



## Hearing Examiner Staff Report and Recommendation

**Report Date:** April 2, 2020  
**Hearing Date:** April 9, 2020

**Application Submittal Date:** December 5, 2020  
**Application Complete Date:** December 13, 2020

**Project Name:** Fournier-Sidhu Shoreline Variance  
**Type of Application:** Shoreline Variance  
**Permit Number:** 19-05611

### Project Location

13731 NW Coho Run  
Bremerton, WA 98312  
Commissioner District 3

### Assessor's Account #

4535-000-182-0006

### Applicant/Owner of Record

Jake Fournier and Jamie Sidhu  
1416 N Prospect  
Tacoma, WA 98406

### Recommendation Summary

Approved subject to conditions listed under Section 13 of this report.

### VICINITY MAP



### 1. Background

The Department of Community Development is recommending approval of the applicant's request for a Shoreline Variance for the proposed new residence and has been analyzed under the shoreline variance criteria listed in Kitsap County Code Kitsap County Code 22.500.E.

### 2. Project Request

Jake Fournier is requesting an approval for a Shoreline Variance to allow the construction of a new 946 square-foot single-family residence on the shoreline of Lake Symington. The proposed single-family residence is setback 25' from ordinary high-water mark. The shoreline designation is Rural Conservancy that has a standard shoreline buffer of 130 feet. Kitsap County Code 22.400.120.B.2.d allows for a 100' reduced standard buffer for the Rural Conservancy designation. However, because of size, the subject property is considered a constrained lot. Kitsap County Code 22.400.120.C.b.ii requires a shoreline variance if a development requires greater than a twenty-five percent reduction of the reduced standard

buffer. Because the proposed single-family residence exceeds 25% of the reduced standard buffer (100'), the applicant has applied for a shoreline variance.

### 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 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated December 26, 2020 (Exhibit 9). A Determination of Nonsignificance (DNS) was issued on March 2, 2020 (Exhibit 19). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions 14 at the end of this report:

The SEPA appeal period expired March 16, 2020. No appeals were filed; therefore, the SEPA determination is final.

### 4. Physical Characteristics

The subject parcel is 0.27 acres and is an irregular rectangle shape. The property is approximately 140' long and 70' across. Including zoning setbacks, it is difficult for the property to meet the required shoreline setback. The topography onsite slopes down moderately from north to south from NW Coho Run toward the edge of Lake Symington. Currently, vegetation onsite consists of coniferous forest dominated by western red cedar, Douglas fir, and salal in the northern two-thirds of the property. On the south side of this depression is a berm-like feature that runs parallel to the edge of the lake.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	Proposal meets density. Parcel is existing.
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	N/A	N/A

Minimum Lot Width	140'	N/A
Minimum Lot Depth	140'	N/A
Maximum Height	35'	Please see Condition 1
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes:

17.120.060.A.4: If a single lot of record, legally created as of April 19, 1999, is smaller in total square footage than that required under this chapter, or if the dimensions of the lot are less than required, said lot may be occupied by any reasonable use allowed within the zone subject to all other requirements of this chapter. If there are contiguous lots of record held in common ownership, each of the lots legally created as of April 19, 1999, and one or more of the lots is smaller in total square footage than required by this chapter, or the dimensions of one or more of them are less than required, said lots shall be combined to meet the minimum lot requirements for size and dimensions.

*Staff Comment: The subject parcel is an existing lot that means the above-mentioned requirements. Project can use Urban Restrictive (UR) setbacks. Please see Table 2 - Setback for Zoning District.*

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (North)	20 feet	50'
Side (East)	5 feet	23'
Side (West)	5 feet	10'
Rear (South/Shoreline)	Shoreline designation is Rural Conservancy  Standard Buffer: 130' Reduced Standard Buffer: 100'	Applicant has applied for a shoreline variance to reduce the required rear/shoreline buffer.

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Residential
South	Lake Symington	N/A
East	Single-family residences	Rural Residential
West	Single-family residences	Rural Residential

**Table 4 - Public Utilities and Services**

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sherriff
Fire	Central Kitsap Fire and Rescue
School	Central Kitsap School District

**5. Access**

Access to the site is off 321NW Coho Run which is a County maintained right of way.

**6. Site Design**

Site design is analyzed under Section 10 of this report.

**7. 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.

Kitsap County Comprehensive Plan, adopted June 30, 2016

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

*Land Use Policy 50*

*Limit the designed rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.*

*Land Use Policy 51*

*Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.*

*Land Use Policy 53*

*Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not*

*draw population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designation, zoning designation, and zoning code provisions.*

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 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Building and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

### 8. Documents Consulted in the Analysis

A complete index of exhibits is in the project file. To date, the index to the record consists of 32 Exhibits.

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE ACCEPTED
1	Permit Questionnaire		12/05/2019
2	Site Plan		12/05/2019
3	Drainage Plan and Analysis		12/05/2019
4	Engineered Drainage Plans		12/05/2019
5	Shoreline Mitigation & Critical Area Buffer Reduction Plan		12/05/2019
6	Joint Aquatic Resource Permit Application (JARPA)		12/13/2019
7	State Environmental Policy Act (SEPA) Checklist		12/13/2019
8	Shoreline Variance Narrative		12/13/2019
9	Notice of Application	12/26/2019	
10	Email from neighbor, Leah McDuffie		01/08/2020
11	Email from neighbor, Rose Andrade		01/09/2020
12	Email from neighbor, Kathleen Ungren		01/21/2020
13	Email from neighbor, Rebecca Gallavan		01/22/2020
14	Information Request	01/27/2020	
15	Response Letter		02/10/2020
16	Engineered Drainage Plans Revised		02/10/2020
17	Engineered Drainage Plans – Annotated Responses		02/10/2020
18	Memo from Candy Vickery	03/02/2020	
19	SEPA Determination of Non-Significance	03/02/2020	
20	Zoning Map	03/05/2020	
21	Critical Area Map	03/05/2020	
22	Aquifer Recharge Area Map	03/05/2020	

23	Comprehensive Plan Map	03/05/2020	
24	Aerial Map	03/05/2020	
25	Assessor Map	03/05/2020	
26	Cumulative Impacts Report		03/17/2020
27	Email from Neighbor, Caitlin Newman		03/18/2020
28	Cumulative Impacts Report	03/25/2020	
29	Staff Report	04/02/2020	
30	Staff Presentation	04/02/2020	
31	Certification of Public Notice	04/02/2020	
32	Hearing Sign-In Sheet	04/02/2020	

**9. Public Outreach and Comments**

Four neighbors contacted staff regarding the proposed project.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1.	Environmental impact of the proposed development and precedent.	10-13, 27

Issue Ref. No.	Issue	Staff Response
1.	Environmental impact	<p>Neighbors: Leah Gratiot, Rose Andrade, Kathleen Ungren, Rebecca Gallavan, and Caitlin Newman contacted staff regarding the environmental impact and precedent the variance would set. Application has a No-Net Loss Report and Shoreline Mitigation Plan, Exhibit 5. Project is conditioned to follow the mitigation plan. Please see Condition 8.</p> <p>Each variance is reviewed independently for variance criteria in Kitsap County Code 22.500.100.E. Approval of this variance does not set a precedent.</p>

**10. Analysis**

**a. Planning/Zoning**

Kitsap County Code 17. 17.410.042 Rural, Resource, and Urban Residential Zones Use Table allows single-family residences in the Rural Residential (RR) zone. Zoning setbacks are shown in Table 2 and required parking in Table 5.

**b. Lighting**

Lighting was not analyzed or required for this project.

**c. Off-Street Parking**

Three parking spaces are required for the proposed residence. Please see Table 5 below.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 per unit	3 per unit	Parking will be further reviewed at the time of building permit. Please see Condition 2.
Total			

**d. Signage**

No signage is proposed with this application.

**e. Landscaping**

While the application does propose mitigation for the shoreline variance, required landscaping from Kitsap County Code 17.500 is not required.

**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	N/A	N/A
Required Buffer(s) 17.500.025		
North	N/A	N/A
South	N/A	N/A
East	N/A	N/A
West	N/A	N/A
Street Trees	N/A	N/A

**f. Frontage Improvements**

Frontage Improvements are not required for this project.

**g. Design Districts/Requirements**

Project does is not within a design district.

**h. Development Engineering/Stormwater**

Development Services and Engineering has reviewed the 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 Drainage Report and Preliminary Engineering Plan received December 5, 2019, and as revised by resubmitted materials received February 13, 2020 to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires 5 conditions. Please see Conditions 3-6.

**i. Environmental**

**Kitsap County Code 15.13.010, Provision for Habitat Protection in the Flood Zone**

Before new development activities are permitted within the floodplain, compliance with FEMA National Flood Insurance Program (NFIP) protection standards for critical habitats for listed species shall be demonstrated through submittal of a habitat plan prepared by a qualified wildlife biologist. The plan shall identify any federally listed species and associated habitats and demonstrate that no harm will occur to such species or habitats as a result of development within the floodplain.

Staff Comment: Included in the Shoreline Mitigation Plan (Exhibit 5) was a FEMA Floodplain Habitat Assessment that addressed habitat protection in the flood zone. The analysis concluded that "the project will have no effect on the listed species or designated critical habitat." This fulfills the required by Kitsap County Code 15.13.010.

**Kitsap County Code 19.200, Wetlands**

Staff Comment: A lake-fringe wetland was also identified in the Shoreline Mitigation Plan (Exhibit 5). Associated wetlands within shoreline jurisdiction are also regulated under Section 22.400.115 of the Kitsap County Shoreline Master Program which has incorporated Section 19.200 Wetlands of the Critical Areas Ordinance. The project reviewed the site as one ecological function.

**Kitsap County Code 22.200.125 Rural Conservancy Designation**

A. Purpose. To protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities.

B. Designation Criteria. Shorelines outside the UGA or LAMIRD that have any of the following characteristics:

1. Currently support lesser intensity resource-based uses, such as agriculture, aquaculture, forestry, or recreational uses, or are designated agriculture or forest lands;
2. Currently accommodate residential uses but are subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or floodplains or other flood-prone areas;
3. Have high recreational value or have unique historic or cultural resources; or
4. Have low-intensity water-dependent uses.

Land designated urban conservancy and from which a UGA boundary is retracted may be designated as rural conservancy, if any of the above characteristics are present.

C. Management Policies.

1. Uses should be limited to those which sustain the shoreline area's physical and biological resources, and those of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Developments or uses that would substantially degrade or permanently deplete the physical and biological resources of the area should not be allowed.
2. New development should be designed and located to preclude the need for shoreline stabilization. New shoreline stabilization or flood control measures should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied.
3. Residential development standards shall ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the "rural conservancy" environment.
4. Low-intensity, water-oriented commercial uses may be permitted in the limited instances where those uses have been located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.
5. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline area are mitigated.

*Staff Comments: The proposed single-family residential development is located inside of the flood zone but conditioned to follow Title 15, Frequently Flood Areas (Condition 9). The proposal is a historic lot of record and is a Rural Residential zoned property. The associated Shoreline Mitigation Plan (Exhibit 5) states there will be no net loss of habitat and that mitigation will offset impacts associated with the shoreline buffer impacts for development of the property. The proposed building site is the only suitable location due to constraints on the lot and need to site the drainfield at its proposed location further landward due to health district setback regulation from*

*surface water bodies. The above-referenced items will meet the requirements of the code.*

**Kitsap County Code 22.300.100 Critical Area and Ecological Protection**

Goal: Protect and conserve shoreline natural resources, including protection of critical areas, while accommodating reasonable and appropriate uses which will assure, at a minimum, no net loss to shoreline ecological functions and processes.

A. Policy SH-1. Protect and conserve shoreline areas that are ecologically intact and minimally developed or degraded. Develop incentives and regulations for privately owned shorelines that will protect and conserve these areas while allowing reasonable and appropriate development.

*Staff Comments: The proposed residence is only 946 square-feet with no proposed garage. The request is considered minimum necessary, and the use is appropriate for the zoning and shoreline designation. The associated Shoreline Mitigation Plan (Exhibit 5) states there will be no net loss of habitat and that mitigation will offset impacts associated with the shoreline buffer impacts for development of the property.*

B. Policy SH-2. Recognize that nearly all shorelines, even substantially developed or degraded areas, retain important ecological functions.

Staff Comments: Ecological functions, with proposed mitigation, will be retained.

C. Policy SH-3. Utilize transfer of development rights as allowed by Chapter 17.580, or as now or hereafter amended, as an option to protect ecological functions.

*Staff Comments: The proposal will not implement the transfer of development rights program.*

D. Policy SH-4. Permitted uses and developments should be designed and conducted in a manner that protects the current ecological condition and prevents or mitigates adverse impacts. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:

1. Avoid the impact altogether by not taking a certain action or parts of an action;
2. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
3. Rectify the impact by repairing, rehabilitating or restoring the affected environment;
4. Reduce or eliminate the impact over time by preservation and maintenance operations;

5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and
6. Monitor the impact and the mitigation projects and take appropriate corrective measures.

*Staff Comments: With mitigation, the proposed residence will not impact the associated critical areas on site. A mitigation plan and associated monitoring and maintenance plan will assure compliance with these requirements. Please see Condition 8.*

- E. Policy SH-5. Shoreline ecological functions that should be protected include, but are not limited to:
1. Habitat (space or conditions for reproduction; resting, hiding and migration; and food production and delivery);
  2. Water quality maintenance; and
  3. Water quantity maintenance.

*Staff Comments: Impacts to shoreline ecological functions are not anticipated, and habitat enhancement will offset any temporary disturbance through implementation of the required mitigation, monitoring and maintenance plans.*

- F. Policy SH-6. Shoreline processes, both freshwater and marine, that should be protected to support the above functions include but are not limited to the delivery, loss and movement of:
1. Sediment;
  2. Water;
  3. Nutrients;
  4. Toxins;
  5. Pathogens; and
  6. Large woody material.

*Staff Comments: Impacts to shoreline and freshwater processes are not anticipated, and habitat enhancement will offset any temporary disturbance through implementation of the required mitigation, monitoring and maintenance plans.*

- G. Policy SH-7. In assessing the potential for new uses and developments to impact ecological functions and processes, the following should be taken into account:
1. On-site and off-site impacts;
  2. Immediate and long-term impacts;
  3. Cumulative impacts, from both current and reasonably foreseeable future actions, resulting from the project; and

4. Any mitigation measures or beneficial effects of established regulatory programs to offset impacts.

*Staff Comments: Exhibit 26 is a Cumulative Impacts Letter prepared by Ecological Land Services dated March 17, 2020. The letter addressed potential impacts to the area. The letter stated, "this project will have a positive effect on the lake environment because it avoids and minimizes the noise and light impacts to the lake and proposes onsite enhancement to increase the buffer function."*

H. Policy SH-8. Critical areas in the shoreline jurisdiction shall be protected in a manner that results in no net loss to shoreline ecological functions. Pursuant to RCW 36.70A.030(5), critical areas include:

1. Wetlands.
2. Frequently flooded areas.
3. Fish and wildlife habitat conservation areas.
4. Geologically hazardous areas.
5. Critical aquifer recharge areas.

*Staff Comments: A lake-fringe wetland was also identified in the Shoreline Mitigation Plan (Exhibit 5). Associated wetlands within shoreline jurisdiction are also regulated under Section 22.400.115 of the Kitsap County Shoreline Master Program which has incorporated Section 19.200 Wetlands of the Critical Areas Ordinance. The wetland and the shoreline were reviewed together with this application as an amalgam of one ecological functional site.*

#### **Kitsap County Code 22.300.105 Vegetation Conservation Buffers**

Goal: Conserve, protect and restore shoreline vegetation to provide for ecological and habitat functions as well as human health and safety. These functions include, but are not limited to, variable shading of the nearshore, food and shelter for terrestrial and aquatic organisms, and slope/soil stabilization.

A. Policy SH-9. Preserve native plant communities on marine, river, lake and wetland shorelines. In order to maintain shoreline ecological functions and processes, development along the shoreline should result in minimal direct, indirect, or cumulative impacts. This includes:

1. Keeping overhanging vegetation intact along the shoreline edge to provide shading and other ecological functions;
2. Preserving established areas of native plants and minimizing clearing and grading near bluff edges and other erosion or landslide-prone areas in order to maintain slope stability and prevent excess surface erosion and stormwater runoff;
3. Designing and placing structures and associated development in areas that avoid disturbance of established native plants, especially trees and shrubs; and
4. Removal of noxious weeds in accordance with WAC 16-750-020.

- B. Policy SH-10. Shoreline landowners are encouraged to preserve and enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat. When shoreline uses or modifications require a planting plan, maintaining native plant communities, replacing noxious weeds and avoiding installation of ornamental plants are preferred. Nonnative vegetation requiring use of fertilizers, herbicides/pesticides, or summer watering is discouraged.
- C. Policy SH-11. Maintaining native or ecologically functional vegetation is preferred over clearing to provide views or lawns. Limited and selective clearing may be allowed when slope stability and ecological functions are not compromised. Limited trimming and pruning is generally preferred over removal of native vegetation.

*Staff Comments: Implementation of the Shoreline Mitigation Plan by Ecological Land Services (Exhibit 5), which provides for restoration of the shoreline with native plantings and will be augmented and enhanced through implementation and inspection of the planting plan at time of the building permit.*

**Kitsap County Code 22.300.110 Water quality and quantity**

Goal: Provide regulations and voluntary incentives to encourage practices which protect water quality and reduce stormwater runoff and erosion in order to protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and its aquatic life.

- A. Policy SH-12. Shoreline use and development should minimize impacts that contaminate surface or ground water, cause adverse effects on shoreline ecological functions, or impact aesthetic qualities and recreational opportunities, including healthy shellfish harvest.
- B. Policy SH-13. Ensure mutual consistency with other regulations that address water quality and stormwater quantity, including standards as provided for in Title 12 (Storm Water Drainage) and Chapter 173-201A WAC (Water Quality Standards).
- C. Policy SH-14. Utilize pervious materials and other appropriate low impact development techniques where soils and geologic conditions are suitable and where such practices could reduce stormwater runoff.
- D. Policy SH-15. All shoreline use and development shall be conducted in accordance with Title 15 (Flood Hazard Areas). The subdivision of land should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. When evaluating alternate flood control measures or floodplain restoration opportunities, consider the removal or relocation of structures in flood-prone areas.

*Staff Comments: Stormwater runoff from the roof and driveway surfaces are proposed to be captured by a system of catch basins and pipes and conveyed to a dispersion trench located above the ordinary high water of Lake Symington and released to the lake.*

**Kitsap County Code 22.300.125 Shoreline Use and Site Planning**

Goal: Preserve and develop shorelines in a manner that allows for an orderly balance of uses by considering the public and private use, along with the development of shorelines and adjacent land areas with respect to the general distribution, location and extent of such uses and development.

- A. Policy SH-20. For shoreline use and development activities, including plats and subdivisions at full build-out, employ innovative development features to achieve no net loss of ecological functions, such as sustainable and low impact development practices where appropriate.
- B. Policy SH-21. Give preference to water-dependent uses and single-family residential uses that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related and water-enjoyment uses. Non-water-oriented uses should be limited to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Act. For use preference within shorelines of statewide significance, see Section 22.300.145(B).
- C. Policy SH-22. Designate and maintain appropriate areas for protecting and restoring shoreline ecological functions and processes to control pollution and prevent damage to the shoreline environment and/or public health.
- D. Policy SH-23. Through appropriate site planning and use of the most current, accurate and complete scientific and technical information available, shoreline use and development should be located and designed to avoid the need for shoreline stabilization or actions that would result in a net loss of shoreline ecological functions.

*Staff Comments: Condition 10 requires the placement of this residential development to not require shoreline stabilization. Exhibit 5 states there will be a no net loss of shoreline ecological functions.*

**Kitsap County Code 22.400.105 Proposed Development**

- A. Location.
  - 1. New development shall be located and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
  - 2. New development shall be located and designed to avoid the need for future shoreline stabilization for the life of the structure. Likewise, any new development which would require shoreline stabilization which causes significant impacts to adjacent or down-current properties shall not be allowed.
  - 3. New development on lots constrained by depth, topography or critical areas shall be located to minimize, to the extent feasible, the need for shoreline stabilization.
  - 4. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.

5. Subdivision shall be planned to avoid the need for shoreline stabilization for newly created lots, utilizing geotechnical analysis where applicable.
6. Non-water-oriented facilities and accessory structures, except for preferred shoreline uses, such as single-family residences and single-family residential appurtenances when consistent with buffer provisions in this chapter, must be located landward of buffers and adjacent water-oriented uses, or outside shoreline jurisdiction, unless no other location is feasible.

*Staff Comments: Because of site restraints, the proposed development for a new residence requires variance approval. As such, the proposed new residence meets all aspects of location, and will not require shoreline armoring (Condition 10). This criterion will be further analyzed in the shoreline variance criteria.*

**Kitsap County Code 22.400.110 Mitigation (Sequencing and Mitigation Options)**

Staff Comments: The planned new residence proposes mitigation through incorporation and implementation of the Shoreline Mitigation Plan (Exhibit 5) and meets all qualifications for mitigation sequencing and options. Per 22.400.100 B (3) the proposed variance will be analyzed under the shoreline variance criteria under 22.500.100 (E).

**Kitsap County Code 22.400.115 Critical Areas**

Staff Comment: A lake-fringe wetland was also identified in the Shoreline Mitigation Plan (Exhibit 5). Associated wetlands within shoreline jurisdiction are also regulated under Section 22.400.115 of the Kitsap County Shoreline Master Program which has incorporated Section 19.200 Wetlands of the Critical Areas Ordinance. The project reviewed the site as one ecological function

**Kitsap County Code 22.400.120 Vegetation Conservation Buffers**

Staff Comments: The associated vegetation conservation buffer standards for this proposal are analyzed under the Rural Conservancy buffer criteria in 22.400.120 (B) requiring a 130-foot buffer. As the proposed development requires review under the variance criteria of 22.500.100 (E), review of this code falls under that analysis.

**Kitsap County Code 22.400.120.C.b.ii Constrained Lots**

Alternatives for New Development. New single-family and water-dependent development may qualify for an alternative buffer if the following apply:

- a. Infill Provision. For new construction on a vacant parcel adjoined by existing homes on both sides, the reduced standard buffer may be administratively reduced by up to ten percent in compliance with Section 22.400.135 (View blockage). This shall be a Type I administrative review process. The mitigation options to achieve no net loss for new or redevelopment activities table (Chapter 22.800, Appendix B) shall apply to such reductions.

*Staff Comment: The submitted proposal cannot meet this criterion due to the size of the parcel. The applicant has applied for a Type III variance to reduce the shoreline buffer to 25'.*

b. Constrained Lot Provisions.

i. Legally platted lots with a depth that would not allow for compliance with the reduced standard buffer. Proposals to reduce the buffer below the reduced standard buffer shall require a shoreline mitigation plan (Section 22.700.140), starting with review of existing conditions as presented in the Kitsap County Shoreline Inventory and Characterization report and supplemented with appropriate field verification.

*Staff Comment: The subject property is a legally platted lot. The application includes a Shoreline Mitigation Plan (Exhibit 5).*

ii. If the development requires less than a twenty-five percent reduction of the reduced standard buffer, or any amount of buffer reduction within the shoreline residential designation, a Type II administrative variance shall be required. If the development is not within the shoreline residential designation and requires greater than a twenty-five percent reduction of the reduced standard buffer, a Type III variance shall be required.

*Staff Comment: The project does require less than a 25% reduction of the reduced standard buffer. The application is a Type III application.*

c. Water-Dependent Development. Buffers may be modified and reduced to accommodate water-dependent uses when consistent with the Act and this master program, and when conducted so that no net loss of critical areas or shoreline ecological functions occurs.

*Staff Comment: No water dependent uses are proposed at this time.*

**Kitsap County Code 22.400.125 Water Quality and Quantity**

Staff Comments: The proposal is located outside of the urban census area, and as such is creating less than 10,000 square feet of impervious surfaces. Lake Symington does not appear on the list of 303(d) waters (DOE 2019b), but Big Beef Creek which flows directly into the lake approximately 0.4 miles from this property, is listed as a Category 5 water for dissolved oxygen and temperature. This project will not affect total phosphorous, dissolved oxygen, or temperature of the lake because it will not change the overall chemistry or temperature of the waters within the lake. As much vegetation as is possible will be retained onsite and there will be no direct impacts to the lake fringe wetland or the lake itself, so this vegetation will remain to help filter runoff and shade the shoreline, which keeps water temperature lower.

**Kitsap County Code 22.400.135 View Blockage**

*Staff Comments: The view line is shown on the site plan. There is no view blockage concern for the proposed new residence.*

**Kitsap County Code 22.400.140 Bulk and Dimension Standards**

*Staff Comments: The proposed new residence meets the criteria under this code.*

**Kitsap County Code 22.500.100.E, Variances and Administrative Variances**

1. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards (not uses) set forth in this program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.

*Staff Comment: The size of the parcel (0.27 acres) does not allow for the standard or reduced standard buffer to be met along with the required zoning setbacks. The location of the drainfield also requires the placement of the proposed single-family residence to be further waterward.*

2. Variances shall be classified as a Type III permit under Chapter 21.04. Administrative variances shall be a Type II permit and may be granted where allowed under the use and modifications matrix or applicable permit requirements.

*Staff Comment: The submitted application is a Type III application that requires a public hearing. The hearing will be held on April 9, 2020.*

3. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

*Staff Comment: The neighboring properties are developed with similar size homes. The addition of the proposed 946 square single-family residence will not cause a harm to public interest or have detrimental effects.*

4. Variance permits for development that will be located landward of the OHWM, except within those areas designated as marshes, bogs, or swamps pursuant to Chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following:

- a. That the strict application of the bulk, dimensional or performance standards set forth in Chapters 22.400 and 22.600 precludes, or significantly interferes with, reasonable use of the property;

*Staff Comment: The property is only 140 feet in length and the standard shoreline buffer is 85' plus a 15' building setback. After the zoning setbacks are added, there is not enough space to build anything on the property. While the reduced buffer does allow some relief, there still is not enough space.*

- b. That the hardship described in subsection (E)(1) of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this program, and for example, not from deed restrictions or from the actions of the applicant or a predecessor in title;

*Staff Comment: The lot was legally in 1970 through a subdivision. There are no boundary line adjustments or other restrictions from the applicant that require this variance.*

- c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this program, will not cause net loss to shoreline ecological functions and does not conflict with existing water-dependent uses;

*Staff Comment: The proposed use is for a 946 square-foot single-family residence which is allowed in the zone per Title 17 and the Shoreline Master Program, Title 22. Submitted Shoreline Mitigation Plan states there will be a no net loss of shoreline ecological functions.*

- d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
- e. That the variance requested is the minimum necessary to afford relief; and
- f. That the public interest will suffer no substantial detrimental effect.

*Staff Comment: The parcels adjacent to the subject property are developed with similar structures. It includes 1-1/2 baths, 2 bedrooms, and a single open kitchen/family room. Built with no garage to minimize the footprint. The small footprint is the minimum necessary to provide housing on this parcel. This is considered minimum necessary and fits in the already established character of the area.*

5. Variance permits for development and/or uses that will be located waterward of the OHWM or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all of the following:
  - a. That the strict application of the bulk, dimensional or performance standards set forth in Chapters 22.400 and 22.600 preclude all reasonable use of the property;
  - b. That the proposal is consistent with the criteria established under subsections (E)(4)(a) and (b) of this section; and
  - c. That the public rights of navigation and use of the shorelines will not be adversely affected.

*Staff Comment: The above criteria have been satisfied.*

6. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment. The applicant shall demonstrate such consideration through submittal of a cumulative impacts report, where required (Section 22.700.130).

*Staff Comment: A Cumulative Impacts Letter (Exhibit 28) was submitted prepared by Ecological Land Services dated March 17, 202 that addressed the above-mentioned requirement.*

7. Variances may not be granted to authorize uses different from the shoreline use and modifications matrix in Section 22.600.105.

*Staff Comment: The proposed use of the application is a single-family residence with is allowed under Section 22.600.105 the submitted application is in reference to the required buffers.*

8. All applications for shoreline variances approved by the county, including administrative variances, shall be forwarded to Ecology pursuant to WAC 173-27-200, for final approval, approval with conditions, or denial. No approval shall be considered final until it has been acted upon by Ecology.

*Staff Comment: The application will be forwarded to the Department of Ecology.*

#### **Kitsap County Code 22.600.170 Residential Development**

- A. Environment Designations Permit Requirements
  2. Rural conservancy and urban conservancy:
    - a. Primary single-family residences are exempt pursuant to criteria in Section 22.500.100(C).

- b. SSDP if exemption criteria not met.
- c. CUP for multifamily units, accessory dwelling units and subdivisions.

*Staff Comments: The proposal is for approval of a new primary residence and does not require a Shoreline Substantial Development Permit (SSDP) or a Conditional Use Permit (CUP).*

- 4. Aquatic: prohibited.

*Staff Comments: Not applicable.*

#### B. Development Standards.

- 1. 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.
- 2. 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.
- 3. 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 Comments: Kitsap County Health Department will review this project under the building permit. No armoring is required, and the permit is conditioned to indicate that no armoring shall be allowed for residential protection purposes.*

- 4. 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 Comments: Not applicable.*

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

*Staff Comments: The proposal meets the stormwater control guidelines for Kitsap County under Title 12.*

- 6. Flood hazard reduction measures for residential development shall comply with Chapter 19.500, 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 Comments: The application will comply with the flood zone requirements at time of building permit submittal. Condition 9 addresses this issue.*

7. 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.

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

9. Lot area shall be calculated using only those lands landward of the OHWM.

10. 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 Comments: This is not a subdivision proposal. Not applicable.*

**j. Access, Traffic and Roads**

Approval based on 3 conditions. Please see Condition 11-13.

**k. Fire Safety**

Fire review was not required with this application.

**l. Solid Waste**

Solid waste was not reviewed with this application.

**m. Water/Sewer**

Required with the building permit is the Building Site Application (BSA) for onsite sewage and water supply. Please see Condition 14.

**n. Kitsap Public Health District**

Required with the building permit is the Building Site Application (BSA) for onsite sewage and water supply. Please see Condition 14.

**11. Review Authority**

The Hearing Examiner has review authority for this Conditional Use Permit application under KCC, Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined

that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, or deny a Conditional Use Permit. 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 are at KCC, Chapter 2.10.

## **12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply with all of the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

## **13. Recommendation**

Based upon the analysis above and the decision criteria found in Kitsap County Code 17.550.030.A, the Department of Community Development recommends that the Fournier and Sidhu Shoreline Variance approved subject to the following 14 conditions:

### **a. Planning/Zoning**

1. Proposed single-family residence will be limited to 35' in height.
2. At the time of building permit, project shall demonstrate 3, 9x20 parking spaces.

### **b. Development Engineering**

3. 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.
4. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12. The required level of drainage review is

Simplified Drainage-Engineered, and as such will require the building permit application materials include a stormwater design that demonstrates compliance with Stormwater Minimum Requirements #1-5, as outlined in the Kitsap County Stormwater Design Manual.

5. On-site stormwater management, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Shoreline Variance application was deemed complete, December 13, 2019. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington.
  6. The Washington State Department of Fish and Wildlife may require a Hydraulic Project Approval for the work required at the proposed outfall.
  7. If the project proposal is modified from that shown on the submitted site plan received February 13, 2020, Development Services and Engineering will require additional review and potentially new conditions.
- c. Environmental**
8. Project shall follow the mitigation and recommendations of the submitted Shoreline Mitigation Plan prepared by Ecological Land Services dated November 26, 2019. Mitigation must be completed, inspected, and approved prior to the final inspection of the building permit. There will be a 5-year monitoring period with annual reports provided to the Department of Community Development demonstrating compliance with the mitigation plan in this report.
  9. This project is located within a flood hazard area as determined by Kitsap County Code (KCC) Section 15.04.040. All construction shall be in accordance with the flood resistant requirements of KCC Title 15. An elevation certificate prepared by a Washington licensed surveyor, engineer, or architect will be required at the time of building permit.
  10. The placement of residential development on the property shall be located to make installation of a shore protection structure unnecessary.
- d. Traffic and Roads**
11. Apply 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.

12. 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.
  
13. 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.

**e. Fire Safety**

None

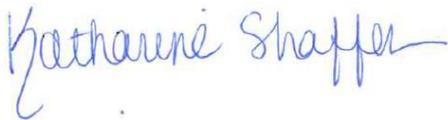
**f. Solid Waste**

None

**g. Kitsap Public Health District**

14. Required with the building permit is the Building Site Application (BSA) for onsite sewage and water supply.

**Report prepared by:**



April 2, 2020

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Katharine Shaffer, Planner

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Date

**Report approved by:**



April 2, 2020

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Shawn Alire, DSE Supervisor

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Date

**Attachments:**

Attachment - Site Plan

CC: Applicant/Owner: Jake Fournier, jakefournier@gmail.com  
Engineer: Alternative Designs, Kim May, altdesigns@wavecable.com  
Biologist: Ecological Land Services, Keelin Lacey, Keelin@eco-land.com  
Interested Parties:  
Leah McDuffie, Rose Andrade, Rebecca Gallavan, Division 5 HOA,  
Kathleen Ungren  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Katharine Shaffer

### Site Plan

