



Staff Report for the Hearing Examiner

Date: October 5, 2017

Application Submittal Date: May 24, 2017

Hearing Date: October 12, 2017

Application Complete: May 24, 2017

Permit Number: 17 02041

Project Name: Henning Shoreline Residence

Type of Application: Shoreline Variance

This staff report was prepared by Katharine Shaffer, Planner, 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.

Proposal Summary:

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.

Project Request:

Linda and Robert Henning are requesting an approval for a Shoreline Variance to allow the construction of a new single-family residence on the shoreline of Holly Bay. The applicant proposes to build one single-family residence inside the outer 25 percent of the reduced 100-foot shoreline buffer. The standard buffer is 130 feet, and the footprint of the house will be setback approximately 71 feet from the ordinary high water mark. The reduced buffer and setback are proposed due to topographic constraints, existing septic system setback requirements, and view considerations in context to neighboring structures.

Project Location:

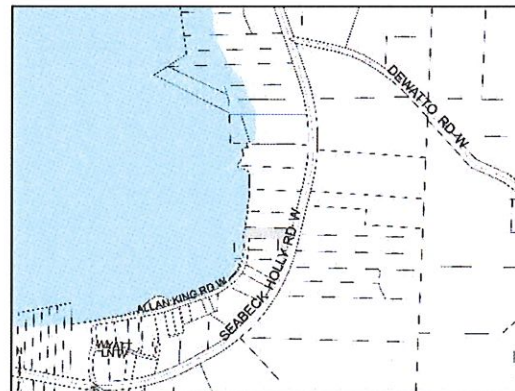
365 Seabeck Holly Road W
Seabeck, WA 98380

Assessor's Account #:

192402-1-100-1004

Applicant/Owner of Record:

Robert and Linda Henning
817 52nd Street SE
Auburn, WA 98092



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 Non significance (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) (e), the proposal is a variance and is SEPA exempt. The proposal is considered SEPA exempt per the County Environment Code pursuant to KCC Title 18.04.

Physical Characteristics:

The 0.63-acre parcel is an undeveloped platted property located on the shoreline on Holly Bay. The lot is in the shape of a "L." The eastern portion of the subject property has steep slopes approximately 25%. The western portion is flat and abuts the shore.

Comprehensive Plan Designation and Zoning:

The subject property's Comprehensive Plan designation is Rural Residential - (one dwelling unit per 5 acres). The intent of this zone is to promote low-density residential development consistent with rural character.

Minimum Lot Area - 5 acres
Minimum Lot Width - 140-feet
Minimum Lot Depth - 140-feet
Maximum Height - 35-feet

Standard Rural Residential (RR) Zoning Setbacks

Front - 50-feet
Side - 20 feet
Rear - 20-feet

Because the property is less than one acre, the urban setbacks can be used per Kitsap County Code 17.382.110 Footnote A4.

Standard Urban Restrictive (UR) Zoning Setbacks

Front - 20 feet
Side - 5 feet,
Rear - 5 feet

Surrounding Land Use and Zoning:

The surrounding parcels are all zoned Rural Residential. The zoning changes Rural Wooded approximately 0.27 miles east of the subject property.

Public Utilities and Services:

Water: PUD Water District
Power: Puget Sound Energy
Sewer: Onsite septic
Police: Kitsap County Sheriff
Fire: Central Fire District
Schools: Central Kitsap School District

Access:

Access to the site is off of Seabeck Holly Road W, a county maintained right of way.

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 2016

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

Rural Land Use Goals and Policies

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.

Housing, Human Services Goals and Policies

Housing, Human Services Policy 5

Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing.

Housing, Human Services Policy 7

Adopt regulatory changes to allow non-traditional housing types.

Housing, Human Services Policy 11

Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class.

Housing, Human Services Policy 12

Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply.

Housing, Human Services Policy 13

Identify and remove impediments to creating housing for harder to house populations.

Housing, Human Services Policy 14

Disperse affordable housing opportunities throughout the County.

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

Kitsap County Code (KCC)

- Title 12 Storm Water Drainage
- Title 13 Water and Sewers
- Title 14 Buildings and Construction
- Title 17 Zoning
- Title 19 Critical Areas Ordinance
- Title 22 Shoreline Master Program

Chapter 18.04 State Environmental Policy Act (SEPA)

Chapter 20.04 Transportation Facilities Concurrency Ordinance

Chapter 21.04 Land Use and Development Procedures

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 1-22.

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
1	Project Application	05/18/17	05/24/17
2	WA State Joint Aquatic Resources Permit Application (JARPA) Form	05/18/17	05/24/17
3	Narrative Statement of Past and Proposed Uses of Property	05/24/17	05/24/17
4	Site Plans (Appendix C)	05/02/17	05/24/17
5	Drainage Report		05/24/17
6	Drainage Site Plan		05/24/17
7	Wetland, Shoreline, Fish and Wildlife Habitat, and FEMA Floodplain Assessment Report and Conceptual Mitigation Plan	05/02/17	05/24/17
8	Geotechnical Engineering Evaluation	03/06/09	05/24/17
9	Notice of Application – Type III	06/01/17	
10	Email Correspondence to Dept. of Ecology	06/02/17	
11	Shoreline Variance Criteria Narrative		09/07/17
12	Updated Geotechnical Engineering Evaluation	08/28/17	09/07/17
13	Zoning Map	09/25/17	
14	Critical Areas Map	09/25/17	
15	Aquifer Recharge Map	09/25/17	

16	Shoreline Designation Map	09/25/17	
17	Comprehensive Plan Map	09/25/17	
18	Aerial Map	09/25/17	
19	Assessor Parcel Map	09/25/17	
20	Notice of Public Hearing	09/27/17	
21	Certification of Public Notice	10/5/17	
22	Staff Report	10/5/17	

Public Comments:

No public comments were received.

Analysis:

Land Use and Zoning Analysis

Residential Standards

A single family residence is proposed within the rural residential zone. Because the property is less than one acre, the urban setbacks can be used per Kitsap County Code 17.382.110 Footnote A4.

Shoreline Variance analysis

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 residential development is located within a flood zone and will be conditioned to be designed for flood proofing per KCC Title 15. The proposal is a platted undeveloped rural-residential zoned property. The associated Floodplain Habitat Assessment Report (Exhibit 7) indicates that there will be no effect of endangered species or critical habitat. The associated effects analysis concurs there are no effects to endangered or threatened species related to the proposed development.*

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 development is the minimum necessary to afford construction of a single family residence while still protecting ecological functions.*

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.*

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: *Implementation of the mitigation plan along with the required monitoring and maintenance of the project area will assure no net loss of ecological functions and processes.*

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: Kitsap County's GIS data showed potential wetlands on site. However, the Wetland, Shoreline, Fish and Wildlife, and FEMA Habitat Assessment Report (Exhibit 7) determined the subject property was non-wetland and had no presence or regulated streams. There is an AE Flood Zone on the subject property. This variance is conditioned to meet the building standards for flood zone development.

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 Conceptual Mitigation Plan and Restoration plan by Soundview Consultants (Exhibit 7), which provides for restoration of the shoreline with native plantings and will be augmented and enhanced through implementation of the planting plan at time of the building permit.*

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: *The proposed residential construction will use low impact development techniques for both the control of water on-site, and the treatment of water quality through implementation of a dispersion stormwater system.*

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: *The implementation of the Wetland, Shoreline, Fish and Wildlife Habitat, and FEMA Floodplain Assessment Report (Exhibit 7) and associated mitigation plan, along with the minimization of the building size and limitation to buffer and shoreline access, and incorporation of the proposed water quality infiltration system will meet the associated goals and policies.*

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. This criteria will be further analyzed in the shoreline variance criteria.*

22.400.110 Mitigation (Sequencing and Mitigation Options)

Staff Comments: *The planned new residence proposes mitigation through incorporation and implementation of the Wetland, Shoreline, Fish and Wildlife Habitat, and FEMA Floodplain Assessment Report (Exhibit 7) 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).*

22.400.115 Critical Areas

Staff Comments: *The flood zone has been addressed by the Floodplain Habitat Assessment Report. This permit has been conditioned to provide a FEMA Elevation Certification with the building permit.*

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.*

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. However as stormwater mitigation is required due to the proximity to critical areas, a Site Development Activity Permit (SDAP) shall be required and will be further analyzed at time of building permit review.*

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.*

22.400.140 Bulk and Dimension Standards

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

22.500.100 Shoreline Variance Criteria

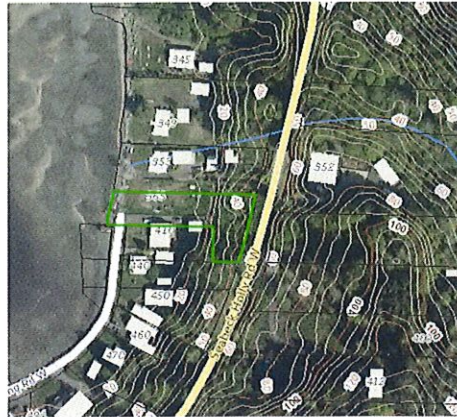
Variance permits for development that will be located landward of the OHWM, except within those areas designated as marshes, bogs, or swamps pursuant to Chapter 173-22 WAC, may be authorized provided the applicant can demonstrate all of the following per KCC

22.500.100.E.4:

Staff Comments: *The applicant's consultant address the variance criteria in the Wetland, Shoreline, Fish and Wildlife Habitat, and FEMA Floodplain Assessment Report (Exhibit 7). The applicant also addresses the variance criteria in a separate narrative (Exhibit 11).*

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 Comments: *The eastern portion of the subject property descends moderately to steeply down from Seabeck-Holly Road to a relatively level central and western portion of the site. As proposed, the residence is placed beyond the reduced shoreline buffer to avoid steep slopes with intact vegetation on the eastern portion of the site and to avoid placement within minimum setback requirements of the existing approved septic. The neighboring properties are also waterward and have not built into the steep slope that runs north and south through Seabeck-Holly Road. Please see picture below.*



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 Comments: *The hardship is specific to the property and not the applicant. The flatter area of the parcel has an existing septic system and drain field. To meet the standard buffer of 130', development would have to occur on the steep slopes. This would also include moving the existing septic system and building on the reserved drain field. This is a hardship was not created by the applicant and is specific to the parcel.*

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 Comments: *The proposed use is a single family residence which is compatible with the Rural Residential zone. The Wetland, Shoreline, Fish and Wildlife Habitat, and FEMA Floodplain Assessment Report and Conceptual Mitigation Plan will ensure no loss to the shoreline.*

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

Staff Comments: *The proposed single family residence is similar to others surrounding it. The proposal is for a two story single family residence. The first floor will have a footprint of 1,435 square feet and a 528 square foot garage. The neighbor to the north has an existing single family residence that is 1,192 square feet and a 780 square foot garage. The southern neighbor has an existing 1,292 square foot residence with a 480 square foot garage and a 375 square*

foot carport. The applicant is not being granted anything the neighboring properties do not already enjoy. In addition, the size of the proposal is comparable to the neighbors.

e. That the variance requested is the minimum necessary to afford relief; and

Staff Comments: *The applicant's request will provide for a two bedroom, two and a half bathroom, residence with a detach garage. The request is considered moderate and consistent with the properties surrounding it and in Kitsap County.*

f. That the public interest will suffer no substantial detrimental effect.

Staff Comments: *The applicant proposes mitigation for the project to enhance the shoreline by removing invasive plants throughout the hillside and upper area near the road and replant with native plants. This will be a benefit for public interest. The proposal does not include any harmful characteristics to the public or the shoreline.*

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 18 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.*

Agency Recommendation

Planning/Zoning review recommends approval based on 11 conditions. Environmental Review recommends approval with 7 conditions. Fire has 1 condition. Development Services and Engineering has 4 conditions of approval. Traffic and Roads has 4 conditions.

Staff Evaluation of Decision Criteria

1. The Hearing Examiner has review authority for this Variance permit application under KCC, Sections 17.410.010(C) 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 Shoreline Variance 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.
2. The proposal is consistent with the comprehensive plan and the Shoreline Master Program.
3. The proposal complies with or will comply with requirements of Title 17 and complies with or will comply with all of the other applicable provisions of the KCC and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report. The proposal is consistent with the code and provisions of the Kitsap County SMP.
4. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity.
5. 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.

Recommendation:

Based upon the information above, the Department of Community Development recommends that the Shoreline Variance permit request for the Henning Shoreline residence be **approved**, subject to the following conditions:

Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The new residence is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
4. Only one residence shall be permitted on the subject property.
5. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
6. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
7. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code (KCC). Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.
8. 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.
9. The decision set forth herein is based upon representations made and exhibits contained in the project application (1-22). 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.
10. The Shoreline Variance Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within two years of the Notice of Decision date or the resolution of any appeals.

11. Any violation of the conditions of approval shall be grounds to initiate revocation of this variance permit.

Environmental

12. Follow the recommendations of the Wetland, Shoreline, Fish and Wildlife Habitat, and FEMA Floodplain Assessment Report and Conceptual Mitigation Plan report and detail by Soundview Consultants dated May 2017.
13. The planting and mitigation plan will be monitored for a minimum of 5 years to ensure survival.
14. The newly created single-family residence will be limited to 35 feet in height per Kitsap County Code 22.500.100.a.2. Building height is defined in Kitsap County Code 17.110.140.
15. The application requires that no new shoreline armoring is proposed, and that no armoring will ever be needed for the protection of any facilities on site.
16. Permit approval requires that refuse shall not be placed in buffers.
17. There shall be no clearing of vegetation or grading in the buffer area, as is depicted on the approved site plan. Prior to any clearing or development, please contact Development Services and Engineering Environmental staff at (360)337-5777 to confirm buffer boundaries.
18. All structures must be built to flood standards in Kitsap County Code Title 15. The single family residence must be at least 1' about the Base Floor Elevation.

Fire

19. Fire flow in the amount of 500 gallons per minute at 20 psi for a minimum of 30 minutes is required for new homes constructed.

Development Services and Engineering

20. 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.
21. The information provided demonstrates this proposal is a *Small Project* as defined in **Kitsap County Code Title 12**. Due to the adjacent critical area (shoreline), the project requires a Simplified Drainage Review-Engineered Site Development Activity Permit (**SDAP**) from Development Services and Engineering.
22. 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 Shoreline Variance application was deemed complete, May 24, 2017. 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.

23. If the project proposal is modified from that shown on the submitted site plan dated May 24, 2017, Development Services and Engineering will require additional review and potentially new conditions.

Traffic and Roads

24. 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.
25. 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.
26. The existing road approach to Allen King Road West shall be abandoned and the area shall be planted as proposed by the applicant. Prior to requesting final inspection for the associated building permit, an inspection shall be requested to verify the planting/road approach abandonment.
27. 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.


Katharine Shaffer, Staff Planner

10.3.17
Date



Scott Diener, Development Services and Engineering Manager

10.3.17
Date

CC: Applicant/Owner: Linda and Robert Henning
Interested Parties: None
Kitsap County Health District, MS-30
Department of Ecology, Shoreline Section, Misty Blair
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer
DCD File: 17 02041