels are the only parcels in the surrounding area that are in the Comprehensive Plan designation Urban Low Intensity Commercial that are not zoned Urban Village Center. Rezoning to Urban Village Center will make the subject parcels more consistent with the rest of Kingston's downtown area.

3. The rezone bears a substantial relationship to the public health, safety, or welfare of the community.

Staff Comment: The rezone is proposed by the Port of Kingston in order to facilitate future development that is as yet undetermined. The Port of Kingston's mission is to "enhance the economic and social well-being of the Port District Residents by support of the economy and by providing a waterfront facility for recreation and leisure activities." Consistent with that mission, future development of the subject parcels will benefit the public health, safety, and welfare by providing additional economic development opportunities which should increase the attractiveness of Kingston as a destination. This benefits public health, safety, and welfare by creating jobs, increasing the tax base, and potentially driving additional new development to the area.

4. The proposed rezone responds to a substantial change in conditions applicable to the area within which the subject property lies; better implements applicable Comprehensive Plan policies than the current map designation; or corrects an obvious mapping error.

Staff Comment: The Urban Village Center zone is a better implementation of Comprehensive Plan goals and policies than the Neighborhood Commercial zone as the Port of Kingston's primary role is economic development and the Neighborhood Commercial zone restricts commercial development in such a manner that potential future Port development projects would be prohibited.

b. Lighting

Non-project action - lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Non-project action - off-street parking was not analyzed as part of this proposal.

d. Signage

Non-project action – signage was not analyzed as part of this proposal.

e. Landscaping

Non-project action - landscaping was not analyzed as part of this proposal.

f. Frontage Improvements

Non-project action – frontage improvements were not analyzed as part of this proposal.

g. Design Districts/Requirements

The subject property is within the Kingston Design District, but this is a non-project action. Site design will be analyzed at project-level submittal.

h. Development Engineering/Stormwater

Non-project action – development engineering/stormwater were not analyzed as part of this proposal.

i. Environmental

An Environmental Impact Statement (EIS) was prepared in conjunction with the 2016 Comprehensive Plan Update. The EIS addresses the subject property’s Comprehensive Land Use Designation of Urban Low-Intensity Commercial and as a result, the request is SEPA exempt as discussed in Section 3 of this report. Any future development proposals will be subject to environmental review.

j. Access, Traffic and Roads

Non-project action – access, traffic, and roads were not analyzed as part of this proposal.

k. Fire Safety

Non-project action – fire safety was not analyzed as part of this proposal.

l. Solid Waste

Non-project action – solid waste was not analyzed as part of this proposal.

m. Water/Sewer

Potable water is provided by Kitsap PUD and sewage disposal is provided by Kitsap County Sewer Utility.

n. Kitsap Public Health District

Non-project action. No comments received from Health District.

13. Review Authority

The Hearing Examiner and the County Board of Commissioners have review authority for this Rezone application under KCC Section 21.04.230. The Kitsap County Commissioners have determined that this application requires review and a recommendation of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, remand, or deny a rezone. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner can be found in KCC Chapter 2.10.

14. Findings

1. The proposal is consistent with the Comprehensive Plan and the zoning standards for the Urban Village Center (UVC) zone in Title 17.
2. The proposal meets the criteria for a rezone in KCC 21.04.230, as analyzed in section 11.a of this report.

15. Recommendation

Based upon the analysis above and the decision criteria found in KCC 21.04.230, the Department of Community Development recommends that the Rezone request be approved, subject to the following condition(s):

1. The approval of the Rezone application does not vest the property to current development regulations. Future land use applications will vest to applicable development regulations at the time the County issues a Notice of Complete Application for such application.

Report prepared by:

 _____ 2/1/2022 _____

Melissa Shumake, Senior Planner, PEP

Date

Report approved by:

 _____ 2/1/2022 _____

Kirvie Mesebeluu-Yobech, Planning Supervisor

Date