



**KITSAP COUNTY HEARING EXAMINER  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**In the Matter of Request for  
Shoreline Substantial Development Permit (SSDP)  
File No. 17 01722**

**July 17, 2017**

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The Hearing Examiner makes the following Findings of Fact, Conclusions of Law, and Decision:

**1. FINDINGS OF FACT**

**1.1 Proposal.** Kitsap County Public Works requests a Shoreline Substantial Development Permit for a pump station under the Kitsap County Shoreline Management Master Program (SMP). The proposal allows the Manchester sewer system to serve the Yukon Harbor-Colchester area. The project includes a new pump station to pump waste water flow transported through new conveyance piping to an existing manhole. Other than an access road, the project is more than 200 feet from the Puget Sound shoreline, so is outside SMP jurisdiction. A \$4.75 million Department of Ecology grant is funding the project.

The Applicant/property owner, site location, and assessor's number are as follows:

**Applicant and Property Owner:** Kitsap County Public Works, 614 Division Street, MS 26, Port Orchard, WA 98336.

**Site Location:** The site is located between 861 and 907 Colchester Drive SE, Port Orchard, WA 98366.

**Assessor's Number:** 4516-001-069-0005.

**1.2 Administrative Record.** The Hearing Examiner reviewed Exhibits 1-27 before the hearing, which included the Staff Report. At the hearing, the Department of Community Development (DCD) proposed adding a power point to the administrative record as Exhibit 28. The Examiner admitted all Exhibits.

**1.3 Notice of Application.** The Notice of Application was sent to the Applicant, property owners within an 800 foot radius, as well as Kitsap Public Health District, U. S. Navy, Kitsap Development Services and Engineering, Kitsap Transit, South Kitsap Fire District, South Kitsap School District, Puget Sound Energy, City Planning Director Nick Bond, Water Purveyor – Port Orchard, Sewer Purveyor – Port Orchard, Point-No-Point Treaty Council, Suquamish Tribe, Washington Department of Fish and Wildlife, Washington Department of Ecology, and Washington Department of Transportation.

**1.4 SEPA.** The SEPA comment period occurred concurrent with the Notice of Application.<sup>1</sup> After the comment period ended, DCD issued a Determination of Non-Significance,<sup>2</sup> which was not appealed, and includes the following conditions:

The proposal will be conditioned for Stormwater Control per Kitsap County Code Title 12. The proposal will also be conditioned to follow the recommendations of the Geotechnical Engineering Report by Landau Associates dated September 8, 2016.<sup>3</sup>

**1.5 Notice of Public Hearing.** The notice of hearing was published, posted and mailed, following mailing and publishing of the notice of application.<sup>4</sup> No concerns on notice were raised by any party.

**1.6 Hearing.** The Hearing Examiner considered the request at an open record public hearing on July 13, 2017. DCD, through sworn testimony from Ms. Shaffer, described the proposal. The presentation identified relevant code requirements and how the proposal met them. As DCD found the proposal consistent with applicable requirements, it recommended SSDP approval. The Applicant supported DCD's summary. No members of the public stated they wished to comment.

**1.7 Agency and Public Written Comment.** Neighbors submitted comment on Pump Station 74's height.<sup>5</sup> DCD created a diagram to demonstrate that the structure meets height requirements for both the zone and shoreline designation.<sup>6</sup> Also, the Suquamish Tribe requested the Cascadia Archaeology Cultural Resources Assessment. DCD forwarded the report, and no further comments were received.

**1.8 Site Characteristics.** The rectangular parcel is 0.79 acres, and about 535 feet long and 95 feet wide. Slopes are about 10-15% grade, and extend downward toward Puget Sound. The access road is outside of all critical areas, including the 100-year flood plain, and complies with all setback requirements, including the 85' shoreline setback. (Individual sewer hook-up locations may be within the 100-year flood plain, although such areas will be avoided to the extent practicable, and overall the conveyance system will improve ecological functioning and reduce flood concerns.)

**1.9 Project Details.** The proposal is a Manchester sewer system extension, designed to serve the Yukon Harbor-Colchester area, located in the southeastern portion of the Manchester Limited Area of More Intensive Rural Development. Homeowners currently use individual, onsite sewer systems for sewage treatment and disposal. The 72 parcels along the Yukon Harbor shoreline use onsite treatment systems, many of which provide inadequate treatment and/or wastewater disposal.

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<sup>1</sup> Exhibit 13.

<sup>2</sup> Exhibit 15.

<sup>3</sup> Exhibit 15.

<sup>4</sup> Exhibit 25.

<sup>5</sup> Exhibits 14 and 16.

<sup>6</sup> Exhibit 17.

**1.10 Shoreline Designation.** The portion of the project site within shoreline jurisdiction is Shoreline Residential. Because a segment of an access road is located within shoreline jurisdiction, an SSDP was applied for. Otherwise, the project would not trigger shoreline permitting requirements.

**1.11 Zoning.** The Comprehensive Plan and zoning designations are Manchester Village Low Residential (MVLRL), the same as the bordering properties. Approximately half a mile south, the zone changes to Rural Residential. To the east and north, the zoning changes to Manchester Village Residential.

**1.12 Stormwater.** Stormwater is addressed through the KCC and project conditions. A temporary erosion and sediment control plan will be implemented during construction, and will include the use of work zone delineation fencing to minimize disturbance, filter fabric fencing, catch basin inserts, silt dikes, erosion control blanket, and stabilized construction entrance.

**1.13 Utility and Public Services.**

- **Water:** Public Utility District
- **Power:** Puget Sound Energy
- **Sewer:** Septic to Sewer
- **Police:** Kitsap County Sheriff
- **Fire:** South Kitsap Fire District
- **Schools:** South Kitsap School District

**1.14 Access.** Access to the site is off of Colchester Drive SE.

**2. CONCLUSIONS OF LAW**

**2.1** The Hearing Examiner reviews SSDP applications.<sup>7</sup> For the reasons set forth below, the Hearing Examiner concludes that the proposal is consistent with the County's shoreline regulations and policies, and with the Shoreline Management Act, Ch. 90.58 RCW (SMA). As such, pursuant to KCC 22.500.100(B), the SSDP should be approved.

**2.2** The pump station will be located on an existing, undeveloped County parcel that provides public access to the Yukon Harbor shoreline. The project was designed to maintain this shoreline access.<sup>8</sup> Height requirements are complied with, and views will not be adversely impacted.<sup>9</sup> Bulk and dimensional standards are also complied with.<sup>10</sup> Cultural resource concerns have been evaluated and addressed.<sup>11</sup>

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<sup>7</sup> See e.g., KCC 21.04.080, .100 and KCC 22.500.105(E).

<sup>8</sup> KCC 22.400.145; see also KCC 22.300.125.

<sup>9</sup> KCC 22.400.135.

<sup>10</sup> KCC 22.400.140.

<sup>11</sup> KCC 22.400.130.

**2.3** As part of the project, customers will replace existing septic tanks with wastewater conveyance piping to the County's treatment system. Single family residential construction, including normal appurtenances such as utilities, are exempt from shoreline substantial development permitting.<sup>12</sup> However, as a portion of the access road is within shoreline jurisdiction, this SSDP was applied for.

**2.4** The Shoreline Residential designation, which applies to the site, is designed "[t]o accommodate residential development and appurtenant structures that are consistent with" the SMP.<sup>13</sup> To accomplish this objective, "[a]ccess, utilities, and public services should be available and adequate to serve existing needs and/or planned future development."<sup>14</sup> The project is designed to do just that. Existing wastewater utilities and public services are inadequate to serve existing residential development. The extension, including the limited access required through shoreline jurisdiction, ensures wastewater is properly treated in order to protect human health, recreation, and ecological functions.

**2.5** Although the project overall improves ecological functions and values, its location and construction also minimize environmental impacts. Critical areas are not located on site, and the 85' shoreline setback is complied with.<sup>15</sup> The pump station is located outside the 100-year floodplain.<sup>16</sup> Future individual hook-up locations may be within this area, although these areas will be avoided to the extent practicable, and due to conveyance undergrounding there will not be an appreciable loss of flood storage capacity.

**2.6** As the project provides mitigation to address wastewater issues, it is consistent with protecting water quality and quantity.<sup>17</sup> Also, stormwater management is addressed and mitigated through the conditions below, KCC requirements, and as addressed above.<sup>18</sup> At the site, there will be some vegetation removal, although screening will be maintained, consistent with the SMP.<sup>19</sup>

**2.7** The project's overall objective is to support improved water quality in Yukon Harbor that has been impaired, in part, by failing septic systems. As such, the project has been

designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth per the Kitsap County Comprehensive Plan.<sup>20</sup>

**2.8** As the proposed project is consistent with the County's SMP, and SMA policies and procedures, including WAC 173-27-150, it should be approved.

<sup>12</sup> KCC 22.600.185(A)(2); KCC 22.500.100(C).

<sup>13</sup> KCC 22.200.115(A).

<sup>14</sup> KCC 22.200.115(C)(3); *see also* KCC 22.300.125 on shoreline planning objectives.

<sup>15</sup> KCC 22.300.100; KCC 22.300.105.

<sup>16</sup> KCC 22.400.150.

<sup>17</sup> KCC 22.300.110.

<sup>18</sup> KCC 22.400.125.

<sup>19</sup> KCC 22.300.105.

<sup>20</sup> KCC 22.600.185(C)(1)(b).

## DECISION

Pursuant to the above Findings of Fact and Conclusions of Law, the Hearing Examiner approves the requested Shoreline Substantial Development Permit, provided the following 17 conditions are adhered to.

### **Planning/Zoning.**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
3. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the Applicant agrees to promptly bring such development or activities into compliance.
4. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the building, regardless of whether a building permit is required, shall be reviewed by DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
5. The uses of the subject property are limited to the uses proposed by the Applicant and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not be, and is not to be, construed as approval for more extensive or other utilization of the subject property.
6. The decision set forth herein is based upon representations made and exhibits contained in the project application. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
7. The Shoreline Substantial Development Permit approval shall automatically become void if no development permit application is accepted as complete by DCD within two years of the Notice of Decision date or the resolution of any appeals.

8. Any violation of the conditions of approval shall be grounds to initiate revocation of this Shoreline Substantial Development Permit.

9. The maximum height of all new construction in the Manchester View Protection Overlay Zone shall be 28 feet, measured from the mid-slope point of the property's buildable area to the highest point of the structure.

10. Paint colors for the Pump Station 74 shall be natural, earth tone colors as to blend in with the vegetation.

**Development Engineering.**

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

12. The information provided demonstrates this proposal is a Large Project as defined in KCC Title 12, and as such will require a Site Development Activity Permit (SDAP) from Development Services and Engineering.

13. The Applicant has submitted the required Site Development Activity Permit, which is currently under review. Construction of this project shall comply with conditions established through review of SDAP Permit 17 00087 and any addendum thereto.

**Environmental.**

14. The Applicant shall follow the recommendations of the Geotechnical Engineering Report submitted by BHC Consultants, LLC dated September 8, 2016.

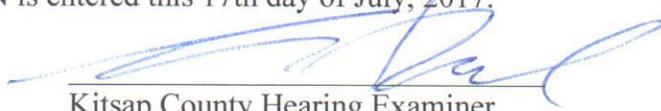
15. The application requires that no new shoreline armoring is proposed, and that no armoring will ever be needed for protection of any facilities on site.

16. Permit approval requires that refuse shall not be placed in buffers.

**Traffic and Roads.**

17. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process. The need for and scope of bonding will be determined at that time.

THIS DECISION is entered this 17th day of July, 2017.



Kitsap County Hearing Examiner  
Susan Elizabeth Drummond