



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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**STAFF REPORT
And
INFORMATION TO THE HEARING EXAMINER**

Report Date: September 22, 2016
Hearing Date: September 29, 2016

Application Submittal Date: April 4, 2016
Application Complete Date: April 4, 2016

Project: Hitchman Shoreline Substantial Development
and Preliminary Short Plat

This staff report was prepared by Katharine Shaffer and Peggy Bakalarski based on information available up until the time the report was prepared. New information relevant to review of this application may become available prior to the hearing or at the hearing. Staff may wish to change their analysis based upon that new information, and reserves the right to do so.

Project Description: The proposed activity is to subdivide a .22 acre parcel into two parcels. Proposed "Lot A" will be 5,873 square feet and proposed "Lot B" will be 3,750 square feet after the division.

The subject property is located at 11009 NE West Kingston Road. It is a 50-foot x 300-foot lot running from NE West Kingston Road down to the water front on Apple Tree Cove. The zoning is Urban Low (UL) and the shoreline designation is Shoreline Residential.

Existing on the property is one single family residence, a concrete bulkhead, and recreational dock. There is an existing single family residence on the property to the east and to the west of the subject property. The lot has existing water, sewer, power, and telephone utilities.

The project will be a nominal generator of traffic as only one new home will be created. Projected traffic from the new and existing homes is not expected to have any significant impact on local traffic conditions.

Application Numbers:

16 01318 Shoreline Substantial Development
16 01319 Preliminary Short Plat Subdivision

Type of Application: Shoreline Substantial Development Permit and Preliminary Short Plat Subdivision

Application Consolidation:

Kitsap County Code (KCC) 21.04.180(A) requires consolidated review for all project permit applications related to the same proposal to provide an integrated process and avoid duplication. As a result, the Hearing Examiner has authority to review and issue a decision for 16 01318 Hitchman Shoreline Substantial Development Permit and 16 01319 Hitchman Preliminary Short Plat.

Project Request: Anthony Hitchman is requesting approval of a Shoreline Substantial Development Permit under the Shoreline Management Master Program, Title 22 of the Kitsap County Code (KCC) and a Preliminary Short Subdivision Permit under Title 16 KCC in order to subdivide, by short plat subdivision, and develop the acreage as two single-family residences (SFRs). The existing single family residence is to remain and to be counted as one of the two homes. The future proposed single family residence will be outside of the established shoreline buffer.

Assessor's Account Number: 4317-000-012-0006

Project Location: The site is located at 11009 NE West Kingston Road, Kingston, Washington, North Kitsap County; Commissioner District 1 (Section 26, Township 27, Range 2E SE Qtr). The nearest road intersection is NE West Kingston Road and Central Avenue NE. South of the subject parcel is Apple Tree Cove, Puget Sound.

Applicant and Owner of Record:

Anthony Hitchman
10447 47th Ave SW
Seattle, WA 98146

State Environmental Policy Act Status:

The SEPA comment period previously occurred concurrent with the Notice of Application dated May 4, 2016 (Exhibit 21). No comments were received. After the comment period ended, the Responsible SEPA Official issued a Determination of Nonsignificance (DNS) on May 16, 2016 (Exhibit 22). There is a scrivener's error in the SEPA determination – the heading states "Mitigated Determination of Nonsignificance" but it was determined to be a DNS.

Physical Characteristics:

The subject parcel is located south on NE West Kingston Road. Surrounding the subject parcel are residential dwellings with the exception of Village Green Metro Park to the northwest. Directed north to south, north being landward, the parcel length is roughly 206 feet from NE West Kingston Road to the waters of Appletree Cove, Puget Sound. The parcel is approximately 50 feet wide and .22 acres. An existing one story cabin (See Figure 1) is located in the central portion of the parcel. The parcel is relatively level and lightly vegetated with a few trees on the southern portion.



Figure 1. Image of the Hitchman property looking north.

Comprehensive Plan Designation and Existing Zoning:

The subject property's Comprehensive Plan designation is Urban Low - Density Residential (ULDR) and the Zoning designation is Urban Low Residential (UL) (five to nine dwelling units per acre). The intent of this zone is to recognize, maintain, and encourage urban low density residential areas by including a full range of urban services and facilities that are adequate at the time of development. This zone is also intended to create cost-efficient residential areas which are capable of allowing the provision of community services in a more economical manner.

Surrounding Land Use:

Area parcels are developed with single family residences. There are single family homes to the north, south and west with the exception of Village Green Metro Park to the northwest.

Shoreline Environment Designation:

Under the Kitsap County Shoreline Master Program (SMP), the shoreline designation is Shoreline Residential. Subdivisions and multi-single family developments may be permitted in this designation subject to a Shoreline Substantial Development Permit.

Public Utilities and Public Services:

Water: Kitsap Pubic Utility District
Power: Puget Sound Energy
Sewer: On-site Public Sewer
Police: Kitsap County Sheriff
Fire: North Kitsap Fire & Rescue District #10
School District: North Kitsap School District No.400

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 1-23.

Submittals for the Shoreline Substantial Development Permit/Preliminary Short Plat Subdivision:

<u>Document</u>	<u>Exhibit #</u>	<u>Date Received</u>
Project Application (SSDP)	1	April 4, 2016
Project Application Short Subdivision	2	April 4, 2016
Concurrent Review	3	April 4, 2016
Submittal Checklist Shoreline Permit	4	April 4, 2016
Statement of Concurrent and Proposed Use	5	April 4, 2016
JARPA	6	April 4, 2016
SEPA Environmental Checklist	7	April 4, 2016
Supplemental Application Concurrency Test	8	April 4, 2016
KPUD Letter	9	April 4, 2016
Sewer Availability Agreement #1045 Letter	10	April 4, 2016
Statement of Compliance – Second Submittal	11	August 2, 2016
Zoning Map	12	
Critical Area Map	13	
Critical Aquifer Recharge Map	14	
Comprehensive Plan Map	15	
Shoreline Designation Map	16	
Site Plan	17	
SDAP Drainage Plan	18	April 4, 2016
Aerial Map	19	
Assessor's Map	20	
Notice of Application	21	April 25, 2016
SEPA Determination of Nonsignificance	22	May 16, 2016
Staff Report	23	September 22, 2016

Staff communication:

SEPA Determination of Nonsignificance	May 16, 2016
Development Engineering Conditions Memo	May 18, 2016

Public and agency Comments: The Notice of Application was mailed to the applicant and their representative, property owners in an 800-foot radius, as well as the Suquamish Tribe, the Department of Ecology and the Department of Fish and Wildlife.

No comments were received.

ANALYSIS

Policies and Regulations Applicable to the Subject Proposal:

The Growth Management Act of the State of Washington, chapter 36.70A RCW, 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.

*Kitsap County Comprehensive Plan
Adopted December 11, 2006 (Amended December 2012)*

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

Natural Systems

Policy NS-19

Protect marine and fresh surface water resources by ensuring that development, including rights-of-way, in critical areas is consistent with the CAO, Shoreline Master Program, and other applicable local regulations.

Policy NS-36

Identify and protect habitat conservation areas throughout Kitsap County, where appropriate.

Policy NS-40

Require vegetative buffers along surface waters to protect fish and wildlife habitat. Larger or enhanced buffer areas may be required to adequately protect priority fish and wildlife species. Buffer enhancement, restoration, and/or mitigation shall be required where buffers have been degraded or removed during new development.

Policy NS-42

Encourage developers to protect continuous corridors of native vegetation wherever possible, to disturb as little natural vegetation as feasible, and to enhance or restore wildlife habitat by transplanting or planting native vegetation in the developed landscape.

Transportation

Policy T-104

Retain native vegetation as a priority.

Housing Goals and Policies

Policy HS-30

Develop and implement flexible development standards for housing being proposed in the vicinity of critical areas to meet both goals of housing targets and environmental protection.

Shorelines

Policy SH-1

Shoreline characteristics such as scenic vistas, estuarine areas, biological wetlands, beaches, and other unique biological functions, valuable natural systems and aesthetic features should be preserved and restored.

Policy SH-3

Uses and activities along shorelines and in the waters of Kitsap County should not have a significant adverse affect on water quality.

Policy SH-4

Kitsap County shall safeguard shoreline resources by only allowing development that is compatible with sensitive shoreline areas.

Policy SH-5

Kitsap County shall encourage the use of Best Management Practices (BMPs) in the use of herbicides and pesticides near surface waters and drainage conveyances.

Policy SH-6

Minimize sedimentation and turbidity in fresh and marine waters of the state through measures that control stormwater runoff and reduce stream and shoreline erosion.

Policy SH-16

Shoreline development shall be encouraged to be designed in a manner that will maintain or enhance predominant scenic view corridors for the traveling public.

Policy SH-24

To protect fish and wildlife habitat, Kitsap County should require vegetative buffers along lakes and marine shorelines. Larger or enhanced buffer areas may be required to adequately protect priority fish and wildlife species.

Applicable Code used in the Analysis

Kitsap County Code (KCC)

Title 12, Stormwater Drainage

Title 16, Land Division and Development

Title 17, Zoning

Title 19, Critical Areas Ordinance

Title 21, Chapter 21.04 - Land Use and Development Procedures

Title 22, Kitsap County Shoreline Management Master Program

KCC 22.24.010 Shorelines of Statewide Significance – Management Principles and Development Guidance

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of statewide significance. Such shorelines are important to the entire state.

Staff Comment: *The proposed development would be located on land and not within the waters of Puget Sound. Accordingly, the proposed work would not be located in Shorelines of Statewide Significance.*

KCC 22.200.115 Shoreline Residential Jurisdiction and Environment Designation

Purpose. To accommodate residential development and appurtenant structures that are consistent with this program, and to provide appropriate public access and recreational uses.

Designation Criteria.

1. Shoreline areas that are predominately single-family or multifamily residential development or are planned or platted for residential development;
2. Does not include shorelines supporting existing residential development that may not support higher densities of development due to potential cumulative impacts to sensitive environments or safety, such as steep slopes or floodplains. Such shorelines shall be designated rural or urban conservancy, whichever applies.

Management Policies.

1. Standards for buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality should be set to assure no net loss of shoreline ecological functions.

Staff Comment: *The proposed project is the short subdivision of a 0.22 acre site located in Kingston, Washington. The site consists of one tax parcel (4317-000-012-0006) within the Shoreline Residential designated area. A one story single family residence, bulk head, and recreational dock currently exist on site and will remain as a part of this application. The project site is zoned Kitsap County Urban Low (five to nine dwelling units per acre).*

All further development will be outside of the standard 85-foot buffer and 15-foot building setback for Shoreline Residential Shorelines, the subdivision will be comprised of the following:

- a) *Two detached single family residential lots (3,750 square feet and 5,873 square feet;*
- b) *An access and utilities easement.*

The existing driveway will provide lot access through an access and utilities easement from NE West Kington Road. The project will be a nominal generator of traffic as only one new home will be created. Project traffic from the new and existing homes is not expected to have any significant impact on local traffic conditions.

Stormwater runoff from the existing site sheet flows across the site to Puget Sound. Design for stormwater quantity and quality management for Lot B will be addressed with the associated Site Development Activity Permit (SDAP) due to the associated critical area (shoreline).

2. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities. If public access is not feasible on site, off-site options such as an in-lieu fee may be recommended.

Staff Comment: *The applicant will not be providing public access and joint use for their recreational facilities. These facilities are not community recreational facilities.*

3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

Staff Comment: *This parcel has been developed since 1935 and has been fully serviced with all normal utilities and public services. Development of the additional home will only continue to be fully serviced with all normal utilities and public services.*

4. Commercial development should be limited to water-oriented uses. Water-oriented includes water-dependent, water-related and water-enjoyment uses.

Staff Comment: *This is residential development is not commercial; thus, not applicable.*

22.500.100(B). Substantial Development Permit.

1. The Act provides that no substantial development shall be undertaken on the shorelines of the state without first obtaining a substantial development permit (SDP).

Staff Comment: *The applicant has applied for a shoreline substantial development permit.*

2. A SDP shall be classified as a Type III permit under Chapter [21.04](#).

Staff Comment: *This Shoreline Substantial Development Permit is a Type III permit.*

3. An SDP shall be granted only when the applicant can demonstrate that the proposed development is consistent with the policies and procedures of the Act and this program, as well as criteria in WAC 173-27-150.

Staff Comment: *The applicant has met these requirements, as shown below.*

WAC 173-27-150

Review criteria for shoreline substantial development permits

1. A substantial development permit shall be granted only when the development proposed is consistent with:

- (a) The policies and procedures of the act;
- (b) The provisions of this regulation; and
- (c) The applicable master program adopted or approved for the area. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.

Staff Comment: *Our new and approved Shoreline Master Program was adopted on December 24, 2014.*

2. Local government may attach conditions to the approval of permits as necessary to assure consistency of the project with the act and the local master program.

Staff Comment: *24 conditions have been added to the staff report in order to assure consistency of the project with the act and the local master program.*

4. The Act provides a limited number of exceptions to the definition of substantial development. Those exceptions are contained in RCW 90.58.030 and in the section below, and do not require a Substantial Development Permit (SDP). Whether or not a development constitutes a substantial development, all development must comply with the requirements contained in the Act and this program and may require other permits or approvals under this master program. Permits may be issued with limitations or conditions to assure consistency with the Act and this program.

Staff Comment: *Pursuant to Kitsap County Code Section 22.600.170(A)(3)(c), subdivisions, within the shoreline residential designated area, requires a Shoreline Substantial Development Permit and Section 16.48.020 Short Subdivision.*

5. All applications for Shoreline Substantial Development Permits or permit revisions shall be submitted to the Department of Ecology upon a final decision by local

government pursuant to WAC 173-27-130. “Final decision by local government” shall mean the order of ruling, whether it be an approval or denial, that is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed.

Staff Comment: *Once all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed, portions of the project file will be forwarded to Department of Ecology for their 21-day review and appeal period.*

22.600.170. Residential Development.

Where residential development is proposed in the following designations, the identified permit requirements shall apply.

A. Environment Designations Permit Requirements

3. Shoreline Residential:
 - c. Shoreline Substantial Development Permit is required for multi-family units, accessory dwelling units, and subdivisions.

Staff Comment: *The applicant has applied for a Shoreline Substantial Development Permit; thus, meets this permit requirement.*

Development Standards

All new residential development, including subdivision of land, shall be designed, configured and developed in a manner that ensures no net loss of shoreline ecological function.

Staff Comment: *The shoreline designation for this parcel is Shoreline Residential. The applicant will meet the standard 85-foot buffer and 15-foot setback. No activities are planned within this protected area. During the SDAP, or building permit process the shoreline buffer will be restored with a planting plan.*

All sewage disposal and water systems shall be in compliance with state and local health regulations including but not limited to Kitsap County Board of Health Ordinance 2008A-01 for on-site sewage requirements.

Staff Comment: *This application has been approved for on-site sewage requirements with conditions.*

New and remodeled residential development and new subdivisions shall be designed, located and constructed so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.

Staff Comment: *The applicant is adhering to the required shoreline residential buffers of 85 feet with a 15-foot building setback. In addition, this statement is now a condition of this permit.*

New over-water residences, including floating homes, are prohibited. Where such homes exist as of the adoption date of this Program, they shall be reasonably accommodated to allow improvements associated with life safety matters and property rights.

Staff Comment: *There is no new over-water residence being proposed; thus, the applicant meets this requirement.*

Stormwater quality and quantity measures for residential development must comply with current codes.

Staff Comment: *An engineered drainage plan was submitted with the Site Development Activity Permit (SDAP), due to the associated critical area (shoreline).*

Flood hazard reduction measures for residential development shall comply with 19.500 Kitsap County Code, as incorporated here by Section 22.400.115 (Critical Areas) and Section 22.400.150 (Flood Hazard Reduction Measures) of this program and shall be designed to prevent net loss of shoreline ecological functions.

Staff Comment: *The property, and development areas, are not within a flood zone.*

New multi-unit residential development, including the subdivision of land for five or more parcels, shall provide for joint or community and/or public access, except where demonstrated to be infeasible due to any of the following:

- a. Incompatible uses,
- b. Safety,
- c. Security,
- d. Impact to the shoreline environment,
- e. Constitutional or other legal limitations that may be applicable.

Staff Comment: *Not applicable.*

In cases where on-site access is infeasible, alternate methods of providing public access shall be considered, such as off-site improvements.

Staff Comment: *On-site access is feasible. An existing driveway will be placed in a shared access easement for the two residential lots.*

Lot area shall be calculated using only those lands landward of ordinary high water

mark.

Staff Comment: *When calculating lot area, lands waterward of Ordinary High Water Mark were not included.*

Single-family residential uses are a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

Staff Comment: *The application meets this requirement with the 24 permit conditions.*

CONCLUSIONS

The Hearing Examiner has review authority for this Shoreline Substantial Development Permit application under KCC 21.04.030 and KCC 22.500.105(E)(1 and 2).

1. Based on above analysis and findings, the Department of Community Development recommends **APPROVAL** of the Hitchman Shoreline Substantial Development Permit and Preliminary Short Plat Subdivision subject to the following 24 conditions:

Summary of Stormwater and Roadway Features

Applicant proposes to divide an approximate 0.22 acre parcel into two lots for single-family residential use. For the purpose of demonstrating how future development of Lot B meets Kitsap County stormwater standards, the associated Site Development Activity Permit (16 01322) application materials assumes a future potential roof area of 1,250 square feet, the maximum size considering required setbacks. Access for both proposed lots will be via an existing gravel driveway intersecting NE West Kingston Road.

Conditions

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Short Plat and associated Site Development Activity Permit stamped received April 4, 2016 to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires the following conditions as an element of the land use approval:

GENERAL

1. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.

2. Approval of the preliminary plat shall not be construed to mean approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be revised for the final design to meet all requirements of Kitsap County Code Titles 11 and 12.

STORMWATER

3. This parcel is within the mandatory setback of Puget Sound, and as such will require a Site Development Activity Permit (**SDAP**) from Development Services and Engineering.
4. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with **Kitsap County Code Title 12** effective at the time the Preliminary Short Subdivision application was deemed complete, April 5, 2016. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.
5. Kitsap County will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in Kitsap County’s judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.
6. The allowable impervious area for the site is 5,000 square feet. The allowable impervious area per lot shall be determined by dividing the total allowable impervious area between the lots. The allowable impervious area per lot shall be indicated on the face of the final short plat, in a table as shown below, along with the following condition: Impervious surfaces created on an individual lot beyond the amount shown in the table shall be mitigated in accordance with Kitsap County Code Title 12.

Total site area, in the Urban Growth Area = 9,583 square feet	Total Allowed Impervious Surface Area = 5,000 square feet
Allowed Impervious Area, Lot A	
Allowed Impervious Area, Lot B	

TRAFFIC AND ROADS

7. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project.
8. The following note shall appear on the face of the final plat map. “All interior

roads shall remain private.

9. All lots shall access from interior roads only. This note shall appear on the face of the final plat map.
10. Submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Existing approaches may need to be improved to meet current standards.
11. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process (or building permit if no SDAP is required). The need for and scope of bonding will be determined at that time.
12. Prior to completion of this permit with the Department of Community Development, the Applicant shall apply for and satisfy all conditions of a Right-of-Way Permit through the Department of Public Works for any and all work performed in the county Right-of-Way associated with this project. You may contact Kitsap County Public Works, Right-of-Way Division at (360) 337-5777 to obtain a Right-of-Way permit.

SURVEY

13. A Road Maintenance Agreement will be required for the access easements shown on the face of the plat. This may be in the form of a note on the face of the Final Plat that addresses ownership and maintenance responsibilities of the access easement, or in the form of a Road Maintenance Agreement document to be recorded separately and referenced on the face of the Final Plat.
14. A Final Short/Large Lot/Subdivision Plat shall be prepared by a licensed Land Surveyor in compliance with KCC Title 16.
15. Easement shall be labeled with purpose and benefitted property.

WASTEWATER

16. Sewer line to serve Lot B shall be 6" diameter (not 4" as shown) with a cleanout to grade at the property line.
17. Kitsap County sanitary sewer currently serves the project parcel. The project will have additional impacts on the sewer system and will be assessed additional newcomer fees.
18. Kitsap County sanitary sewer is available for the project. Applicant needs to submit an "Application to Construct Sanitary Sewer" to KCPW Sewer Utility Division

LAND USE

19. The decision set forth herein is based upon representations made and exhibits contained in the project application (16 01318 and 16 01319). Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
20. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
21. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

FIRE

22. The minimum fire flow requirements for one and two family dwellings in subdivisions shall be 500 gallons per minute for thirty (30) minutes. A letter of water availability indicating available fire flow from the water purveyor is required to be submitted to the Kitsap County Fire Marshal's office prior to the approval of any building permits.
23. All private roads shall be labeled as tracts and constructed in accordance to Fire Code requirements. Ten feet for utility easement shall be provided on each side of private road tracts.

Environmental

24. New and remodeled residential development and new subdivisions shall be designed, located and constructed so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.

Distribution:

- Applicant/Owner of Record: Anthony Hitchman, tonhit@comcast.net
 Surveyor: Gavin Oak, gavin@agols.com