



Rafe Wysham
Director

KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

To enable the development of quality, affordable, structurally safe and environmentally sound communities.

Notice of Hearing Examiner Decision

4/11/2025

To: Interested Parties and Parties of Record

RE: Project Name: NERVIK - Conditional Use for Accessory Dwelling Unit
Applicant: Michael & Patricia Nervik
4729 Eastway Dr SE
Port Orchard, WA 98366
Application: CUP-ADU
Permit Number: 24-03283

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 24-03283: NERVIK - Conditional Use for Accessory Dwelling Unit (CUP-ADU)**, subject to the conditions outlined in this Notice and included Decision.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

<https://www.kitsap.gov/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>.

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:

Applicant/Owner: Michael & Patricia Nervik, mntnervik@hotmail.com

Architect: Ryan Moe Home Design, info@ryandmoe.com

Other Permit Contact: Mark Slagle, Mark@kitsaproofpros.com

Interested Parties: None

Prosecutor's Office
Assessor's Office
DCD
Kitsap Sun
Health District
Public Works
Parks
Navy
DSE
Kitsap Transit
South Kitsap Fire District
South Kitsap School District
Puget Sound Energy
Water Purveyor: PUBLIC UTILITY DIST NO 1
Sewer Purveyor: PUBLIC UTILITY DIST NO 1
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
WA State Dept of Transportation
WA Dept of Archaeological Historic Preservation
WA Dept of Natural Resources

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

RE: Michael and Patricia Nervik Accessory Dwelling Unit (CUP – ADU) File No. 24-03283	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.
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INTRODUCTION

Michael and Patricia Nervik request a Conditional Use Permit to construct a 576sf detached Accessory Dwelling Unit (ADU) above an existing garage located at 4729 Eastway Dr. SE, Port Orchard, WA 98366. The application is approved subject to conditions.

ORAL TESTIMONY

See Exhibit 17 for a computer generated transcript of hearing testimony.

EXHIBITS

Exhibits 1-16 listed in the staff report were admitted during the hearing. A computer generated hearing transcript is entered as Exhibit 17. The transcript is not entered as evidence, but rather to facilitate County record retention for this hearing and to provide an approximate rendition of hearing testimony as a convenience to those interested in the hearing.

FINDINGS OF FACT

Procedural:

1. Applicants. Michael and Patricia Nervik, 4729 Eastway Dr. SE, Port Orchard, WA 98366.

1 2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the
2 application at 9:00 am on March 27, 2025.

3 **Substantive:**

4 3. Site/Proposal Description. Michael and Patricia Nervik request a
5 Conditional Use Permit to construct a 576sf detached Accessory Dwelling Unit (ADU)
6 above an existing garage located at 4729 Eastway Dr. SE, Port Orchard, WA 98366.
7 The project site currently includes a 2,393 square foot primary residence. The ADU
8 will be located approximately six feet from the primary residence where it will be
9 accessed using the same parcel entrance. The project site is located outside of a UGA.
10 The ADU is designed to maintain the appearance of the primary residence using shared
11 style on siding, windows, and roof pitch.

12 4. Characteristics of the Area. The subject property is bordered on all sides by
13 large wooded lots.

14 5. Adverse Impacts. No significant adverse impacts are anticipated from the
15 proposal. Impacts are more directly addressed as follows:

- 16 a. Off-Street Parking. KCC 17.490.030 requires three (3) off-street parking spaces
17 per single-family residence and one (1) parking space for an ADU. The project
18 site has sufficient parking area to accommodate four parking spaces.
- 19 b. Stormwater. Development Services and Engineering reviewed and accepts the
20 concepts contained in this preliminary submittal and requires the conditions
21 stated in Section 13 of the staff report as an element of the land use approval.
- 22 c. Critical Areas. County planning staff have not found any critical areas at the
23 project site.
- 24 d. Access, Traffic, Roads. The proposed ADU will use the same site entrance used
25 by the primary residence.
- a. Water/Septic. The Kitsap County Health District approved the site for
additional septic and water supply.
- f. Compatibility. The proposal is compatible with surrounding uses. As identified
in Finding of Fact No. 4, surrounding uses are all large heavily wooded lots.
With similar appearance to the primary residence, the ADU conversion will not
create any aesthetic impacts to surrounding uses.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. KCC 17.550.030 authorizes the hearing examiner to issue decisions on applications for conditional use permits.

Substantive:

2. Zoning Designation. The property is currently zoned Rural Residential (RR).

3. Review Criteria. KCC 17.410.042 requires a conditional use permit for detached ADUs in the RR zone. KCC 17.550.030A governs the criteria for conditional use permits. Pertinent criteria are quoted below and applied via corresponding conclusions of law.

KCC 17.550.030.A: *The hearing examiner may approve, approve with conditions, or deny a hearing examiner conditional use permit. Approval or approval with conditions may be granted only when all the following criteria are met:*

KCC 17.550.030.A.1: *The proposal is consistent with the Comprehensive Plan;*

4. Criterion met. The criterion is met. The proposed ADU provides the ability to create an affordable housing unit which is a goal supported by several policies in the Comprehensive Plan in a manner consistent with the zoning established for the subject property. The proposal is also found consistent with the Comprehensive Plan for the reasons identified in Section 7 of the staff report (Exhibit 1).

KCC 17.550.030.A.2: *The proposal complies with applicable requirements of this title;*

5. Criterion met. The criterion is met. The proposal conforms to the County's zoning code as detailed in Section 4 and 10 of the staff report (Exhibit 1). Staff planning and public works staff have reviewed the proposal to ensure conformance to the County's zoning code for this level of review. The results of that work have been implemented in detailed conditions of approval, adopted by this decision. Nothing in the record suggests any outstanding compliance issues. More detailed compliance will be required during the building and civil permit review.

The primary issue of zoning compliance is adherence to KCC 17.415.015B, which adopts standards tailored to detached ADUs outside urban growth areas. Pursuant to those standards, only one ADU is allowed per lot, the owner of the property must reside

1 in the primary residence or the ADU, the ADU shall not exceed 50% of the habitable
2 area of the primary residence, the ADU shall be located within 150 feet of the primary
3 residence unless involving a conversion of an existing structure such as that proposed,
4 the ADU shall be designed to maintain the appearance of the primary residence, all
5 setback requirements shall be met, all health district standards shall be met, ADUs may
6 not be mobile homes or recreational vehicles, and the ADU shall use the same access
7 as the primary residence and shall provide an additional parking space. The conditions
8 of approval recommended by staff require conformance to all of these standards. The
9 proposed design and site characteristics further establish conformance as detailed in
10 Findings of Fact No. 3 and 5.

11 **KCC 17.550.030.A.3.:** *The proposal will not be materially detrimental to existing or
12 future uses or property in the immediate vicinity; and*

13 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
14 5.

15 **KCC 17.550.030.A.4:** *The proposal is compatible with and incorporates specific
16 features, conditions, or revisions that ensure it responds appropriately to the existing
17 character, appearance, quality or development, and physical characteristics of the
18 subject property and the immediate vicinity.*

19 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
20 5f and via its required conformance to the ADU standards of KCC 17.415.015B.

21 **DECISION**

22 Based upon the conclusions of law above, the conditional use permit application is
23 approved subject to the following conditions:

24 **Planning/Zoning**

- 25 1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The accessory dwelling unit (ADU) 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 accessory dwelling unit (ADU) 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 accessory dwelling unit (ADU) shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the accessory dwelling unit (ADU) and only one of the structures may be rented at any one time.
6. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 836 square feet. Any future expansion of the ADU will require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.
7. The accessory dwelling unit (ADU) shall be located within 150 feet of the primary residence.
8. The accessory dwelling unit (ADU) shall be designed to maintain the appearance of the primary residence.
9. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
10. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
11. The accessory dwelling unit (ADU) shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
12. An accessory living quarters (ALQ) or guest house (GH) is not permitted on the same lot unless the accessory dwelling unit (ADU) is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code (KCC).
13. A property with a primary residence and an accessory dwelling unit (ADU) cannot be segregated to create two separate legal lots unless it complies with all subdivision, zoning and density requirements in place at the time of a complete subdivision application.
14. The accessory dwelling unit (ADU) cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
15. The recipient of any conditional use permit shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the

1 existence of the permit. The Binder shall be prepared and recorded by the
2 Department at the applicant's expense.

- 3 16. The uses of the subject property are limited to the uses proposed by the
4 applicant and any other uses will be subject to further review pursuant to the
5 requirements of the Kitsap County Code (KCC). Unless in conflict with the
6 conditions stated and/or any regulations, all terms and specifications of the
7 application shall be binding conditions of approval. Approval of this project
8 shall not, and is not, to be construed as approval for more extensive or other
9 utilization of the subject property.
- 10 17. The authorization granted herein is subject to all applicable federal, state,
11 and local laws, regulations, and ordinances. Compliance with such laws,
12 regulations, and ordinances is a condition to the approvals granted and is a
13 continuing requirement of such approvals. By accepting this/these approvals,
14 the applicant represents that the development and activities allowed will
15 comply with such laws, regulations, and ordinances. If, during the term of
16 the approval granted, the development and activities permitted do not
17 comply with such laws, regulations, or ordinances, the applicant agrees to
18 promptly bring such development or activities into compliance.
- 19 18. The decision set forth herein is based upon representations made and exhibits
20 contained in the project application 24-03283. Any change(s) or deviation(s)
21 in such plans, proposals, or conditions of approval imposed shall be subject
22 to further review and approval of the County and potentially the Hearing
23 Examiner.
- 24 19. This Conditional Use Permit approval shall automatically become void if no
25 development permit application is accepted as complete by the Department
of Community Development within four years of the Notice of Decision date
or the resolution of any appeals.
20. Any violation of the conditions of approval shall be grounds to initiate
revocation of this Conditional Use Permit.
21. Issuance of this permit certifies that the applicant has read and examined this
application and knows the same to be true and correct. All provisions of
Laws and Ordinances governing this type of work will be complied with
whether specified herein or not. The granting of a permit does not presume
to give authority to violate or cancel the provisions of any other state/local
law regulating construction or the performance of construction.

23 **Development Engineering**

- 24 22. Building permits submitted for this development shall include construction
25 plans and profiles for all roads, driveways, storm drainage facilities and
appurtenances. No construction shall be started prior to said plan acceptance.

1 23. Stormwater quantity control, quality treatment, and erosion and
2 sedimentation control shall be designed in accordance with Kitsap County
3 Code Title 12 effective at the time the SDAP (or Building Permit if no SDAP
4 required) application is deemed fully complete. The submittal documents
5 shall be prepared by a civil engineer licensed in the State of Washington. The
6 fees and submittal requirements shall be in accordance with Kitsap County
7 Code in effect at the time of SDAP application, or Building Permit if an
8 SDAP is not required.

9 **Environmental**

10 None

11 **Traffic and Roads**

12 None

13 **Fire Safety**

14 None

15 **Solid Waste**

16 None

17 **Kitsap Public Health District**

18 None

19 Dated this 10th day of April 2025.

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21

Phil Olbrechts,
22 Kitsap County Hearing Examiner

23 **Appeal Right and Valuation Notices**

24 Pursuant to KCC 21.04.100 and KCC 21.04.110, this conditional use permit decision is
25 a final land use decision of Kitsap County and may be appealed to superior court within
21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C
RCW.

Affected property owners may request a change in valuation for property tax purposes
notwithstanding any program of revaluation.

March 26, 2025 Kitsap County Hearing Examiner Hearing Transcript

Note: This is a computer-generated transcript provided for informational purposes only. The reader should not take this document as 100% accurate or take offense at errors created by the limitations of the programming in transcribing speech. For those in need of an accurate rendition of the hearing testimony, a hearing recording can be acquired from Kitsap County.

Examiner Olbrechts: ([00:01:47](#)):

25 9 15, I'm Phil Berg's hearing examiner for Kitsap County holding a few hearings this morning starting off with the Nordic application for a conditional use permit for an accessory dwelling unit. That's file number 24 dash 3 2 8 3. And let's start off with our exhibits here it looks like, is that Mr. Gurney doing this one?

([00:02:08](#)):

Okay, he's prepared Staff report and 16 exhibits. At this point I just want to ask if anyone needs to see any of the exhibits that accompany the staff reporter have any objection to its entry in the record? The decision in this case will be based on all exhibits admitted today as well as all testimony. So if you have any objections or need to see those documents, just raise your hand if you're in the meeting room or if you're attending virtually, just click on the virtual hand at the bottom of your zoom screen, not seeing any takers there. So I'll go ahead and admit the staff report exhibits one through 16 and Mr. Gurney, I'll swear you in. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding? I do. Okay, great. Go ahead.

Speaker 3 ([00:02:48](#)):

Thank you. As you can tell, I am not Erin Lewis. She was unavailable to present today but we are still able to continue on her behalf. And for the record, my name is Darren Gurney. I work with Kitsap County in the current planning and environmental programs as a planning supervisor, the project before you right now is the NVI conditional use permit for an accessory dwelling unit. Again, our presentations are supplemental to our staff report so we won't go into too much detail here, but they do provide some visuals that we can discuss if need be in the future. So project application was complete. We issued our notice of application, received no comments, and finally issued a SEPA determination of non-significant without an appeal.

([00:03:41](#)):

The project site, the aerial photos allow us to identify uses nearby. So to the east you have a high school and to the northwest and south you have single family residences. The parcel is approximately 0.43 acres in the rural residential zoning designation that typically carries with it front setbacks of 50 feet side setbacks and rear setbacks of 20 feet unless it's accessory structure. And in this case the parcel size is small enough that our codes allow it to use the next nearest zoning designation for setbacks, which renders it to 20 on the front, five on the sides, and 10 on the rear.

([00:04:29](#)):

This is our critical areas map with the latest information we have in GIS based on state data, no critical areas exist on or near the site. Our site plan here shows the relative location of the A DU to the single family home. So this is an existing single family home, an existing garage, and that garage is proposed to be converted into the A DU located within approximately six feet of the primary residence floor plans of

the single family residence. This allows us to ensure there are no other ADUs on the site either attached or detached. And from this floor plan here, we do not have another A DU on site elevations for the single family residence. This gives us an indication of architectural style and the compatibility we must maintain between the A DU and the single family residence.

(00:05:30):

The proposed A DU, again it's on top of an existing garage. The construction will bring this into a two story structure, similar color patterns as well as window treatments. It's not identical roof treatments but they are similar in nature that complies with Kitsap County code floor plan For our A DU, this is making sure that we have the correct size requirements under 17,000 415 0 1 5 and the proposed A DU believe is 743 square feet, which we'll get to in just a moment. So these are the criteria we used to review ADUs in the rural locations. The piece that I mentioned there, which is the 50% or 900 square feet, whichever is smaller. The primary residence allows for 900 square foot A DU. So this does meet that requirement and each of these requirements the project meets as well as identified in the staff report. Finally, we find this is compliant with a comprehensive plan. All other regulations, it is compatible with the surrounding nature of development and is not materially detrimental to the public. So we do recommend approval and we are here if you have any questions.

Examiner Olbrechts: (00:06:58):

Okay, sounds good. Thanks Mr. Gurney. I like all these A DU applications pretty straightforward. So let's move on to applicant. If the applicant wants to make any comments. Now is your chance, you don't have to, but this would be your opportunity if you wanted to add something. Ms. Jones or is the applicant there today?

Speaker 2 (00:07:15):

Yes she is.

Examiner Olbrechts: (00:07:17):

Did you wish to make any comments?

Speaker 3 (00:07:19):

No. Okay.

Examiner Olbrechts: (00:07:21):

Okay. Heard

Speaker 3 (00:07:22):

That? No request for comments there? Sounds

Examiner Olbrechts: (00:07:25):

Good. Alright, how about public comments at this point then? First I'll just ask anyone in the meeting room want to say anything. Ms. Jones, if you do raise your hand, let Ms. Jones know. No takers. All right then how about virtually there? Anyone out there virtually? No. Okay, sounds good. Well I'll go ahead then and close up the hearing and like I was saying, those are pretty straightforward applications and pretty routinely approved and this is no exception. We'll get that done so the property owner can move ahead with their development plans Beyond that, actually my alternate is going to be handling the rest

of the hearings today. I give her the wrong start time. So that was all my fault for our delay today. I apologize for that, but she's going to take over and do a better job than me I'm sure. So anyway, thanks all for your patience and I'll turn it over to Emily. Thank

Examiner Terrell: (00:08:11):

You. Thank you Phil. Can you tell me, the last one that you just did was Frazier, but the agenda I have has Campbell Vic

Speaker 2 (00:08:21):

Beckley. Yes. So we did Vic first, but now we'll go through with Cook Campbell and Beckley.

Examiner Terrell: (00:08:27):

Okay, thank you very much. Of course. Yeah, I was 15 minutes early, not late. Sorry. That's us internally juggling things in the middle of the night so I apologize. Okay, so we're going to do cook next,

Speaker 5 (00:08:42):

Correct.

Examiner Terrell: (00:08:43):

Excellent. Alright. Hello, my name is Emily Terrell. I am your alternate hearing examiner today for the next three of the four hearings. Our next agenda item is permit 24 dash one 90. Cook is another conditional use permit for accessory dwelling unit. The applicant is seeking to convert an existing single family residence on the parcel to a 900 square foot accessory dwelling unit, but the new single family residence is proposed as the primary residence and this new residence will be about 31 33 square feet. So the order of operations, which I'm sure Phil said is that I enter exhibits into the record and then the county hall of an opportunity to speak. Then the applicant may speak and then any members of the public, and I apologize right now but I've got to get the exhibits list up and running so that I could see what we're talking about. I was going to use those 15 minutes for a little bit of prep time

Speaker 2 (00:09:44):

And I have it downloaded so I can also pull it up for you if you'd like.

Examiner Terrell: (00:09:48):

That would be great. Okay, perfect. Sorry, we are not usually in this manner of disarray. Generally we have our act together and looking very good. This is one of those days. Okay. In that case I would like to enter into the exhibits exhibit one through 14 and the index to the record. Are there any additions that anyone has proposed? Any late comers? Okay, are there any objections to any of these? Not seeing any. Alright, great. In that case we will start with staff presentation and any members of the staff who wish to speak we'll need to be sworn in. So we could do that in mass if you like or individually.

Speaker 2 (00:10:36):

We'll go individually.

Examiner Terrell: (00:10:37):

Okay. State your name and then do you swear or affirm that your testimony today will be the truth?

Speaker 6 ([00:10:43](#)):

So my name is Izzy Lotz. I'm a planner with the Department of Community Development and I do swear.

Examiner Terrell: ([00:10:49](#)):

Great, thank you very much. Please proceed.

Speaker 6 ([00:10:59](#)):

Good morning Examiner Twell. Today I'm requesting an approval for a conditional use permit for an accessory dwelling unit to convert an existing single family residence into an A DU. The application was deemed complete on April 26th, 2024. The notice of application was distributed pursuant to Title 21, land use and development procedures which provided recipients with project information and an opportunity for public comment. One comment was perceived by the department regarding access pursuant to WAC 1 97 dash 11 dash 30 55. The Department of Community Development used in optional determination of non-significant process for this project. The CIPA comment previously concurrent with the notice of application dated July 22nd, 2024, the Department of Community Development issued a determination of non significance on February 24th, 2025. The CIPA appeal period ended on March 10th, 2024. No appeals were filed, therefore the CIPA determination is final. According to the Kitsap County assessor, subject parcel 2 5 2 5 0 1 dash one dash 0 5 9 dash 1 0 0 7 is a 1.69 acre in size parcel addressed as 7 8 4 2 New Haven Lane Northwest Silverdale, Washington 9 8 3 8 3 in Central Kitsap Commissioner District three. The aerial photo here shows single family homes and accessory dwelling units consistent with the development found in the pool residential zone. The proposed accessory dwelling unit is consistent with other properties in the vicinity.

([00:12:46](#)):

The parcel labeled subject site in blue is zone pool. Residential adjacent properties surrounding the site are also zoned pool residential to the west is a privately maintained road known as New Haven Lane Northwest and provides access. The proposal is to convert a 900 square foot accessory dwelling unit with a 635 square foot garage into an accessory dwelling unit. Here we see the critical areas map. The parcel is relatively flat with no critical areas. There was one comment received by the department regarding access to the parcel and a concern about the maintenance of the road and traffic increases to New Haven Lane. Northwest New Haven. Lane Northwest is a privately maintained road. To the left you'll see an initial configuration of the parcels prior to two boundary line adjustments that were completed to the right. You'll see parcels and a contiguous ownership that were a result of boundary line adjustments providing more parcels with access to New Haven Road Northwest.

([00:13:52](#)):

The parcel involved with the A DU proposal result in parcel two has already accessed to New Haven Lane Northwest and is already built. We have identified that a development proposal was to come in for parcel number 2 5 2 5 0 1 dash one dash 5 8 1 0 0 8. Result in parcel number one, it would be required to obtain a new easement to access New Haven Lane Northwest or directly access from the county maintained road Newbury Hill Road Northwest. The project has conditioned the permit to request a copy of an easement for the new parcel if it is choosing to choosing to access from New Haven Lane Northwest.

([00:14:38](#)):

The site plan for the parcel shows the proposal as access from New Haven Lane Northwest along an existing driveway to be shared by both Wellings. The site plan shows that the parking standards will show four spaces for both the single family residence and the A DU. The A DU will be 95 feet from the

proposed single family residence. There is a driveway going to the A DU that will be blocked with a concrete physical barrier and no longer used. Applicant's floor plan shows the existing proposed principal dwelling to be 3,133 square feet. Therefore the maximum the size at a DU is going to be 900 square feet. The proposed floor plan also helps determine there are no accessory dwelling units within or attached to the primary. Here are some conceptual elevations of the single family residence. The floor plan for the accessory dwelling unit demonstrates the sizes 900 square feet. There's also a 635 square foot garage attached to it. Here are some conceptual renderings of the A DU to be converted.

Examiner Terrell: [\(00:16:03\)](#):

Are there any changes going on with the A DU or is it just show that they're architecturally similar

Speaker 6 [\(00:16:08\)](#):

Showing that they're architecturally similar?

Examiner Terrell: [\(00:16:11\)](#):

Thank you.

Speaker 6 [\(00:16:15\)](#):

The proposal is conditioned to comply with the following requirements of Kitsap County Code 17.4.15.05 B as in Bravo as amended June of 2022. It will meet all of these conditions as far as there will be no other accessory going units or accessory living quarters on the property. The owner will reside in the primary residence. 50% of the primary residence is 1,566 square feet. Therefore the maximum allowed size of the accessory dwelling unit is 900 square feet and the proposed A DU is 900 square feet. The A DU will be within 95 feet of the primary residence. The A DU will have a similar appearance to the primary residence. The A DU meets all required setbacks for the rural residential zone. All water standards have been approved and met. Water and sewer standards have been approved and met. The proposed A DU is not an RV or mobile home and it will use a driveway off New Haven Lane Northwest. The department finds the proposal consistent with the comprehensive plan and meets special criteria in Kitsap County code 17.4, 15.05 B and recommends approval as condition,

Examiner Terrell: [\(00:17:32\)](#):

Like your conditions of approval are pretty much the standard set.

Speaker 7 [\(00:17:36\)](#):

Yes.

Examiner Terrell: [\(00:17:37\)](#):

Okay, thank you. Is there any member of the applicant's team who would like to speak?

Speaker 2 [\(00:17:43\)](#):

They're present but they do not wish to speak.

Examiner Terrell: [\(00:17:45\)](#):

That is fine. Are there any members of the public who wish to speak?

Speaker 2 ([00:17:49](#)):

We do have one person in the room and then I believe his colleague online Dean Dennis, but I think he'd like to let his colleague online speak first, so

Examiner Terrell: ([00:18:00](#)):

Okay. We can do that. So thank you very much Ms. Lots and we will, if you don't have anything further we'll move on to the public comment and then you can respond if there are any comments made. Okay, great. Okay, so can we get on camera? Maybe the person who wishes to speak

Speaker 2 ([00:18:23](#)):

I will pull them over as a panelist if they could just raise their hand real quick so I know who it will be. Dean Dennis, do you know your colleague's name by chance? Okay, would you still like to speak? Okay. Yeah, you'll come on up and then they'll square you in and then you'll be able to make comment.

Examiner Terrell: ([00:19:05](#)):

Just got a comment in the chat that online would like to talk about gamble. Okay. What was that? All right sir. Hi, can you please state your name please?

Speaker 8 ([00:19:18](#)):

My name is Dean Dennis.

Examiner Terrell: ([00:19:19](#)):

Mr. Dennis, do you swear and affirm that your testimony today is the truth?

Speaker 8 ([00:19:23](#)):

I do.

Examiner Terrell: ([00:19:24](#)):

Thank you. What would you like us to know sir?

Speaker 8 ([00:19:26](#)):

Okay, so my property is just west of New Haven Lane across the street from the A DU proposed A DU. I'm concerned about the traffic, which I think has been addressed and I don't know whether it's been accepted or not, but the road is 10 to 12 feet wide. Additional traffic may be a little bit problematic, but what I'm most concerned about is for fire apparatus and emergency vehicles to crowd down that lane for the neighbors and myself. As long as there's no parking on the side of the streets, I assume that an eight and a half foot wide truck make it down the road. So that's my only concern is no parking on Side Street so that the fire apparatus and emergency apparatus can get down there.

Examiner Terrell: ([00:20:27](#)):

Do you have an HOA that maintains the road or is it a loose agreement amongst the neighbors?

Speaker 8 ([00:20:31](#)):

The HOA maintains the road and that's the people in the back. Alright.

Examiner Terrell: (00:20:38):

And I assume that every member of the, everyone who's got access to the road is part of the HOA or

Speaker 8 (00:20:44):

No? No, that's not true. I own the property in 83 and the HOA came in 87 and I'm not part of the HOA

Examiner Terrell: (00:20:55):

See that is always a problem and every time I require an HOA developer gets mad this thing that I'm thinking about this exact thing. Okay. It's a good question.

Speaker 7 (00:21:06):

Yeah.

Examiner Terrell: (00:21:08):

Okay. In that case, if that is your concern, let's let the county have a response sir. Okay. Is there anything else?

Speaker 8 (00:21:18):

No, that'd be all.

Examiner Terrell: (00:21:19):

Okay, thank you. And I would also note that I can see in the staff report that fire department was consulted and had no comment or conditions of approval. So sir, please tell me your name.

Speaker 3 (00:21:36):

Darren Gurney. Current planning supervisor.

Examiner Terrell: (00:21:39):

Hi Darren, nice to see you again. Darren. Will your testimony today be the truth?

Speaker 3 (00:21:43):

It will.

Examiner Terrell: (00:21:44):

Okay,

Speaker 3 (00:21:45):

Go ahead sir. So in response to the question, that is one thing that was brought up by Izzy in the presentation where either a revised easement that includes the extra parcel or that there's a restriction that parcel to the north then only accesses off of the right of way or another type of easement not related to New Haven. So one of those two options is what we are proposing the existing conditions with the parcel there. Parking I don't believe is allowed on the side of the road but that may be within your purview to add as a condition of approval.

Examiner Terrell: (00:22:27):

I was wondering if maybe I should, the easement you're talking about, is that in the control of this property owner or is that not alternate property owner?

Speaker 3 (00:22:38):

I believe it's all the property owners who are served by that access easement retain ownership in some form.

Examiner Terrell: (00:22:46):

If we're asking for an additional easement or modifications to easements that this property is actually has some control over that rather than a neighbor who is sort of might be surprised.

Speaker 3 (00:22:58):

So that if that is the pursuit that moves forward is to revise that easement that requires signatures of all those who are legal owners of the easement. So that would be a responsibility of the applicant to make sure that that is coming forward. We review that, make sure that all the owners of the easement and I would've to double check the language, but I believe it's a majority, not a hundred percent of the property owners that have to agree and it would be simple majority, but we would have to confirm that once we get the easement to review it,

Examiner Terrell: (00:23:34):

Worst case scenario they all go Uhuh not going to do it.

Speaker 3 (00:23:38):

What happened, worst case scenario is if they say we are not going to allow that easement, then that Northern parcel needs to access it cannot access off of New Haven Lane and that would require either going to Newbury, I believe it's Newbury Hill or there's a small easement that was existing prior to the BS that that may have to be used but one of those two avenues it would be restricted to where you cannot use New Haven for that one parcel.

Examiner Terrell: (00:24:11):

And how in this decision would an alternate property that is not owned by this owner be encumbered?

Speaker 3 (00:24:18):

That parcel to the north would have to access in a different manner.

Examiner Terrell: (00:24:24):

So that would have to come if they chose to develop or increase their development footprint. Now that that would basically be something that you reviewed later because they don't have any

Speaker 3 (00:24:36):

We would need, there would be a notice with this for each of the properties they get that notice the property owner to the north, this is all the same property owner that we're talking about.

Speaker 7 ([00:24:50](#)):

Oh good.

Speaker 3 ([00:24:51](#)):

So they own the North Parcel. All the boundary line adjustment parcels are owned by the same property

Examiner Terrell: ([00:24:55](#)):

Owner right now. Okay, great. I didn't want to attempt to encumber someone else who is not party to this.

Speaker 3 ([00:25:02](#)):

Right.

Examiner Terrell: ([00:25:03](#)):

They can't legally do it.

Speaker 3 ([00:25:05](#)):

Yeah. So I would suggest that that needs to be figured out and completed prior to occupancy of the A DU.

Examiner Terrell: ([00:25:15](#)):

And is that a condition of approval in the staff report?

Speaker 3 ([00:25:21](#)):

I'm not sure about prior to occupancy, but the condition that either one of those two mechanisms to provide access, that is a condition of approval.

Examiner Terrell: ([00:25:30](#)):

I thought so. Just wanted to make sure. So any additional conditions of approval might come from me that would suggest no parking on the side of the drive because of emergency access?

Speaker 3 ([00:25:40](#)):

That's correct.

Examiner Terrell: ([00:25:41](#)):

Okay. Not surprisingly the applicant wants to jump into the conversation. That's reasonable. Are we okay with that Mr. Zi? We let the applicant

Speaker 3 ([00:25:52](#)):

Speak. Oh of course. This is a hearing we're supposed to be hearing. They're

Examiner Terrell: ([00:25:56](#)):

Going get to speak. I just want to make sure that you were comfortable that you were ready to step down because you've said what you needed to say.

Speaker 3 ([00:26:03](#)):

I am comfortable if you have any further questions we can come back up.

Examiner Terrell: ([00:26:07](#)):

Yep. Alright, sounds like the applicant would like to speak

Speaker 2 ([00:26:11](#)):

And he's on his way out.

Examiner Terrell: ([00:26:13](#)):

Yep. I am not very surprised. Hello sir, can you state your name for me?

Speaker 9 ([00:26:21](#)):

Jacob Cook.

Examiner Terrell: ([00:26:22](#)):

And Mr. Cook, do you swear or affirm that your testimony is the truth today?

Speaker 9 ([00:26:25](#)):

I do.

Examiner Terrell: ([00:26:26](#)):

Great. What do I need to know Mr. Cook?

Speaker 9 ([00:26:29](#)):

Can we pull up the parcel map please of the pre BLA and post BLA?

Speaker 2 ([00:26:35](#)):

Yes, just one second.

Examiner Terrell: ([00:26:40](#)):

The most part I just wanted to ensure that there was common ownership.

Speaker 9 ([00:27:03](#)):

So looking at the original configuration before the DLA and there's actually a parcel map before this as well. So if you look at parcel one, that was the original property I purchased. We go back a page, if you look at parcel one, that's the original parcel that I purchased. The second parcel I purchased was parcel two and three, which also had access to New Haven Lane through the Western tip right there. So where you see that dotted line, there's always been two properties accessing New Haven Lane. From there I split the property into three properties using a grandfathered lot before the 1964 or before some date. And that's how we have three properties here today,

Examiner Terrell: (00:27:59):

1969 subdivision law and R CW 58 17.

Speaker 9 (00:28:03):

Correct. So that's how we have three lots Now at which point I divided them and gave wider front footages and more square properties, so more buildable. Now according to the current BLA, it looks like I have three properties, not two that are accessing off of New Haven Lane Resultant Parcel three will no longer access New Haven Lane. It now has an easement that has been approved to go on Roundup lane. I spent a year of legal battles getting that easement approved and secured. As soon as I build these houses result in parcel, there will be another BLA that returns it to the BLA that I did six months ago in which parcel three no longer even owns property abutting New Haven Lane. All that said, before I owned the properties there were two properties with access out New Haven Lane and when I'm done with the properties, only two properties will access out of New Haven Lane. So I would not like to be encumbered by additional easement requirements.

Examiner Terrell: (00:29:18):

But you haven't completed it yet and that is

Speaker 9 (00:29:21):

Correct. So I'm happy to do some sort of abolishment of access for parcel three in lieu of having it for parcels one and two and I can sign any, we can do any sort of modification that needs to happen for that, but at the end of the day there will still be two properties accessing off of New Haven Lane. Okay,

Examiner Terrell: (00:29:44):

And in the new resultant parcels, which one is getting the A DU

Speaker 9 (00:29:49):

Parcel two is currently getting the A DU.

Examiner Terrell: (00:29:52):

That's what I thought.

Speaker 9 (00:29:53):

Parcel one and three are also in review for 3,200 square foot primary units.

Examiner Terrell: (00:30:01):

Thank you. I think I understand what you're saying here, but I think the county needs to react to that because you're asking for essentially a modification of the existing conditions of approval based on future approvals that are not guaranteed but not necessarily unlikely.

Speaker 9 (00:30:20):

Okay, I'd be very happy to do that. And I just want to be clear that we're starting with two and ran with two.

Examiner Terrell: (00:30:28):

Okay.

Speaker 9 (00:30:29):

Alright, thank you.

Examiner Terrell: (00:30:30):

Thank you sir. Alright, I have a feeling who's coming back. Hello sir.

Speaker 3 (00:30:36):

Still under oath and now you understand that? Yep. I don't believe we would have an issue with that. I would just suggest if the neighbors or if anybody else has public comment to have concerns about that, I would just say that we allow for those comments to come forward now as long as it only remains two parcels on that easement and it doesn't provide additional access to a parcel, whether it's one or three. So if three is permanently going through Roundup lane and that has legal access there, I don't believe the county has an issue with this.

Examiner Terrell: (00:31:15):

So it sounds like it may be that we need to change or at least amend a condition of approval in the staff report and I'm kind of wondering if it would make sense to leave the record open so that you and the applicant could have that conversation and provide amended language if necessary and maybe the current language will cover this eventuality but I don't know that

Speaker 3 (00:31:42):

We could leave it open or we could amend the language to just say either parcel one or three shall not have access to New Haven Lane and that condition of approval we could confirm as long as it is clear which parcel we're talking about.

Speaker 7 (00:32:02):

Right.

Examiner Terrell: (00:32:06):

Agree. So are we calling them resultant parcels or perhaps we could amend it with some APNs so that we're very sure.

Speaker 3 (00:32:14):

Yeah, based on the maps that we have here, I would call them resultant parcels one and three on the recorded map. But either way we can accommodate whichever way you wish to proceed.

Examiner Terrell: (00:32:31):

Right. I often prefer to have the county and applicant agree on a condition of approval and then send me language rather than me guessing and getting it wrong.

Speaker 3 (00:32:41):

Okay.

Examiner Terrell: (00:32:43):

If you don't mind and if you think you can do that by the end of the day, I can close the record at the end of the day or I can leave it open a little bit longer.

Speaker 3 (00:32:51):

I think we can accommodate that, yes.

Examiner Terrell: (00:32:53):

Okay. So thank you. Sounds like a member of the public would like to come back up. Possibly Mr. Dennis.

Speaker 7 (00:33:02):

Okay,

Examiner Terrell: (00:33:04):

Thank you.

Speaker 9 (00:33:04):

Thank you sir. So real quickly, looking at the map, parcel one is lot 58, parcel two is lot 59, result in parcel three is lot 60 and I would agree to the conditions that were stated by the county.

Examiner Terrell: (00:33:25):

Okay. So we'll make sure that the public gets to speak if he wants to, but it sounds like you and the county can sit down and do a very quick edit of that condition of approval and then email me the resultants and that would be great. Thank you. Or me and Phil Actually I'm not sure who's going to write the decision. Okay. Did Mr. Dennis or another member of the public wish to come back and make comment? I can't see that Matt

Speaker 2 (00:33:51):

Or who else here? He saw his way back up.

Speaker 8 (00:33:54):

Okay. You come all the way up, you'll have to the podium. I'm sorry.

Examiner Terrell: (00:34:00):

It's okay. I'm sorry. Sorry. That's the only way that the recording can catch everyone. That's

Speaker 8 (00:34:05):

Fine. Thank you. I'm sorry

Examiner Terrell: (00:34:06):

And I go back and look at the recording so I know that I got it right. So

Speaker 8 ([00:34:10](#)):

Yes sir, if somebody could explain to me where the access to the second piece of property on the original, the existing parcel, the original plans, how

Examiner Terrell: ([00:34:27](#)):

Whoever wants to share the lectern and move the mouse around. That's fine with me. Western Point,

Speaker 8 ([00:34:36](#)):

Go ahead. I don't see it Jacob.

Speaker 6 ([00:34:43](#)):

So this is the current site plan for lot two and where current access is is currently on the right hand side, right hand bottom corner is the current access.

Speaker 8 ([00:34:55](#)):

No, I see that.

Speaker 6 ([00:34:56](#)):

Okay,

Speaker 8 ([00:34:57](#)):

I see. I want to know the access to the original one where he said before the property was split he says there was two a accesses off of New Haven. I don't see it. So go back to go to the overall map. There you go. If you can enlarge that, that'd be perfect, but I don't know that you can. Where's the axis to the second piece of property parcel two?

Examiner Terrell: ([00:35:27](#)):

It looks like there's an easement that goes straight north up to Newbury Hill Road.

Speaker 8 ([00:35:32](#)):

See that's off Newbury.

Examiner Terrell: ([00:35:35](#)):

Is that true? Yeah, and it would be very helpful if whoever's speaking could get near a mic so I could hear it too.

Speaker 8 ([00:35:41](#)):

I'm sorry.

Examiner Terrell: ([00:35:43](#)):

No, I can hear you. I think it's Jacob who keeps,

Speaker 8 ([00:35:46](#)):

Okay,

Examiner Terrell: (00:35:47):

I just need you all near a mic so that I can pick it up too.

Speaker 3 (00:35:52):

Jacob was not near the mic. This is Darren Gurney again. We're okay

Examiner Terrell: (00:35:55):

Sir

Speaker 3 (00:35:55):

To share Mike's for sitting at the table behind here.

Speaker 7 (00:35:58):

Yeah, I

Examiner Terrell: (00:35:58):

Understand.

Speaker 3 (00:35:59):

So the map on the left parcel one and parcel three, both of those have a legal access. As you can see the easement on the Western edge, they both have legal access from New Haven.

Examiner Terrell: (00:36:10):

No, that's, I think the arrows are the wrong spot. The legal access for parcel one is a long New Haven line and then parcel three to the south is another little bit of an access there

Speaker 3 (00:36:22):

And you can see the easement goes across that Western edge of parcel three

Examiner Terrell: (00:36:27):

And then parcel two has a,

Speaker 3 (00:36:29):

It goes north.

Examiner Terrell: (00:36:30):

So the re

Speaker 3 (00:36:31):

Reconfiguration, the reconfiguration of the parcel lines now. So on the right side, what currently has access to New Haven and result in parcel three that would shift to Roundup Lane on the east and then

that's shown as it's shown here and then result in parcel one would then be back over to New Haven. So same number of access points allowed onto the easement of New Haven. Just a different parcel. So it's the same number of access points. So the relative impacts from traffic and those elements would remain the same, effectively remain the same?

Examiner Terrell: (00:37:15):

Well each lot you'll have the same number of lots but every lot is allowed to build an A DU. So there will likely be more traffic from the ADUs onto it, but they're legally allowed to do so. And I'm guessing this is well below the need for a traffic impact threshold.

Speaker 3 (00:37:36):

So if it were in the original configuration on the left, you would still be allowed to have an accessory dwelling unit on parcel one and parcel three. So you could have, in theory you'd have two primary residences, two a dus all using New Haven Lane. The new configuration would be the same where you would only have two primary units and possibility of two primary units and two Aus

Examiner Terrell: (00:38:03):

Instead of one and three, it's one and two and three goes over to Roundup from the new easement.

Speaker 3 (00:38:08):

Correct. But that of course is pending the condition that we provide And clarify in the language that parcel three would not be allowed access to New Haven Lane

Examiner Terrell: (00:38:20):

Because it now has access a recorded easement to Roundup lane.

Speaker 3 (00:38:25):

Correct.

Examiner Terrell: (00:38:26):

Okay, I understand. Do I?

(00:38:29):

You got it. Okay, thank you. That okay? Alright. Yay. We worked it out. Okay. Thank you all. Thank you everybody who was involved because that was, everybody looked like. Alright, are there any more comments for the good of the order from anyone else or from anyone who's already spoken? No. Alright, in that case I'm going to leave the record open to the end of the day just so that we can make that minor amendment to the condition of approval so that everyone's clear and if you will, if the county will email that to me and also to Mr. Brooks. I very much appreciate it. Okay. Is there any other reason for me to not continue on to the next one?

(00:39:16):

No, we're good. Okay. In that case we'll close the hearing portion of the testimony and or the testimony portion of the hearing other way around and we'll leave the official record open for that one. Amended staff report issued and then so we have done Cook and next is Campbell because you did Vic earlier with Mr. Albergs. Correct. So then we will move on to Campbell. This is another A DU. **It is permit number 24**

dash 0 0 9 7 6. Campbell convert existing building to A DU. It's a conditional use permit. The applicant seeks to convert an existing cabin on the parcel into a 781 square foot accessory dwelling unit. Cabin is to be moved from its current location to another location. On the same parcel, a new single family residence will replace the cabin as the primary residence and then the proposed new primary residence will be 39 3,989 square feet. Apparently I'm just going to be off all day because I got here late. My brain is not working. I will assume that county staff who have sworn in can remain sworn in since this is basically one hearing record, one continuous transcript, I'd like to enter, thank you for putting this up, the index for the record Exhibits one through 18. Are there any additional exhibits or any objections to these exhibits being entered?

[\(00:40:41\)](#):

Seeing none, we will move on to the staff presentation. It looks like we've got Ms Locks again and since you're still sworn in, whenever you are ready, we're ready.

Speaker 6 [\(00:40:57\)](#):

Okay, good morning. Today I'm presenting approval for a conditional use permit to convert an existing single family residence into an accessory dwelling unit. The application was deemed complete on April 5th, 2024. The notice of application was distributed pursuant to Title 21 lane Newson development procedures, which provided recipients the project information and an opportunity for public comment. One public comment was received by the department pursuant to WAC 1 97 dash 11 dash 3 55. The Department of Community Development used an optional DNS process for this project. The CIPA comment period previously concurred concurrent with the notice of application dated May 1st, 2024. The Department of Community Development issued a determination of non-significant on March 5th, 2025. The CIPA appeal period ended on March 19th, 2025. No appeals were filed, therefore the CIPA determination is final. Here we have an aerial photo of the parcel according to the Kitsap County assessor. Subject parcel 1 2 2 2 0 1 dash two dash 0 0 7 oh. Pardon me actually I have the wrong parcel number on my notes. It's actually going to be 4 3 0 5 dash zero zero dash 0 3 3 dash 0 0 5 is personal address is 2 9 4 6 5 Gamble place Northeast Kingston Washington in North Kitsap Commissioner District one aerial photos show single family homes and accessory structures consistent with development in the rural residential zone. The proposed accessory dwelling unit is consistent with properties in the vicinity.

Examiner Terrell: [\(00:42:43\)](#):

Can I ask a question right now? Yes. Is this in the Charlotte jurisdiction?

Speaker 7 [\(00:42:47\)](#):

Yes.

Examiner Terrell: [\(00:42:49\)](#):

And has it been reviewed for Shoreline?

Speaker 6 [\(00:42:52\)](#):

Yes.

Examiner Terrell: [\(00:42:53\)](#):

Okay. I didn't see it in the staff report but maybe I missed it.

Speaker 6 ([00:42:59](#)):

So for the ING portion, which I will discuss a little bit further on the critical areas layer, there was the single family residence was going to be within the shoreline jurisdiction and the cabin is moving entirely outside of the shoreline jurisdiction.

Examiner Terrell: ([00:43:17](#)):

So you have reviewed the primary residence under a shoreline variance.

Speaker 6 ([00:43:23](#)):

It is not going to be a shoreline variance. It was able to be done under the single family residence building permit with a no net loss report. The conditions of approval state that we are going to replant the location where the cabin is for the no net loss report for the single family residence. In the exhibit list there is the conditions of approval for the single family residence building permit that shows that being replanted

Examiner Terrell: ([00:43:55](#)):

But without the Shoreline substantial development permit or variance.

Speaker 6 ([00:44:00](#)):

For the A DU piece, it is not requiring that portion.

Examiner Terrell: ([00:44:06](#)):

Okay. Just noting for the other one that that's definitely in the shoreline and will require shoreline review. The A DU if it's out of the shoreline or if it's an existing space within the shoreline should also have a shoreline substantial development permit if it is in the shoreline jurisdiction. It sounds like you did most of the work with the Habitat management plan or at least they've known that loss, but I'm wondering if it has the full permitting.

Speaker 6 ([00:44:37](#)):

So as far as there was not a substantial development permit that I was aware of for this particular project with the inclusion of the building permit handling, all of the review for the shoreline portions.

Examiner Terrell: ([00:44:58](#)):

Well I'm going to want to talk about that but please continue. Okay.

Speaker 6 ([00:45:03](#)):

Absolutely. So with that, so the subject parcel is labeled in Blue Rule Residential adjoining properties to the site are also zoned rural residential To the east is a county maintained road known as Gamble Place Northeast that provides access. The proposal is to convert an existing 781 foot square foot cabin into an accessory dwelling unit. The site is sloped towards the water towards the west. The site is mapped with high erosion hazards and moderate landslide hazards. The applicants have produced two geologic reports and letters to address this hazard. The project has been conditioned to follow the recommendations of those reports. The proposal also includes moving an existing cabin outside of the shoreline jurisdiction, which encompasses 200 feet from the ordinary high watermark of the shoreline,

replanting of the cabin of where the cabin is conditioned under single family residence permit 23 dash 0 2 8 6 6 as a part of the mitigation requirements for the new residence.

(00:46:15):

The site plan for the proposal shows access from Gamble place northeast along an existing driveway to be shared by both dwellings. The site plan shows four spaces and will meet parking requirements for the single family residence in the A DU. The proposed A DU is going to be 74 feet from the primary residence. The applicant's floor plan shows the proposed principal dwelling is 3,989 square feet. Therefore the maximum allowed size of the accessory dwelling unit is 900 square feet. The floor plan also helps determine there are no accessory dwelling units within or attached to the primary.

(00:46:57):

Here we see conceptual renderings of the proposed single family residence. Above is to the north, south is below and then we have the east and the west elevations. Here we have the A DU floor plan that demonstrates the size of 781 square feet determined by interior measurements. Here are some renderings of the elevations of the A DU here are the south and north elevations. So the proposal is conditioned to comply with the requirements of Kitsap County Code 17.4, 15.05 B as in boy as amended June of 2022. There are no other access accessory dwelling units or accessory living quarters on the property. The owner will reside in the primary residence. 50% of the primary residence is 1,494 square feet. Therefore the maximum allowed habitable area is 900 square feet. The proposed accessory dwelling unit is 781 square feet. The EDU will be within 74 feet of the primary structure. The A DU will have a similar appearance to the primary residence. The A DU meets all required setbacks for the rural residential zone. All health standards have been approved and met for water and sanitation. The A DU is not an RV or mobile home and the A DU will use an existing driveway off gamble place. Northeast staff finds proposal consistent with Kitsap County Code 17.41 5.05 be as employed and recommends approval as condition.

Examiner Terrell: (00:48:46):

Fortunately the A DU is being moved outside of the shoreline jurisdiction so it doesn't require any shoreline permitting. This approval does not is a separate approval from the approval of the primary dwelling unit and therefore that separate approval absolutely should deal with the shoreline issues of a shoreline variance. However, that is not important at the moment for the A DU permit itself. So that will be handled under separate decision that at least preserves my ability to approve this as written, which is good. Okay, happy days. Would any other member of the county staff like to speak or a member of the applicant's team failing? If the county's right can extend

Speaker 6 (00:49:36):

No comments from the applicant's side.

Examiner Terrell: (00:49:39):

Okay. Are there any members of the public who wish to speak?

Speaker 2 (00:49:45):

There's someone online. Yeah, there's a caller online so I'll just move them over and allow 'em to talk

Examiner Terrell: (00:49:52):

The panelist. Okay. And crash. I'm going to need your real name please if you could please provide us with your name and the spelling of that name and then we'll swear you in.

Examiner Olbrechts:0 ([00:50:05](#)):

Absolutely. I don't know if you can see me or not. I'm not used to zoom so sorry about that. My real name is Okay, my real name is Garrin Ha. First name is G-A-R-R-O. Last name Han HAUN.

Examiner Terrell: ([00:50:21](#)):

Thank you Mr. Han, do you swear and affirm that your testimony today will be the truth?

Mr. Haun:0 ([00:50:26](#)):

I do.

Examiner Terrell: ([00:50:27](#)):

What would you like us to

Mr. Haun:0 ([00:50:28](#)):

Know sir? So there's actually a couple things. I did leave a comment previously which I believe that they will probably read and I just want to first state that I did not have all the information of the permit when I submitted that comment, but I do believe most of it still stands. However, the reason why I wanted to comment right now was because I'd like to question the fact that the owner will live at the primary residence and I question that because they own the property just north of this property. So if you go back to the map of the property or the two properties adjacent to it, they own the little property that's in the left part of the L and they currently live there and it's something like a 5,900 square foot facility and they're also building one just now on the property just south of it. And they're also requesting an A DU on that lot and it's not clear to me that the owner will actually live at the primary residence and this is the second A DU on the street they're requesting to build. So

Examiner Terrell: ([00:51:42](#)):

That may be something that we can response from the applicant. They

Examiner Olbrechts:0 ([00:51:45](#)):

Own 2 9 4 7 7.

Examiner Terrell: ([00:51:48](#)):

Okay. I dunno which slide but I'm looking at it now. He's suggesting they own 2 9 4 6 5 and 2 9 4 7 7 that we've got two primary residences with two ADUs under one ownership.

Examiner Olbrechts:0 ([00:52:02](#)):

Well to clarify, sorry to clarify, 2 9 4 7 7 does not have an A DU. They previously owned 2 9 5 2 5. I believe I have the right address there which had lodging quarters associated with it. But if you go and look at the floor plan, it's clearly an A DU and they recently sold that and moved or maybe they didn't move but they recently sold that one. So yeah.

Speaker 6 ([00:52:30](#)):

Okay. The applicant would like to respond to that.

Examiner Terrell: (00:52:37):

Okay, so let's bring the applicant in. Hello,

Examiner Olbrechts:1 (00:52:44):

My name is Patricia Campbell.

Examiner Terrell: (00:52:47):

Ms. Campbell, do you swear or affirm your testimony today is the truth?

Examiner Olbrechts:1 (00:52:50):

I do,

Examiner Terrell: (00:52:51):

Thank you.

Ms. Campbell:1 (00:52:52):

Go ahead. We are currently living at 2 9 4 7 7 and we did in fact build 2 9 5 2 5 back in 2004 I believe. And subsequently that property which was 2 9 4, 7 7 and six five had the little cabin on it and a gentleman on the street was wanting to sell it back then and that was I believe in oh five or so. And back when land was more affordable, I knew there was going to be no more waterfront made. So I did purchase that and then my son, I sold him the 2 9 4 7 7 lot and he built that house. After that he and his wife parted and so we sold the 5 2 5 and did move to the 4 7 7 house and knowing that eventually we were going to build the house we wanted on 4 6, 5. So once that's done we're selling 2, 9 4, 7 7 and then the sole residence will be the 4 6 5. And so we kind of hopped down the road but we couldn't afford to keep 'em both. So we are definitely selling 2 9 4, 7 7 as soon as we complete the other one and get it landscaped. And so that's the story of the two properties.

Examiner Terrell: (00:54:29):

Have you living in the same place for a long time but not necessarily in the same home?

Ms. Campbell:1 (00:54:33):

Yeah, and we didn't have an A DU on the 2 9 5 2 5. So it wasn't a DU, it was a unit over the garage but it wasn't a bonafide A DU by any means.

Examiner Terrell: (00:54:49):

Okay, thank you. Is there anything else you'd like to add?

Examiner Olbrechts:1 (00:54:53):

So that's the Campbell story.

Examiner Terrell: (00:54:55):

Okay. Mr ha, is there something else you wanted to address as well?

Examiner Olbrechts:1 ([00:55:00](#)):

No, there some other questions don't unless there's some other questions about it. I think that's all I really can explain unless there's some more questions to be answered.

Examiner Terrell: ([00:55:13](#)):

Well let's let Mr Han. Okay, I guess just stay at the lectern if you don't mind ma'am. Sure. He's online, he's in front. Oh that's right Mr.

Examiner Olbrechts:0 ([00:55:23](#)):

Yeah, sorry. I had kids to drop off at school so I couldn't make it in person. Yeah, I guess I have to, I don't know, being sworn in, I don't necessarily know I what I can say here, I don't want to, you can say anything that might be encouraged but I guess I just question can an approval for an A DU be approved if you're not living on the primary residence yet and you could technically, if this gets approved right now, you could continue to live in that northern property and then rent out the A DUN 2 9 4 6 5 and no one in this room would question it? Let me

Examiner Terrell: ([00:56:09](#)):

Answer that. Let me ask that with the law. How about sure. The kids of county law states that they will not allow for an A DU when the primary owner is not living on the property. They have a separate building permit for the other primary residence. That primary residence if holding with permit, the county code would not be occupiable or one or the other. The A DU would not be occupiable until the primary residence had the primary owner in it. So that's kind of the legal catch there. The one thing that is not reflected here yet but will eventually need to be is that in 2023 the legislature passed engrossed house bill 1337 for accessory dwelling units removing all ownership requirements of all ADUs statewide on any residential property that has not yet been reflected in the Kits county code. Eventually it'll likely be reflected in the kits of county code. They also required that we allow two Aus on all properties and that they abolish most of our minimum square footage. It's a big deal. That sounds great to some, I can tell you many clients that don't like that at all. But while the kits of county code is this and while it is enforceable, the answer is that one of those two residences cannot be occupied until the primary owner is living on the property.

Examiner Olbrechts:0 ([00:57:47](#)):

Okay. I guess I just, and again, it's not a big deal. The laws are changing and that's a good thing in my opinion. I think we should have more adu. Truthfully, I question the whole okay, if technically it can't be occupied, what stops it from being occupied? I don't

Examiner Terrell: ([00:58:07](#)):

Certificate of occupancy for the separate permit on the primary dwelling unit there is a separate permit for the primary dwelling unit and that certificate of occupancy for either this A DU or the primary residence cannot be issued until it meets the full kits of county code.

Examiner Olbrechts:0 ([00:58:28](#)):

Got it. Okay. That makes perfect sense. Yeah. And then yeah, I think my other comments stand but I don't need to go through that here. Okay. Thank you so much. Okay, thank you sir. Would anyone else like to speak?

Speaker 2 ([00:58:47](#)):

We don't have anyone else in the room or online it looks like. Okay.

Examiner Terrell: ([00:58:52](#)):

So for the good of the order, anybody else have any comments or may I close this hearing and move on to our next one? In that case I'll close this hearing. We have 10 business days or 14 realistic days to render a decision and we can move on to our next one, which is going to require me to open my file back up just a second. Okay, this, the final hearing we have today is a shoreline variance for a new single family home. It is permit number two three dash 0 4 3 4 3 beckley. The proposed two story with 1200 square foot single family residence have a conditional waiver from view blockage. It's a shoreline variance and conditional waiver view blockage. For the 1200 square foot home with a 1200 square foot driveway, the residence will be 15 feet from the edge of the bluff and approximately 50 feet from the ordinary high water mark. Because the project will be located in the shoreline setback, there's been a mitigation plan to maintain shoreline functions. So let us begin there with, I'll enter the exhibits in the index of the record. They are one through all the way down 45. Are there any additional exhibits or objections to these exhibits being entered into the record?

Speaker 5 ([01:00:20](#)):

No

Examiner Terrell: ([01:00:21](#)):

Being none. Okay. In that case, looks like we have a new member of county staff who would like to present today. So please tell me your name and then do you swear or affirm that your testimony today is the truth?

Speaker 5 ([01:00:34](#)):

My name is Jennifer Kreiff and I do

Examiner Terrell: ([01:00:37](#)):

Okay, please

Speaker 5 ([01:00:39](#)):

Proceed. Thank you. Good morning examiner. For the record. Good morning. My name is Jennifer Grebel. I won't spell that right now. I'm a planner with Kitsap County Department of Community Development. Today I'm presenting the shoreline application 2 3 0 4 3 4 3 and a conditional waiver view blockage 2 4 0 1 1 0 8 requested by applicant's Edward and Helen Beckley. Applicants are requesting approval of the shoreline variance, which is the type three to allow construction of a new two story 1200 square foot single family residence with associated site improvements that include existing driveway parking, stormwater and utilities. In addition, applicants are requesting concurrent approval of the conditional waiver view blockage requirements, which is a type two application. It's administrative and generally under director's approval. Since the shoreline variance requires a hearing examiner approval in Kitsap County, code 2 1 0 4 1 8 0 allows for the consolidation of the project permit applications to avoid duplication of review. It is being included.

([01:02:02](#)):

The applicant's purchased the property in 2021. The shoreline variance application was deemed complete October 20th, 2023 and the conditional waiver May 1st, 2024. Pursuant to Washington Administrative code 197355, the Department of Community Development all refer to as DCD from now on used an optional DNS process excuse for this project. The SE a 30 day comment previously occurred concurrent with a revised notice of application dated May 8th, 2024. I went a little bit too fast. The determination or DNS was issued February 18th, 2025. No appeals were filed, therefore the CPA determination is final. Slide four is for public comments that were received. The Department of Archeological and Historic Preservation or DAP, as well as the Suquamish tribe, have requested that a cultural resource study be conducted prior to any ground disturbance. And a letter was received also from the Suquamish tribe providing comments listed on this slide over to the right, they are habitat, water quality, eelgrass beds, phasing of invasive plant removal, and better clear monitoring timelines. A neighboring resident northwest of the subject site had view impact concerns as well.

[\(01:03:46\)](#):

Here we have the vicinity map and parcel details. The subject site is located in central Kitsap, addressed as 9828 Ogle Ogle Road, Northeast Bremerton, Washington 98311. And parcel number is known as 13250140142007. The site is accessed from a private driveway easement, which is not county maintained. North Perry Avenue Water District will provide potable water and GitHub County sewer will provide the sanitary sewage disposal lines from a previous home placed there. Were removed, well the home was removed around 2018, however the lines are existing and will need to come up to current county code standards. And here is a 2018 photo access from Google Earth shows the existing access from of the private easement drive that via or comes off of Ogle Road. And here are the ecology coastal Atlas photos. These are somewhat historic showing the prior dwelling. They provide some reference to the elevation orientation and perspective of the views.

Examiner Terrell: [\(01:05:15\)](#):

Can you, the water it's in which s storyline? Jurisdiction?

Speaker 5 [\(01:05:20\)](#):

It's rural conservancy,

Examiner Terrell: [\(01:05:23\)](#):

But actual, is it Puget Sound? Is it got a name of the inlet?

Speaker 5 [\(01:05:27\)](#):

You know, I'm not really sure about that.

Examiner Terrell: [\(01:05:30\)](#):

I'm accustomed to Mason County where everything's on hammersley in it or just this water body or that bay.

Speaker 5 [\(01:05:37\)](#):

I wondered that myself. We're looking it up right now. It's near the Brownsville Marina Puget Sound.

Examiner Terrell: [\(01:05:46\)](#):

I mean the importance is that the shoreline itself and that we know the marine water, it's, it's always good to know the name.

Speaker 5 ([01:05:53](#)):

Yeah, Puget Sound is what it's referred to in our mapping.

Examiner Terrell: ([01:06:00](#)):

Thank you. Sorry to interrupt.

Speaker 5 ([01:06:03](#)):

And let's see. County aerial photos here at the upper left is 1994. The historic photo upper right is 2018, and then far right is 2021. Here's a zoning map that indicates the subject site and properties to the north are rural residential, which means today's standards would be one dwelling unit per five acres. For density zoning is rural commercial to the southwest in the red and this is where the Brownsville marina is. And this slide is considered legal nonconforming in size. Standard setbacks for RR zoning or rural residential are 50 feet at the front and 20 feet at the sites and rear. However, Kitsap County code 1 7 4 2 0 0 6 0 A allows reduced setbacks to be 20 feet at the front, five feet at the sides, and 10 feet at the rear. Of course, we defer to any critical areas or more restrictive setbacks and the proposal meets these setbacks.

Examiner Terrell: ([01:07:18](#)):

Is the existing residence gone or the one on the map is showing a building? I'm assuming that

Speaker 5 ([01:07:25](#)):

Right that last we only have updated photos of the aerials 2021 or the most current. Sure. Thank you. And it is gone. And here is the critical areas. The ordinance map. It indicates the parcel having moderate and high erosion and landslide hazard areas, the steep slopes and set atop a high buff bluff. Excuse me, there's some flood zone mapping along the toe of the slope. The site plan shows the 0.3 acre triangular shaped parcel, mostly cleared of trees with no existing buildings today and with the western portion relatively flat and the eastern having the approximately 40 feet or 40 foot southeastern facing that extends down to the shoreline.

([01:08:20](#)):

I skipped a little too quickly. The residence will be located 15 feet from the edge of the bluff and approximately 50 feet from the ordinary high watermark. Access is an existing 16 foot private driveway shown here. It has an easement under auditor file number 8 4 0 2 0 2 0 1 5 0 0. And it enters from the east side of a county, maintained local right of way, known as Ogle Road Northeast. And the view study was submitted to demonstrate angles from the right corner of home at the north, excuse me. Looking straight down the building line, one would realize a view loss of seven degrees of 180 degrees or eight feet of the new single family residence in comparison to 11 degrees view loss two lots further standing at the left corner of that northern property adjacent a view loss of about 16 degrees compared to their neighbor at approximately 17 degrees of 180 degrees.

([01:09:36](#)):

And in both cases this appears to be an acceptable loss of view and actually does not represent an area where one would tend to be situated to view the shoreline in real life from the deck of the neighbors. They would have virtually no loss of view as the home is not forward of the deck and the trees in the

park would block more views. In addition, the applicant submitted a statement that the neighbor to the north has no concerns regarding the proposed placement of the new single family residence. Staff did reach out and confirm this to be the case and this slide shows mitigation and there is a plan to maintain shoreline function. Since the project is located in the Shoreline Buffer, the applicant's have met the variance criteria in kit sub County code 2 2 5 0 0 1 0 0 E due to having immense site constraints and special circumstances not self-induced. The resulting from the previous owner's actions and the proposal is consistent with comprehensive plan, complies with shoreline variance criteria and will comply with all other requirements of Title 22 and with all other applicable provisions of Kitsap County Code. And based on the findings, the decision criteria as presented in the Kitsap County code sections mentioned, staff finds the proposed applications do conform to the shoreline variance criteria mentioned and recommends the Beckley variance and the conditional view blockage waiver be approved. And that does conclude staff's presentation. And I'm available for questions.

Examiner Terrell: ([01:11:28](#)):

I don't really have a whole lot of questions with this. Just the lot size alone would qualify it for shoreline reasonable use exception, but because of the many conditional conditions it requires a variance in either case and it looks like you've done everything that's required to make sure that that's handled appropriately. So I don't have any questions, but it looks like Darren would like to make a comment or no. Darren has something he wants to answer.

Speaker 5 ([01:11:56](#)):

I do. We do have more research here. The investigation turned up Burke Bay. It's called Bur

Examiner Terrell: ([01:12:03](#)):

Bay. Okay. Yeah, I saw it in the comments. Thank you. It's not entirely required, it's just useful in the decision to orient people as to where it is so that if they're reading it later they have an idea of where they are. There's these small private roads

Speaker 5 ([01:12:19](#)):

Nobody knows. Yeah, and we do tend to include that in our presentation.

Examiner Terrell: ([01:12:25](#)):

I was curious. Thank you. Would any member of the applicant's team like to speak or the applicant themselves?

Speaker 2 ([01:12:32](#)):

It looks like there's no one in the room but they are online so I'll go ahead and allow them to talk.

Examiner Terrell: ([01:12:39](#)):

Thank you Ms. Les. Thank you. Okay. It looks like Blake Lord would like to speak Mr. Lord. Do you, I assume you're a male. Do you swear or affirm that your testimony today is the truth?

Examiner Olbrechts:2 ([01:12:55](#)):

I do and I promise I'm raising my hand. It is just for some reason you can't see me.

Examiner Terrell: (01:13:00):

Well yeah, that's odd but it's not the first time. So even today that's not a problem at all. What would you like us to know, sir?

Examiner Olbrechts:2 (01:13:08):

So thank you. My name is Blake Lord, I represent the applicant. I am a professional civil engineer at KPFF consulting engineers and the civil drawings that have been prepared for these applications were prepared by me and my firm. And so I want to start off with saying thank you for your time. Thank you Jennifer for the good presentation and comprehensive view of the project. As I represent the applicant, I just want to provide a little bit more detail that is in the staff report. The staff report is great and from a civil engineering standpoint, I don't have any revisions or concerns. I do want to point out a few things though just to make sure it's on record. So like Jennifer mentioned, there was an existing mobile home on the site. It has since been removed, but the existing water service and sewer service are still available with active accounts at each purveyor.

(01:14:08):

So the water's North Perry and the sewers, Kitsap County sewer. We do understand and accept the condition that utilities will, those existing utilities we need to make sure that they meet today's standards but they will be utilized which will further reduce the amount of impacts with this project, especially adjacent to the shoreline and the bluff. So I wanted to mention the two things on those utilities as well as the stormwater, which is described in great detail in the staff report. So in general, all the stormwater is going to be collected and conveyed to a conveyance system that goes down the bluff and is discharged above the ordinary high water mark. The reason for this type of design is because we did have a geotechnical study performed that not only looked at the steep slopes, which we can talk about further if there are any questions, but also talked about how stormwater is managed and infiltrating dispersing stormwater above that steep slope is not recommended. Yes, agreed. So we are planning to with further approvals such as the site development, activity permit and others, is to route that down the shoreline and use an energy dissipation device so that way there's no substantial erosion or washout there at the beach.

(01:15:34):

In addition, and I think it is discussed great in the report, and I think you mentioned it too, Ms Examiner, is that this lot is very small, it's also irregularly shaped. And so in the county staff report they put in there that due to the physical constraints, the project has been placed in the most appropriate location, furthest landward as possible and size in the minimal size to fit the building site. And so that was the intent of the applicant. Mr. Beckley is to utilize the property as best they can but reasonably and not proposing anything that seems more than is allowable or reasonable. And so the home size proposed including it potentially being two stories is consistent with the adjacent properties and neighbors. So we do believe and agree with the county that the proposal is reasonable. And then lastly with regards to the conditional view waiver, and I'm probably mixing up how that should be said is that we did get the comment from the neighbor and the county has made a line in the staff report that they've reached out to Ms. Williams and confirmed that she does not have any concerns with the view waiver for the proposed.

(01:16:58):

Appreciate that actually. Me too. Us too. So I'm just the civil engineer on this project. We also have on our applicant team is Mr. Alex calendar who is the biologist and environmental expert. So if there's no

questions for me, I would like if he has anything to say to give him the opportunity. But until then, that's all I have to say and I appreciate everyone's time.

Examiner Terrell: [\(01:17:24\)](#):

Thank you Mr. Lord. Mr. Calendar, do you want to speak?

Examiner Olbrechts:3 [\(01:17:30\)](#):

Can you hear me now?

Examiner Terrell: [\(01:17:31\)](#):

I can.

Examiner Olbrechts:3 [\(01:17:32\)](#):

Okay. Yes, I would like to speak,

Examiner Terrell: [\(01:17:34\)](#):

Do you swear or affirm that your testimony will be the truth today, Mr. Calendar?

Examiner Olbrechts:3 [\(01:17:37\)](#):

I do.

Examiner Terrell: [\(01:17:38\)](#):

Okay. What would you like to say sir?

Examiner Olbrechts:3 [\(01:17:41\)](#):

I would like to say that Mr. Beckley has a relatively small development going in here and I think he's doing everything he can to maintain the baseline of no net loss, the shoreline functions, and he's doing that in a couple of ways. One would be the dispersion of storm water above the ordinary high water mark. The work were some concerns expressed by the tribe about eelgrass beds, which are located far off site. I would think that the environmental background noise created by the adjacent marina would be more impactful than anything we could be doing on that shoreline. The shoreline is one of the few unarmed shorelines in the Puget Sound. Really it's unarmed and natural vegetation except for there is the Himalayan blackberries, things like that. A little English ivy. Typical, I think I saw a butterfly bush typical of the Puget Sound invasive species.

[\(01:18:59\)](#):

And we'll be removing those and replacing them with native vegetation which will increase hopefully the food production things that will attract macro invertebrates, which invariably fall into the Puget Sound and feed the little fish and things like that. And we did a cumulative impacts analysis. There aren't a lot of lots left in this shoreline reach and the cumulative impacts aren't expected to be great just because the capacity of available lots. And then of course there isn't really access, there's visual access to the shoreline, which is important. But as far as getting to it, the only way to get down from the bluff is from the adjacent marina, which is where I visited it during the site visit during a period of low tide and it's got a very nice cobble beach and that shows there's hard shell clams and things like that. Feeder bluffs are important because they from time to time export gravel which gets winnowed by the wave action

and becomes important habitat for sand land surface melt and things like that. And that will not be diminished by this project. And I think in general that should be a responsible development that will maintain the functions over the lifetime of the project.

Examiner Terrell: ([01:20:38](#)):

Thank you very much. I appreciate your reiterating that there's no net loss and that it will provide similar or the same habitat value that it does. Now my only concern was the geotech because of that occasional sloughing that sometimes happens, but there are geotechnical engineering reports and addendums in here is exhibits 1314. And again, this is one of those pieces of property that we have to allow a reasonable use on a piece of property under the law to avoid takings under Nolan Dolan. So this a modest development and this is certainly modest by a lot of standards. Mason County is actually encoded 3000 square feet as their minimum reasonable use when you're talking about 1200 square foot with the pertinent driveway, that's considered modest and it looks like everything has been done to maintain the shoreline and to protect it and to ensure that the house itself is protected. So I very much appreciate Mr. Lord and Mr. Calender for providing that expert testimony. Related to this, are there any members of the public who are around or would like to speak?

Speaker 2 ([01:21:58](#)):

We have one person in the room. Ken McKeen, would you like to speak still? Yes. Would you like to still speak? Yeah,

Examiner Olbrechts:4 ([01:22:16](#)):

Of course. Good morning. My name is Kenneth McKeen.

Examiner Terrell: ([01:22:19](#)):

Can you spell your last name for me, sir?

Examiner Olbrechts:4 ([01:22:21](#)):

Yes, MC capital EWAN.

Examiner Terrell: ([01:22:26](#)):

Thank you. I get creative sometimes and people don't like that at all. Mr. McKeon, will your testimony today be the truth?

Examiner Olbrechts:4 ([01:22:33](#)):

Yes.

Examiner Terrell: ([01:22:34](#)):

Yes. Okay. What would you like me to know, sir?

Examiner Olbrechts:4 ([01:22:36](#)):

Yes, I'm one of three port commissioners for the Port of Brownsville. This frankly caught me a little by surprise because I wasn't aware of this project. Our port manager was going to be online and give some testimony. Her name is Robin Dally, but I don't know that she's, oh, well if I may, she's got the information that would be most helpful. I just want to make a couple of quick comments if I may. I'm not

a geotech and I'm not an engineer, but it's my understanding that geotech report states there's no indication of instability or seepage on this bank. And if you walk out on the marina, which is an adjacent property owner, we have a fence line that runs right along this property. There is sloughing and bank instability that's been there for at least the past year. I walked down there almost every day on a walk and it hasn't been mentioned and what's been discussed this morning, and I'm very concerned about that.

[\(01:23:35\)](#):

It looks to me like the sloughing is coming from either surface water or groundwater from the adjacent property that sits higher. And again, I'm not an engineer but is a person who's lived along that area for some time between the Port of Brownsville and the Keyport Naval Station. If you go by there and boat and have done that over the past 10 years, there have been slope failures and this looks like it's one that is not, as somebody has indicated, I think it's the geotech that there's no indication of instability and that would have a severe impact on the court's operation, but I would rather defer to Robin Dally, who I believe is online. So thank you for allowing me to talk.

Examiner Terrell: [\(01:24:18\)](#):

Thank you, sir. Sounds like Robin's up. Robin, do you swear you affirm your testimony today is the truth?

Speaker 5 [\(01:24:28\)](#):

I do.

Examiner Terrell: [\(01:24:29\)](#):

Okay. Thank you. Go ahead.

Examiner Olbrechts:5 [\(01:24:30\)](#):

So I did not see that our letter that we mailed out at the first week of June last year was received or considered. So I would like the opportunity to read that now as we did address our concerns in that. Would

Examiner Terrell: [\(01:24:46\)](#):

You like to be entered as an exhibit to the record,

Examiner Olbrechts:5 [\(01:24:49\)](#):

Ma'am? We can do that if you would like. Yes,

Examiner Terrell: [\(01:24:52\)](#):

I would. We'll enter it as exhibit 46. Please send it to the county.

Examiner Olbrechts:5 [\(01:24:57\)](#):

Will do. It is the Port of Brownsville opposes the proposed construction of a 12,000 square foot home at 98 28 Ogle Road. Particularly due to the concerns regarding the current stormwater mitigation plans and their potential impacts on the feeder bluff. The recommended stormwater management strategies could exacerbate the erosion issues affecting the shared feeder bluff between the port and the property in question. Notably erosion is already occurring at 97 90 Ogle Road as a result of runoff from adjacent

properties. This area is designated as a feeder bluff, which is intended to naturally erode and replenish the beaches of Puget Sound. The bluff located between 97 90 and 98 28 Ogle Road supports several drift cells that are vital to the ecology of Puget Sound, port Orchard Pass. And more critically, the salmon and seal head bearing stream of Burke Bay. The feeder bluff is recognized as a critical saltwater habitat within Kitsap County Shoreline Master plan.

[\(01:26:06\)](#):

These habitats are essential for spawning local fish species including forage fish such as herring and surf smelt, as well as providing rearing habitats for juvenile salmon. The Washington State Department of Fish and Wildlife classify surf smelt as a species of greatest concern under the State Wildlife Action Plan swap and a priority species under the priority Habitat and species program. In the case of Caldwell versus ecology in 2012, it was determined that the applicant's proposal was situated on a steep unstable slope that significantly influenced shoreline functions. The application was deemed unreasonable as allowing development would disrupt the biological function of the bluff and impose hazards to the surrounding area. This case underscored the potential risks to neighboring properties, environmental degradation, and the threat to human life and safety. In the interest of environmental preservation, the Port of Brownsville has chosen to protect the shared bluff, allowing it to fulfill its ecological role. Furthermore, proposed development would interfere with port operations including but not limited to rentals of the upper park, increased sediment flow leading to shallow war drafts in complications with the filling and dredging of the port's two boat ramps. Additionally, the port received late notices on the initial proposal. We didn't receive notice until I believe it was May 29th and we did not feel we had adequate time to respond to the proposal

Examiner Terrell: [\(01:27:46\)](#):

May 29th of the prior year.

Examiner Olbrechts:5 [\(01:27:48\)](#):

2024. Yep.

Examiner Terrell: [\(01:27:53\)](#):

Okay, keep going.

Examiner Olbrechts:5 [\(01:28:00\)](#):

That's about all I have in this letter that's applicable, but we are concerned because within the last two years we've seen roughly two feet of the shoreline in question. Starting to refill our beaches here in Fuge Sound.

Examiner Terrell: [\(01:28:15\)](#):

Okay. Please do send your letter so that we can get it into the exhibits and considered as part of our decision. Would you like to add anything else or can we get responses from Mr. Lord and or Mr. Calendar

Examiner Olbrechts:5 [\(01:28:34\)](#):

At this point? I don't

Examiner Terrell: [\(01:28:37\)](#):

Thank you very much. In that case, I expect that Mr. Lord or Mr. Cower may want to make a comment at this point. Yes, Mr. Lord.

Examiner Olbrechts:2 ([01:28:48](#)):

Thank you. So I appreciate the testimony and the comments. I want to respond to two items, one the geotechnical and two the storm water. So first for the geotechnical as we have been talking about during this hearing is that there was an evaluation done of the steep slopes in the bluff as well as there is an addendum to that letter that further clarified the requirements and based on their professional opinions and recommendations and the county's review, it does appear that the proposal meets all the applicable requirements. Number two, all the stormwater generated on this parcel as well as any runoff running onto the parcel will be collected and conveyed in a pipe down the block. So erosion with regards to stormwater on the face of the bluff is going to be reduced as it is currently is today in the full build out of the project, the only water running down the bluff will be of that, that falls on the bluff itself. So as put in the stormwater plan and the, sorry, and the staff report is the project meets all applicable stormwater requirements in relation to the stormwater manual as well as the environmental requirements at the beach.

Examiner Terrell: ([01:30:16](#)):

They're going to ask a clarifying question on that. So from what I summarize what you just said, the stormwater that is coming onto the property but is not from the property as well as the stormwater from the project itself will be tight lined down to the bottom of the bluff above the ordinary high watermark, which means that reduces the existing. And so the only water that will be falling from the bluff or over the bluff is rainwater, is that what you're saying?

Examiner Olbrechts:2 ([01:30:47](#)):

Yes. With one clarification of this home does have up, or this parcel does have upgradient areas that are graded towards the existing parcel or graded towards the subject parcel. A lot of that water, I believe rainwater that's not hitting paved services is generally infiltrating. But if there is any surface runoff that is flowing onto the subject parcel, it will be collected in ditches that are in the landscaping into a catch basin and then type lined tight lined down to the beach.

Examiner Terrell: ([01:31:21](#)):

Okay. I appreciate that clarification. I thought that might be what you meant, but I wasn't sure.

Examiner Olbrechts:2 ([01:31:27](#)):

Thank you for clarifying. I don't have anything further. Give it to Alex if you can. Okay. Mr. Your

Examiner Terrell: ([01:31:33](#)):

Calendar. Would you like to speak to that? Speak to the comments from the court?

Examiner Olbrechts:3 ([01:31:39](#)):

Let's see. Am I talking now? Now? Yes, now we can hear you.

([01:31:42](#)):

So I'm not a geotechnical expert either, except I did spend eight years with the Department of Ecology as a wetland and shoreland specialist reviewing geotechnical reports. And I'd say one of the main

differences between a geologically hazardous area that's unstable is that they typically have a deep seated failures, cracks or fissures in the property. And then they have what's called superficial sloughing. And a stable bluff from time to time may experience superficial slipping over geological period. The probability of a large event occurring is not very great at all. And that's what they're looking at is that generally stable surface to build on. And that's why they're stamp professionals that make these determinations and I think they did what they're supposed to do and they have a stamp that's hard for me to question anything that they're recommending. And from what I've seen, I've just seen superficial sloughing.

(01:32:59):

I did note in my report that I did see a superficial slough in there. One of the things that's nice about the planning plan we are providing is that the root systems from the new plantings will be more substantial than the invasive species that currently occupy that area. And ganache, I think Elliot Ganache who did the Coastal Bluff publication for ecology had done a study that the amount of roots that are involved in a shoreline bluff adds to the stability. It can be. They've done studies. And so if we're using recommended plants, that will not compromise by falling over and tearing out large chunks are mostly salt tolerant plants near the shore. And then up above of course we've got already have some native plants. There's a lot of SAL and things like that that are holding that top edge quite well. And we're going to be contributing to that by the planting extend into the or landward of the bluff somewhat.

(01:34:23):

So we're going to improve the situation by providing the storm water controls and the native plants. And of course this is about as reasonable a development as I've seen, like you mentioned, that Mason County allows for 3000 square feet. I think statewide, 25 hundred's been accepted except it as a reasonable development and we're way below that. He's reduced it by going, he will possibly be going up instead of out. And by positioning the home as far away from the bluff as he can do the overall configuration of the lot, he's done what he can to reduce it. This has been previously developed, and having the sewer system on there also reduces the contribution of septic water to that bluff face or shower and things like that. So I think that's about all I can.

Examiner Terrell: (01:35:32):

So Mr. Shower, these sort of things come up a lot. We might occasionally get into the question of expert testimony and experts talking to experts. Can you tell me briefly your qualifications and then answer the question of whether you feel that this project will provide no loss of habitat function?

Examiner Olbrechts:3 (01:35:55):

Yeah, my qualifications, I'm A PWS, I've been a PWS for over 14 years

Examiner Terrell: (01:36:02):

And that

Examiner Olbrechts:3 (01:36:02):

Stands for, I'm a professional wetland scientist certified, and I've had my own business for over 21 years. I worked for the Department of Ecology as a wetland and shoreland specialist with expensive training in coastal forms, geomorphology and just adherence to shoreline policies and determining the ordinary high watermark. And I reviewed as my position as a wetland shoreline specialist. My job was to review variances for approval after approval by the local authority. Then they go to college for final approval. So

that was my job is to make sure that everything was consistent with the Shoreline Management Act and the local Shoreline Master program. And I've done that for this project that using my past experience internally feel out what I think is maintaining consistency with the ACT and the Shaw Line Master program. So that's what I use.

Examiner Terrell: [\(01:37:23\)](#):

And do you feel that the mitigation as proposed will provide known that loss of charline habitat and function?

Examiner Olbrechts:3 [\(01:37:28\)](#):

Yes, I do.

Examiner Terrell: [\(01:37:29\)](#):

Okay. Thank you sir. All right. We can keep going if we need to. Are there other comments from members of the public at this point?

Speaker 2 [\(01:37:43\)](#):

Mr. McEwen would like to come up one more time to speak.

Examiner Terrell: [\(01:37:46\)](#):

Yes, that's that's just fine. Understand that the burden of proof is on the applicant. So the applicant always gets to speak last in these circumstances, they may choose to respond. Mr. McEwen.

Examiner Olbrechts:4 [\(01:37:59\)](#):

Oh, thank you. The port wants to be a good neighbor and I do understand that people want to develop their property. I just wanted to focus, if I may on one thing in particular, and I haven't seen the geotech report, but I think I'm not so worried about mitigation of loss of habitat, but this statement that there's no indication of instability or seepage. If someone has looked at this, it doesn't take a geotech. If they've looked at the bank from where you can from the north breakwater of the marina, it's sloughing. And port manager Dally testified that we've lost two feet of that in the last year. To me, as an uninitiated and unqualified geotech, it is indication of instability and seepage and it's something that needs to be carefully considered. What is the source of that water? And I'm not talking about storm water from impervious surfaces, footing drains or downspouts.

[\(01:39:01\)](#):

It's whether or not this is a spring. Is it surface water? Is it groundwater? I don't know. But something is causing that bank to slough off and that could create a problem in the future. And if I understand this correctly, we're talking about a home being built within 15 feet of a steep bluff. And I don't know who in all of these experts here of taking into account the effect of the weight of that structure within 15 feet of the top of the bluff and the excavation and what effect that'll have on the stability of the bank. So I appreciate your consideration of those. And again, we want to be a good neighbor. If it can be done properly, that's fine. But I'm really concerned about that aspect of the expert testimony we've heard today. No one is talking about why this is sloughing and whether it's of concern. Thank you very much.

Examiner Terrell: [\(01:39:56\)](#):

Thank you, sir. I'll note that exhibits 13 and 14 are the geotechnical engineering report and addendum letter. They come from Environmental Sound Consulting Incorporated. They are geotechnical Environmental Consulting firm. I don't think they are represented here today. So I think we can't answer those questions other than to rely on whatever the geotech report says or any competing expert geotechnical information. But would the applicant like to speak again? Yes. Mr. L?

Examiner Olbrechts:2 ([01:40:29](#)):

Yes. Thank you. And just reiterating what you have said, Ms. Examiner, is that the professional geotechnical engineer did their required due diligence that is required of their professional license and that includes looking at the existing conditions as well as the proposed conditions, such as responding to the comment of looking at the weight of the home and the improvements. So while neither Alex or I are geotechnical professionals, we do have those professional reports that are in the record.

Examiner Terrell: ([01:41:02](#)):

Thank you. While the applicant gets the last opportunity to speak, does the county have any reaction? No. Okay. In that case, it sounds like we might've sussed out all the issues that we will enter exhibit 46 into the record, which is the comment from the court and Yes ma'am. Or just turn it off. Okay. Thank you everyone who has attended today, I appreciate your diligence and concern. The environment always speaks first in Washington, so you'll enter that other exhibit into the record and hopefully we'll keep it open until it arrives. It sounds like it might be soon. That might be today, hopefully today. But I will close the testimony portion of this hearing. And again, we have 10 business days to render a decision. Again, I appreciate everyone coming today and the Concern Show. So thank you very much. I apologize that I arrived at 9 21 instead of nine, but Bill told me to show up at nine 30. So thank you all very much and I hope you all have a good day. I appreciate the opportunity to work with Kit again.

Speaker 2 ([01:42:23](#)):

Thank you Examiner.

Examiner Terrell: ([01:42:24](#)):

Yep. Let's close the hearing record or the recording. Anyway,

Speaker 2 ([01:42:28](#)):

Recording stopped.

Examiner Terrell: ([01:42:30](#)):

Thank you. Thank you. Have a great day everyone.

Speaker 2 ([01:42:32](#)):

You as well. Bye.