



Notice of Administrative Decision

Date: 12/12/2023

To: MARILYN VACKERT, 16504 TUKWILA RD NE POULSBO, WA 98370
JENNIFER ROTSTEN, Jenny@sealevelbb.com
Interested Parties and Parties of Record

RE: **Permit Number:** 22-03081
Project Name: Vackert - Shoreline ACUP for replacing existing bulkhead
Type of Application: ADMIN CUP - SHORELINE

The Kitsap County Department of Community Development has **APPROVED** the land use application for **Permit 22-03081: Vackert - Shoreline ACUP for replacing existing bulkhead – ADMIN CUP - SHORELINE**, subject to the conditions outlined in this Notice and included Staff Report.

THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.

The written appeal shall be made on, or attached to, an appeal form titled: *'Appeal/Objection of an Administrative Decision'* found on DCD's website, through the Online Permit Application Portal: <https://app.oncamino.com/kitsapcounty/login>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC:

Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Darren Gurnee
Interested Parties: Sheldon, Kelly - Dept of Ecology, kesh461@ECY.WA.GOV
Parks
Navy
DSE
Kitsap Transit
North Kitsap Fire District
North Kitsap School District

Permit 22-03081, Vackert - Shoreline ACUP for replacing existing bulkhead
12/12/2023

Puget Sound Energy
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
Skokomish Tribe
WA Dept of Fish & Wildlife
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Wetland Review (SEPA)
WA State Dept of Ecology- Shoreline (SEPA)
WA State Dept of Transportation
WA Dept of Natural Resources
WA Dept of Health WA Dept of Archaeological Historic Preservation



Administrative Staff Report

Report Date: 12/6/2023

Application Submittal Date: 6/21/2022

Application Complete Date: 8/8/2022

Project Name: Vackert – ACUP Shoreline Existing Bulkhead Replacement

Type of Application: Shoreline Administrative Conditional Use Permit

Permit Number: 22-03081

Project Location

16504 Tuk Wil La Road NE,
Poulsbo, WA
Commissioner District #1 (North)

Assessor's Account

4367-002-005-0109

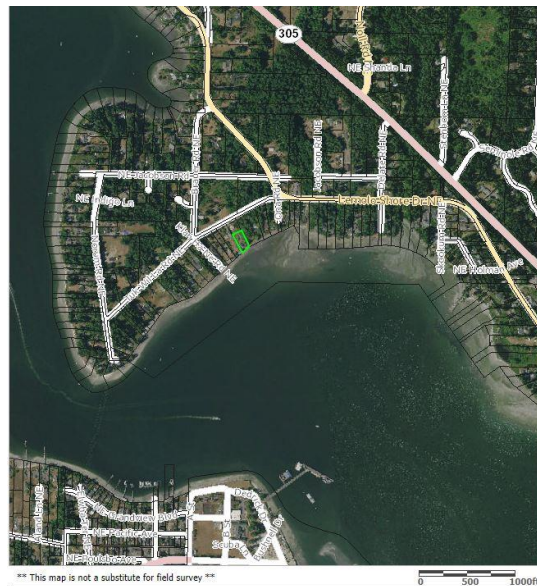
Applicant/Owner of Record

Marilyn Vackert
16504 Tuk Wil La Road NE
Poulsbo, WA 98370

Decision Summary

Approved/Denied subject to conditions listed under section 13 of this report.

VICINITY MAP



1. Background

The site is located along the northwestern shore of Nesika Bay between the Lemolo Peninsula and Point Bolin in Kitsap County. The site includes approximately 85 linear feet of shoreline. Topography consists of a flat upland area to the north, where the house is located, and a low bank shoreline to the south. The existing bulkhead, constructed in the 1950s, retains this low bank shoreline.

The house is located 16 feet landward of the Ordinary High Water Mark (OHWM) between Tukwila Road and the beach. Similar private properties border the project site to the north, west and east and the tidelands of Nesika Bay to the south. Total vertical height of the existing bulkhead is approximately 5 feet. Less than 3 feet of the bulkhead is exposed along the eastern portion where it turns landward. Materials consist of placed concrete with a narrow footing. The vertical concrete bulkhead protects the backyard, patio, and house footprint. The house was moved prior to 1977 from an upland location to its current location. Subsequent land use actions prevent moving the

house back to it's original location. Furthermore, according to the geotechnical report waves overtopping the existing bulkhead will erode and threaten the primary residence regardless of it's location on the parcel or finished floor elevation.

Based on the location of the bulkhead with respect to the inferred former beach, the bulkhead likely protects fill soils placed during initial grading for the lot. This was a common practice to establish a fairly permanent shoreline location that was being affected by shoreline erosion and to allow for dock and vessel access for those who worked on the water. Aerial imagery from 1977 clearly shows the existing house in its current location with the bulkhead in place. The dock is also in place and the concrete bulkhead extended at least three parcels to the west. Significant cracks and offset deflection of the wall exist in several places. Post crack repair attempts using steel straps and steel anchors occurred in the past. The most significant damage is located on the western property line where the concrete return wall was broken and missing. The neighboring property to the west is protected by a rock bulkhead that extends partially onto the subject property at the damaged western corner.

The existing concrete bulkhead is still performing as intended; however, it is at the end of its service life. Both the in-place soils and the fill are highly susceptible to rapid erosion if exposed to wave action. Replacing the entire 85 feet with rocks placed at or landward of the existing face will protect the existing upland improvements. A new bulkhead can also be oriented in a way to eliminate the prominent 90 degree turn in the bulkhead east of the former dock approach. Moving or increasing the based elevation of the primary residence will still remain susceptible to wave topping action and erosion of the soils around foundation elements. Waves and tidal action qualify as justification for hard shoreline armoring per KCC Section 22.600.175 D.2.c.i.(A).

2. Project Request

The applicant requests the Department to recommend approval of a Shoreline Administrative Conditional Use Permit (SACUP) to reconstruct an existing concrete and rock bulkhead with new rock and an increased height of 1 foot. Access for heavy equipment will be provided on the parcel, not from the water.

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 9/19/2022. A Determination of Nonsignificance (DNS) was issued on April 5, 2023. SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions at the end of this report:

1. The proposal is conditioned to follow the requirements of Kitsap County Code (KCC) Title 15, Flood Hazard Protection; KCC Title 22, Shoreline Master Program; and KCC Title 12, Stormwater.
2. Mitigation measures are required per the Habitat Management Plan and No Net Loss assessment provided by Marine Surveys and Assessments.
3. Follow recommendations of the Geologic and Beach Processes Reconnaissance prepared by Coastal Solutions, LLC.
4. A Hydraulic Project Approval from the Washington State Department of Fish and Wildlife is required prior to commencement of work.

The SEPA appeal period expired April 19, 2023. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The 0.40 acre parcel slopes slightly from the west down to the south and east. The beach gently slopes up immediately landward of the ordinary high water mark, demarcated by the existing concrete bulkhead.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	N/A	N/A
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	0.40 acres
Maximum Lot Size	N/A	N/A
Minimum Lot Width	140 feet	~ 98 feet
Minimum Lot Depth	140 feet	~215 feet
Maximum Height	35 feet	N/A
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes:

Staff Comment: The application does not propose the creation of a new lot. The subject property is part of the Le-Mo-Lo Plat which was platted in 1907.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (North)	20 feet	~ 38 feet to accessory structure
Side (West)	5 feet	~ 10 feet
Side (East)	5 feet	~ 5 feet to accessory structure
Rear (South)	10 feet Abuts Puget Sound, 130 - foot buffer and 15 foot building setback for Rural Conservancy Designation (Title 22) applies.	See the Habitat Management Plan for analysis.

Applicable Footnotes:

41. The following exceptions apply to front yard requirements for dwellings:
 - a. If there are dwellings on both abutting lots with front yards less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
 - b. If there is a dwelling on one abutting lot with a front yard less than the required depth for the zone, the front yard need not exceed a depth of halfway between the depth of the front yard on the abutting lot and the required front yard depth.
 - c. If a modification to the front yard requirement is necessary in order to site dwellings in a manner that maximizes solar access, the director may modify the requirement.
 - d. On lots with multiple front yards, the front yard setback(s) in which the lot does not receive access may be modified by the director. Based upon topography, critical areas or other site constraints, the director may reduce these front yard setbacks to a minimum of twenty feet for properties requiring fifty feet and ten feet for properties requiring twenty feet. The director may not modify front yard setbacks from county arterials or collectors. Such reductions shall not have an adverse impact to surrounding properties.

42. The following exceptions apply to historic lots:
 - a. Building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel; providing, that no structure or portion of such addition may further project beyond the established building line.

b. Any single-family residential lot of record as defined in Chapter [17.110](#) that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

48. Shoreline properties are subject to Title [22](#) and may have additional buffers and setbacks requirements not listed in the density and dimension tables. Properties constrained by critical areas are subject to Title [19](#) and may have additional buffers and setbacks requirements not listed in the density and dimension tables. Cornices, canopies, eaves, belt courses, sills, bay windows, fireplaces or other similar cantilevered features may extend up to twenty-four inches into any required yard area. In no case shall a habitable area be considered for encroachment into a required yard through any land use process. Additionally, fire escapes, open/uncovered porches, balconies, landing places or outside stairways may extend up to twenty-four inches into any required side or rear yards. Open/uncovered porches, balconies, landing places, or outside stairways shall not extend more than six feet into any required front yard and shall be a minimum of five feet from the front property line.

Staff Comment: KCC Section 17.420.060 A.42.b. applies which reduces the setbacks to the Urban Restricted zoning designation.

- *FRONT (Northwest): 20 ft minimum.*
- *Side: 5 ft minimum.*
- *Side: 5 ft minimum.*
- *Rear: 10 ft min, defer to environmental.*

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Residential (RR)
South	Single-family residence	Rural Residential (RR)
East	Puget Sound	NA
West	Single-family residence	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	On-site Septic
Police	Kitsap County Sherriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Access

A private easement through the property to the north connects to Tuk Wil La Road NE, a County maintained right of way, and provides direct access to the parcel.

6. Site Design

Landscaping and lighting requirements of KCC 17.500 are not applicable.

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. Chapter 3- Environment, incorporates by reference the goals and policies of the Kitsap County Shoreline Master Program.

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

22.300 General Goals and Policies

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.

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

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.

Policy SH-5. Shoreline ecological functions that should be protected included, but are not limited to:

1. Habitat
2. Water quality maintenance; and
3. Water quantity maintenance.

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.

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.

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.

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.

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.

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).

22.200.125 Rural Conservancy

- 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.
6. Agriculture, commercial forestry and aquaculture, when consistent with the program, may be allowed.

Staff comment: The project intends to protect an existing single-family residence, an allowed use in the Rural Conservancy Designation. The proposal results in a net gain of ecological function by moving the bulkhead landward and mitigation measures (see Habitat Management Plan).

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	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Title 19	Critical Areas Ordinance (CAO)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures
Title 22	Shoreline Management Program (SMP)

8. Documents Consulted in the Analysis

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
Project Narrative	June 21, 2022
Engineered Plans	June 21, 2022
Administrative CUP Application	June 21, 2022
JARPA	May 4, 2022
Stormwater Worksheet	June 21, 2022

Bulkhead Photos	June 21, 2022
Geotechnical Report	October 4, 2021 Revised May 1, 2023
Geologic and Beach Processes Reconnaissance Addendum No. 1: Response to Kitsap County Comments	October 3, 2023
Environmental (SEPA) Checklist	May 4, 2022
Habitat Management Plan	December 14, 2021

9. Public Outreach and Comments

The Department received one comment which referenced a site cleanup effort at Lemolo Market located over 500 feet to the northeast.

Issue Ref. No.	Issue	Staff Response
1	There is a petroleum-contaminated site caused by a leaking underground storage tank located approximately 550 feet northeast of the proposed project that is in "cleanup started" status (Cleanup Site ID 8182)	The proposal does not affect the clean up occurring on the parcel referenced by the Department of Ecology. No changes to the proposal are required.

10. Analysis

a. Planning/Zoning

This project has been reviewed against, and found to be consistent with, Kitsap County Code Title 17 Zoning.

b. Lighting

Not applicable. There are no additions to or changes to lighting with this proposal.

c. Off-Street Parking

Not applicable. There are no additions to or changes to parking with this proposal.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single Family Residential	3 parking spaces at 9 ft x 20 ft = 540 sf.	3 parking spaces at 9 ft x 20 ft = 540 sf.	More than 540 sf.

d. Signage

Not applicable.

e. Landscaping

Not applicable as to Title 17 requirements. Vegetation enhancement is proposed as a restoration/mitigation element of this project (see Habitat Management Plan). The project is conditioned to provide a detailed landscaping plan at the time of building permit review.

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

Not applicable.

g. Design Districts/Requirements

Not applicable.

h. Development Engineering/Stormwater

The house currently uses splash blocks for stormwater control. The Habitat Management Plan states that water quantity/quality will not change. The proposal doesn't include a comprehensive drainage analysis; however, the Geotechnical report states that no groundwater seepage or uncontrolled surface water seepage contributed to bulkhead deterioration. Therefore, the project meets Kitsap County Code requirements.

i. Environmental

Replacing a concrete bulkhead with a rock bulkhead built landward of the current footprint will perpetuate impacts to nearshore habitat. However, this will not result in additional habitat or functional loss. The use of a rock bulkhead in place of the vertical concrete bulkhead will reduce the potential for erosion along the toe of slope.

The project minimizes short-term impacts from demolition and construction through avoidance and minimization measures which addresses Kitsap County Shoreline

Management Program and FEMA requirements. Removal of creosote-treated wood and embedded concrete from the upper beach will result in ecological benefits; therefore, this project will achieve no net loss to ecological function.

22.400.110 Mitigation

The planned shoreline stabilization proposes to improve the current shoreline functions at the project site and will implement restoration/mitigation elements of the Shoreline Habitat Mitigation Plan. The proposal is minimizing the impacts by not proposing any new structures within the shoreline buffer, replanting with native vegetation if necessary, and ensuring stormwater is managed appropriately.

22.400.115 Critical Areas

Kitsap County GIS indicates the presence of a ‘High Geologic Hazard Area’, as defined in Kitsap County Code 19.400. The applicant provided a Geotechnical Report which meets the requirements of Kitsap County Code. The report concludes that continued protection of the single-family residence requires replacement of the existing bulkhead. The project does not expand the wall footprint, rather it increases the wall height to prevent overtopping wave action.

The site is also within the mapped FEMA floodplain. The geotechnical report suggests that the project will only prevent overtopping waves and erosion actions and will not increase tidal flooding of adjacent areas.

22.400.125 Water Quality and Quantity

The Department reviewed the project against Kitsap County Code Title 12 Stormwater Drainage. A Site Development Activity Permit is not required.

22.400.130 Historic, Archaeological, Cultural, Scientific and Educational Resources

There were no comments provided by the Tribes related to cultural resources. The Department conditioned approval of this permit and subsequent building permit(s) to notify Kitsap County DCD, the Washington State Office of Archaeology and Historic Preservation, and the affected tribes if archaeological resources are uncovered during excavation.

22.400.135 View Blockage

There are no view blockage concerns for this project.

22.400.140 Bulk and Dimension Standards

The residence meets the definition of an existing structure; therefore, meets KCC requirements. The Geotechnical report and addendum articulates the need to increase the wall height due to overtopping wave action increasing erosion on the site and threatening the residence. The proposal represents the minimum height increase necessary to protect the home.

22.500.100 D. Conditional Use Permits, Including Administrative Conditional Use Permits.

1. The purpose of a CUP is to provide flexibility in authorizing uses in a manner consistent with RCW [90.58.020](#). Accordingly, special conditions may be imposed to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and this program.
2. CUPs shall be classified as a Type III permit under Chapter [21.04](#). Where administrative CUPs are allowed, they shall be classified as a Type II permit under Chapter [21.04](#). Unless specified otherwise in this program, the CUP criteria apply in addition to the applicable SDP criteria, and shall be combined into a single review process.
3. Shoreline CUPs shall be granted only after the applicant can demonstrate compliance with WAC [173-27-160](#) and this section as follows:
 - a. That the proposed use is consistent with the policies of RCW [90.58.020](#) and this program;
 - b. That the proposed use will not interfere with the normal public use of public shorelines and does not conflict with existing water-dependent uses;
 - c. That the proposed use of the site and design of the project are compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this program;
 - d. That the proposed use will not result in significant adverse effects or a net loss to the shoreline ecosystem functions in which it is to be located;
 - e. That the public interest suffers no substantial detrimental effect;
 - f. That consideration has been given to the cumulative impact of additional requests for like actions in the area and shall not result in substantial adverse effects or net loss of shoreline ecosystem functions. For example, if CUPs were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the use preference policies and shall not produce substantial adverse impacts to the shoreline environment. Consideration shall be demonstrated through preparation of a cumulative impacts report, if requested, that substantially conforms to the applicable provisions of Chapter [22.700](#) (Special Reports);
 - g. Other uses which are not classified or set forth in this program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program;
 - h. Uses which are specifically prohibited by this master program may not be authorized pursuant to this section.
4. All applications for shoreline CUPs, including administrative CUPs, approved by the county 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: This proposal is for an Administrative Conditional Use Permit for new hard shoreline stabilization in the Rural Conservancy designation. The existing bulkhead, and proposed height increase, protects an existing single-family residence from future erosion and will not interfere with the public use of the shoreline. The shoreline armoring is consistent with the immediate neighboring properties.

22.600.175 Shoreline Stabilization

A. Environment Designations Permit Requirements. Based on the type of shoreline modification proposed, the identified permit requirements shall apply for all designations:

1. SDP for soft shoreline stabilization, unless otherwise exempt.
2. Administrative CUP for hard shoreline stabilization.

B. Exemptions from Substantial Development Permit for Shoreline Stabilization.

1. The construction of a normal protective bulkhead common to single-family residences shall not require an SDP if it meets the exemption criteria listed in Section 22.500.100(C)(3)(c), or as further amended in WAC 173-27-040. An exemption from an SDP is not an exemption from a CUP or an administrative CUP where applicable.
2. A “normal protective” bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the OHWM for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.
3. A letter of permit exemption will be prepared for qualifying shoreline stabilization activities in accordance with Section 22.500.100(C)(4). The county shall track exemption activities in the permit system.

Staff Comment: This proposal includes shoreline (bluff) stabilization walls parallel to the shoreline to protect an existing single-family residence and appurtenant structures from loss or damage by erosion. The increased height qualifies the project as new hard shoreline stabilization element which requires the Shoreline Administrative Conditional Use Permit.

C. Application Requirements. In addition to the general application requirements, applications for shore protection and bluff stabilization shall include the following information, when applicable:

1. Upland, on-site improvements and any existing shoreline structures;
2. Type of proposed shore protection and a description of alternatives to hard approaches where proposed, and a thorough discussion of the environmental impacts of each alternative;
3. Habitat survey prepared by a qualified professional biologist that describes the anticipated effects of the project on fish and wildlife resources and marine vegetation;

4. A description of any proposed vegetation removal, and a plan to revegetate the site following construction;
5. Tidal elevations and field verified line of ordinary high water;
6. Ownership of the tidelands, shorelands and/or bedlands;
7. Purpose of shore protection;
8. Direction of net longshore drift (for marine shoreline);
9. Plan and profile of existing bank and beach;
10. Profile of adjacent existing bulkhead;
11. In addition to the general geotechnical report requirements in Section 22.700.120, the following information shall be included for shoreline stabilization proposals:
 - a. Address the need to prevent potential damage to a primary structure through the use of shoreline stabilization measures.
 - b. Estimate time frame and rates of erosion to report on the urgency associated with the specific situation. “Urgent” means:
 - i. That the primary structure will be damaged within three years as a result of natural shoreline erosion in the absence of hard armoring structures; or
 - ii. Where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions.
 - c. If the report determines that the need is not as immediate as three years, it still may be used to justify a more immediate authorization to protect against erosion using soft measures.
 - d. The geotechnical analysis shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge;
12. Any other information that may be required to demonstrate compliance with the review criteria referenced in this section and the guiding provisions at WAC 173-26-231(3)(a).

Staff Comment: The submitted special reports, addendums, and plans meet the submittal requirements of this section. The project is conditioned to provide a detailed planting plan as an addendum to the Habitat Management Plan for review during the building permit.

D. Development Standards.

1. General Regulations.
 - a. These standards shall be guided by the provisions at WAC 173-26-231(3)(a).
 - b. Applications for shore protection will be reviewed pursuant to comments made by the Washington Department of Fish and Wildlife pertaining to impacts on critical salt and freshwater habitats, and comments made by the Washington Department of Natural Resources for projects proposed on state-owned aquatic lands.
 - c. Soft shoreline stabilization measures shall be utilized unless demonstrated through a geotechnical analysis not to be sufficient to protect primary

structures, dwellings and businesses. Alternatives for shoreline stabilization shall be based on the following order of preference:

- i. No action, increase building setbacks, or relocate structures;
 - ii. Soft shoreline stabilization constructed of natural materials including bioengineering, beach nourishment, protective berms, or vegetative stabilization;
 - iii. Hybrid shoreline stabilization, usually constructed of a mix of rock, logs and vegetation;
 - iv. Hard shoreline stabilization constructed of materials such as rock, riprap or concrete.
- d. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the OHWM.
- e. When hard shoreline stabilization measures are demonstrated to be necessary, they must:
- i. Limit the size of stabilization measures to the minimum necessary.
 - ii. Assure no net loss of shoreline ecological functions.
 - iii. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.
 - iv. Where feasible, incorporate ecological restoration and public access improvements into the project.

Staff Comment: The proposal and submitted reports demonstrate that the project will not result in a net loss of shoreline ecological functions and provided the necessary mitigation sequencing analysis. Ecological restoration components have been incorporated to the greatest extent feasible. A hydraulic project approval is required as part of the building permit for any construction at or below the Ordinary High Water Mark (OHWM).

- f. Shoreline stabilization measures shall not be for the purpose of creating dry land. Leveling or extending property, creating or preserving residential lawns, yards or landscaping shall not be allowed except when otherwise allowed in this section due to health and safety.
- g. Minimize disturbance pertaining to beach access by avoiding switchback trails which require hard stabilization. Where such avoidance is not feasible, mitigation for impacts to shoreline ecological functions shall be required.
- h. Bluff stabilization walls shall be prohibited unless proven necessary through a geotechnical report.

Staff Comment: The geotechnical report states that the proposed bulkhead is the minimum necessary to prevent overtopping wave action from eroding the foundation of the primary residence and accessory structures. Native plant and shrub plantings are

required via the Habitat Management Plan, further clarified in a detailed planting plan submitted with the building permit.

- i. Placement of shoreline stabilization methods shall follow the natural contour of the existing shoreline, be parallel to and at or above the OHWM.

Staff Comment: The project will reconstruct the bulkhead within the existing footprint, or landward, and better align with shoreline contours.

- j. Shoreline stabilization on marine feeder bluffs, when determined necessary pursuant to the standards of this section, may require additional mitigation measures, including those necessary to offset the loss of sediment supply.

Staff Comment: Due to the fact that the bulkhead would not be cutting off sediment input from a bluff and the new bulkhead will be moved landward of the existing footprint, it seems unlikely that sediment supply or transport would be further disrupted at this site. Coastal Solutions also states that the replacement “will not adversely alter the coastal processes at the site”.

- k. Shoreline stabilization must be designed by a professional engineer licensed in the state of Washington with demonstrated experience in hydraulic activities of shorelines. Alternatively, soft shoreline stabilization may be designed by a habitat biologist or a professional with demonstrated expertise in designing soft shoreline stabilization structures.

Staff Comment: This project has been designed by a professional engineer.

- l. Depending on the degree of hard or soft elements to the project, the department, WDFW, and/or U.S. Army Corps of Engineers may require varying degrees of mitigation or other permit conditions.
- m. Shoreline stabilization structures shall not result in a net loss of shoreline ecological functions.

Staff Comment: The project requires a Hydraulic Project Approval from the Washington State Department of Fish and Wildlife. The project is consistent with Kitsap County Code, Title 22 Shoreline Master Program, including a No Net Loss determination.

- n. Shoreline stabilization, as applied in this section, is generally distinguished from shoreline restoration activities. However, specific shoreline stabilization elements of restoration activities shall be guided by this section.

Staff Comment: This project is being reviewed under these Administrative Conditional Use criteria as these are non-restorative elements.

2. New and Expanded Shoreline Stabilization.

- a. If shoreline stabilization is necessary pursuant to a geotechnical analysis, the method, either hard or soft, shall not result in a net loss of shoreline ecological functions. To meet this requirement, on- and off-site mitigation measures may be required.
- b. Shoreline stabilization structures shall not be constructed with waste materials such as demolition debris, derelict vessels, tires, concrete or any other materials which might have adverse toxic or visual impacts on shoreline areas.
- c. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:
 - i. To protect legally existing primary structures:
 - (A) New or enlarged structural shoreline stabilization measures for the existing primary structure, including residences and their primary appurtenant structures or uses, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the lawfully established, primary structure is in imminent danger from shoreline erosion caused by tidal actions, currents, or waves;
 - (B) Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need;

Staff Comment: According to the Geotechnical report the proposed project is necessary to protect a primary single-family residence on the property due to imminent structural failures of the existing bulkhead. The bluff retaining structures are necessary due to shoreline erosion caused by tidal actions, currents, or waves, thus for the protection of the home and necessary appurtenances.

3. Replacement and Repair of Existing Shoreline Stabilization and Armoring.

Staff Comment: If not for the height increase this project would qualify as repair of an existing hard shoreline stabilization.

4. Shore Stabilization on Streams.

Staff Comment: Not applicable.

j. Access, Traffic and Roads

None.

k. Fire Safety

None.

l. Solid Waste

None.

m. Water/Sewer

None.

n. Kitsap Public Health District

None.

11. Review Authority

The Director has review authority for this Administrative Conditional Use Permit application under KCC, Sections 17.540.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Director. The Director may approve, approve with conditions, or deny an Administrative Conditional Use Permit.

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. Decision

Based upon the analysis above and the decision criteria found in KCC 17.540.040.A, the Department of Community Development recommends that the Shoreline Administrative Conditional Use Permit request for Vackert Existing Bulkhead Replacement be **approved**, subject to the following 9 conditions:

a. Planning/Zoning

1. Review the linked Administrative Decision for conditions of approval. The conditions listed below are staff recommended conditions and may not be valid.

b. Development Engineering

2. New and/or replaced hard surfaces do not exceed the 2,000 square foot

- threshold; nor does the project exceed 7,000 square feet of disturbed area. While a formal plan is not required, the applicant must consider all elements required of a stormwater pollution prevention plan and make allowances for managing erosion and sediment discharge on site. Per KCC Title 12, if the project exceeds either of the thresholds noted above, then additional review for stormwater management will be required.
3. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

4. The placement of the bulkhead is for the protection of the upland property and not for the indirect intent of creating uplands at the expense of tidelands. The placement of the bulkhead shall be subject to the approved site plan and shall follow the natural contours of the shoreline or the footprint of the existing wall, and shall be placed at or above Ordinary High Water Mark.
5. Permit approval subject to no removal of trees or vegetation on the parcel. Please contact Kitsap County Department of Community Development before any clearing (360)337-5777.
6. Any work done below the ordinary high water mark requires a Hydraulic Project Approval (HPA) permit from the Washington Department of Fish and Wildlife. Information regarding an HPA can be found at <http://www.wdfw.wa.gov/hab/hpapage.htm>.
7. 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.
8. Subject to the conditions of the Geotechnical report associated with this permit and on file at the Department of Community Development.
9. Subject to the conditions of the Habitat Management Plan and No Net Loss report associated with this permit and on file at the Department of Community Development.
10. The property owner shall continue to maintain the project, keeping the site free from of non-native invasive vegetation, trash, and yard waste. Planted materials shall be maintained, including assurance of survival through regular irrigation during the first two seasonally dry periods, as necessary.
11. Should archaeological resources be uncovered during excavation, the responsible contractor or homeowner shall immediately stop work and notify Kitsap County, the Washington State Office of Archaeology and Historic Preservation and applicable tribe(s).
12. The applicant shall provide a detailed planting plan as an addendum to the Habitat Management Plan for review during the building permit review.
13. A building permit is required prior to construction.

d. Traffic and Roads

Not applicable.

e. Fire Safety

Not applicable.

f. Solid Waste

Not applicable.

g. Kitsap Public Health District

Not applicable.

Report prepared by:



Darren Gurnee, Staff Planner / Project Lead

11/27/2023

Date

Report approved by:



Katharine Shaffer, Planning Supervisor

12/05/2023

Date

Attachments:

Attachment A – Site Plan

Attachment B – Shoreline Designation Map

Attachment C – Critical Areas Map

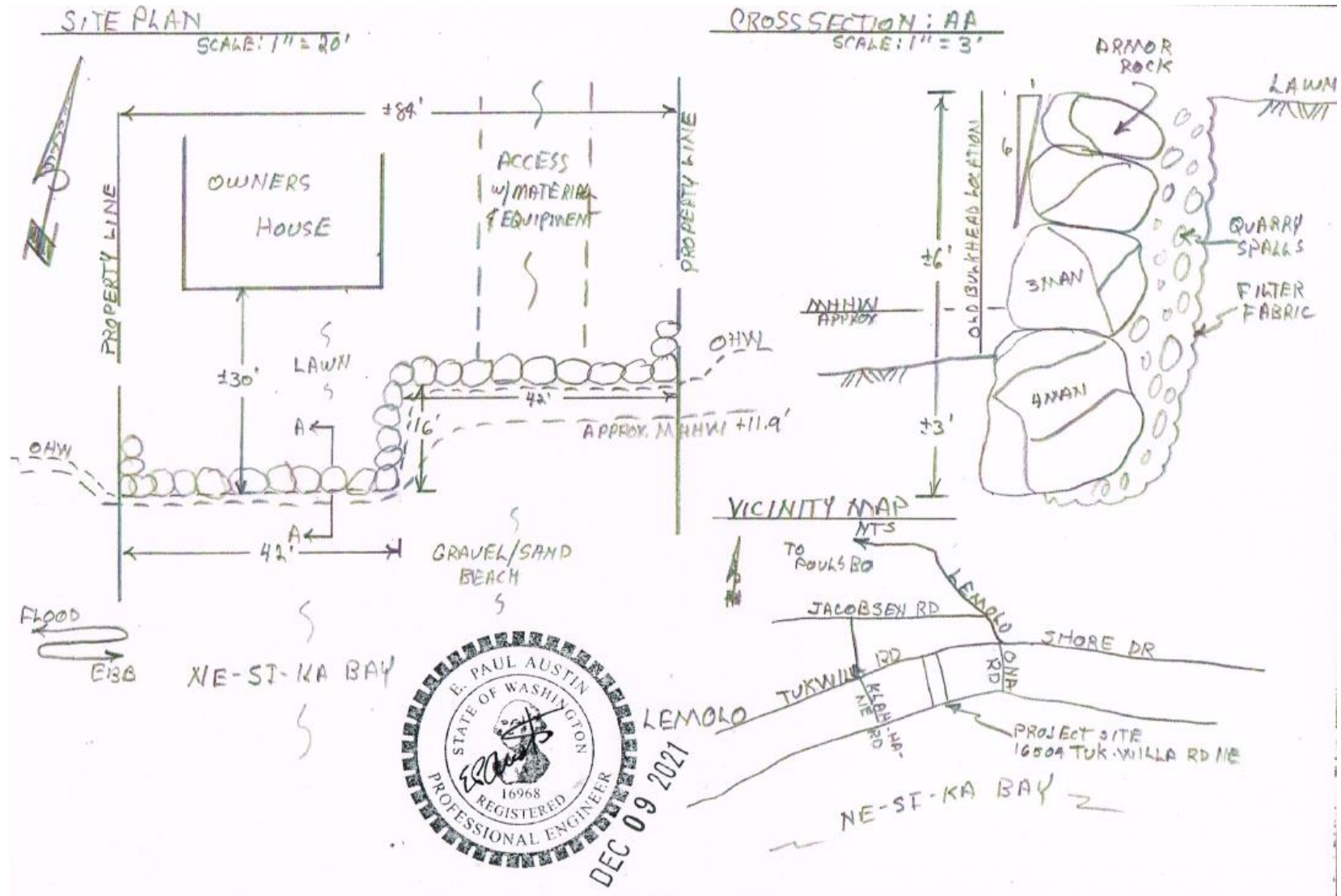
Attachment C – Zoning Map

CC: Applicant/Owner email
Engineer or Project Representative email
Interested Parties:
Department of Ecology
Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Darren Gurnee



Site Plan





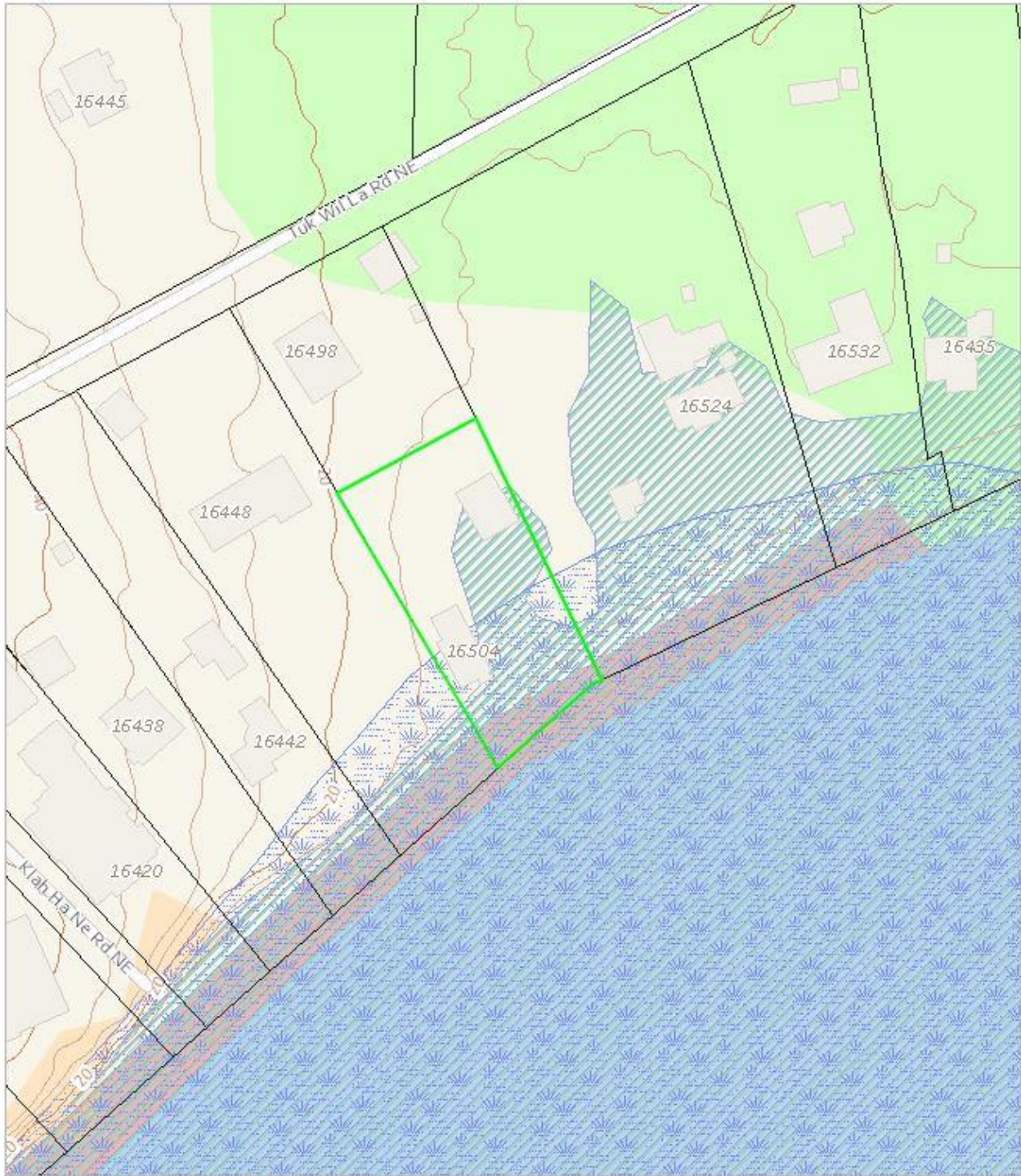
Attachment B – Shoreline Designation Map



** This map is not a substitute for field survey **



Attachment C – Critical Areas Map



**** This map is not a substitute for field survey ****

0 50 100ft

Attachment C – Zoning Map



** This map is not a substitute for field survey **

0 50 100ft