



## Notice of Administrative Decision

**Date:** 07/30/2019

**To:** Kurt Waggoner, P.O. Box 248, Port Gamble, WA 98364  
Team 4 Engineering, [jon@team4eng.com](mailto:jon@team4eng.com); [kevin@team4eng.com](mailto:kevin@team4eng.com)  
Interested Parties and Parties of Record

**RE:** **Permit Number:** 19-02117  
**Project Name:** Waggoner Conditional View Blockage Waiver  
**Type of Application:** Conditional Waiver from View Blockage Requirements

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

The written appeal shall be made on, or attached to, an appeal form found on DCD's website: <https://www.cognitofirms.com/KitsapCounty1/RequiredPermitQuestionnaireAppealObjectionOfAnAdministrativeDecision>.

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 at the Department of Community Development; if you wish to view the case file or have other questions, please contact [help@kitsap1.com](mailto:help@kitsap1.com) or (360) 337-5777. Please note DCD is open Monday to Thursday from 8:00am to 4:00pm and on Friday from 9:00am to 1:00pm except holidays.

**CC:** Applicant: WAGGONER KURT  
Owner: WAGGONER KURT  
Project Representatives: TEAM 4 ENGINEERING LLC - Ron Cleaver, Kevin Biggs,  
[jeff@team4eng.com](mailto:jeff@team4eng.com); [jon@team4eng.com](mailto:jon@team4eng.com); [kevin@team4eng.com](mailto:kevin@team4eng.com)

Navy  
DSE  
Kitsap Transit  
North Kitsap Fire District  
North Kitsap School District  
Puget Sound Energy  
Water Purveyor  
Sewer Purveyor

19-02117 Waggoner Conditional Waiver from View Blockage  
07/30/19

Point No Point Treaty Council  
Suquamish Tribe  
Port Gamble S'Klallam Tribe  
Squaxin Island Tribe  
Puyallup Tribe  
WA Dept of Fish & Wildlife  
WA State Dept of Ecology-Shoreline Review  
Kingston CAC

Interested Parties:

David & Rosemary Highlander, [rosemary.highlander@gmail.com](mailto:rosemary.highlander@gmail.com)

Jason & Katy Trichler, [jtrichler@yahoo.com](mailto:jtrichler@yahoo.com)

Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Anna Bausher

DCD File # 19-02117



## Administrative Staff Report

Report Date: July 8, 2019

Application Submittal Date: May 13, 2019

Application Complete Date: May 21, 2019

**Project Name: Waggoner Conditional View Blockage Waiver**

**Type of Application: Conditional Waiver from View Blockage Requirements**

**Permit Number: 19-02117**

### Project Location

25953 Dunlin Lane NE  
Kingston, WA 98346  
Commissioner District 1

### Assessor's Account #

4317-000-036-0701

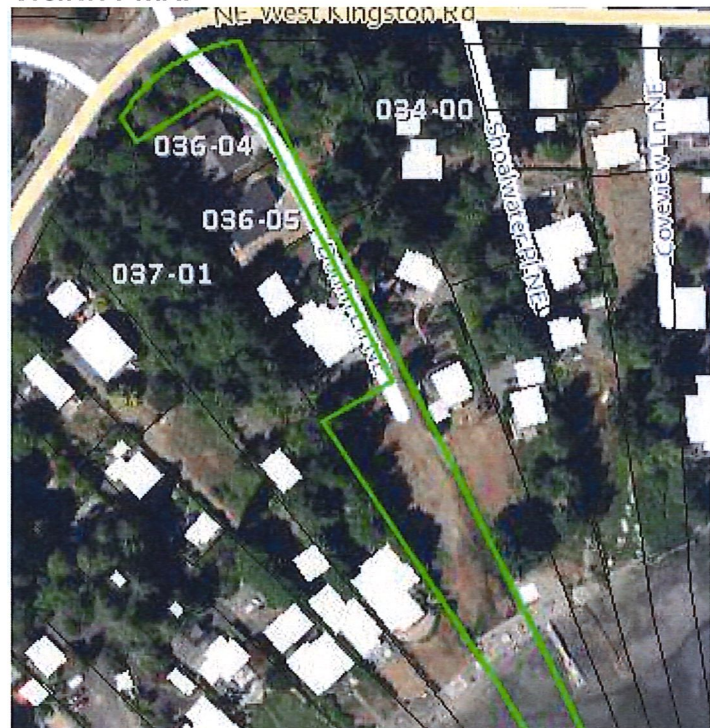
### Applicant/Owner of Record

Kurt Waggoner  
PO Box 248  
Port Gamble WA, 98364

### Decision Summary

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

### VICINITY MAP



### 1. Background

Kurt Waggoner has applied for a Conditional View Blockage Waiver to construct a single-family residence. Kitsap County Code (KCC) 22.400.135(D)(2) identifies that the applicant seeking a conditional waiver of the strict application of this chapter may file an application with the department accompanied by an application fee per the Kitsap County development permit fee schedule (Section 21.10.010). This applications purpose is to request a conditional waiver from view blockage requirements as allowed by code.

### 2. Project Request

The proposal is to reduce the view line to locate a proposed new single-family residence approximately 110 feet from ordinary high water mark which encroaches into the established shoreline structure setback line for the view line. Strict application of code draws the view line from the foundation of each of the adjacent residences, pursuant to KCC



22.400.135(a)(3). This view line is a sharp diagonal as one adjacent residence is located much further from the water than the other adjacent residence is. This shoreline structure setback constrains the building site. The proposal for the home location is also oriented in a way to maintain views for the existing home behind the parcel, which would also locate the proposed residence on the west side of the parcel furthest from where the adjacent home is located further landward than the proposed residence. This application has been analyzed and conditioned based on criteria in Kitsap County Code 22.400.135(D), Conditional Wavier Procedure.

**3. SEPA (State Environmental Policy Act)**

The proposal is exempt from SEPA review under WAC 197-11-800(6)(a).

**4. Physical Characteristics**

The subject parcel is an irregular lot shape approximately 0.86 acres in size. The narrow parcel is the largest in the center around 90 feet wide and extending out into tidelands in a v shape and in the other direction into a flag lot for a road access extending approximately 380 feet to the road frontage. The parcel is largely cleared with grass.

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

Comprehensive Plan: Urban Low Density Residential Zone: Urban Low Residential	Standard	Proposed
Minimum Density	5	1
Maximum Density	9	
Minimum Lot Size	2,400	Existing lot
Maximum Lot Size	9,000	Existing lot, allowed per footnote 25
Minimum Lot Width	40	Existing lot
Minimum Lot Depth	60	Existing lot
Maximum Height	35 feet	Up to 35'
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes:

17.120.060(A)(25) For new building permit applications on vacant lots over eighteen thousand square feet located in urban low residential (ULR) and urban cluster residential (UCR) zones, the maximum lot size shall not exceed nine thousand square feet. This restriction shall not apply if:

- a. The net developable area of the existing parcel is less than eighteen thousand square feet; or
- b. The project application will meet minimum density requirements as established by this



chapter.

*Staff Comment:* The lot is allowed to be developed with a single-family residence when at the time of the development permit this footnote is met. Review of this will occur with the single family residential building permit.

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (North)	20 for garage or carport; 10 for habitable area	Approximately 80 feet proposed
Side (East)	5	Approximately 35 feet at the closest place
Side (West)	5	Approximately 7 feet
Rear (South)	5	Approximately 100 feet

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

Surrounding Property	Land Use	Zoning
North	Development Single-Family Residential	Urban Low Residential
South	Shoreline Open Water	None - Aquatic Shoreline Designation
East	Single Family Residential and some undeveloped lots.	Urban Low Residential
West	Single Family Residential	Urban Low Residential

**Table 4 - Public Utilities and Services**

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	North Kitsap Fire and Rescue
School	North Kitsap School District #400

**5. Access**

The site is accessed off a private access easement named Dunlin Lane Northeast, which gains access to the county-maintained NE West Kingston Road.

**6. Site Design**

Not applicable to residential development.

## 7. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016

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

*Housing, Human Services Policy 23. Promote housing preservation and development in areas that area already well-served by schools, public transportation, commercial facilities, and have adequate infrastructure to support alternative mode of transportation.*

*Shoreline Master Program (KCC 22.300.125(B)) Policy SH-21. Give preference to water-dependent uses and single-family residential uses that are consistent with preservation of shoreline ecological functions and processes. Secondary preference should be given to water-related and water-enjoyment uses. Non-water-oriented uses should be limited to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Act. For use preference within shorelines of statewide significance, see Section 22.300.145(B).*

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

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Building and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures
Title 22	Shoreline Master Program

## 8. Documents Consulted in the Analysis

### Applicant Submittals

Application

Site Plan

### Dated or date stamped

May 21, 2019

May 21, 2019

Project Narrative	May 21, 2019
Setback Notification	May 21, 2019

## 9. Public Outreach and Comments

Staff received three inquiries on the application. One individual inquired for some general information on the proposal and came to the conclusion the proposal would not impact their view and did not want to be an interested party. The other two inquiries were from individuals who did want to be interested parties with one providing comments in support and one providing comments in opposition.

The property owners of the adjacent parcel to the east commented that they were "completely in agreement with the application request." This adjacent property is where the adjacent residence is located further back from the shoreline at approximately 245 feet from ordinary high water mark. This is the residence the applicant has requested to have waived from being used to determine the view line. Based on the location of the home, it would be expected this home would have the greatest impact for view blockage.

The comment received in opposition to this waiver application came from a property owner several parcels away from the subject parcel. The following comment was received from this property owner in regard to their opposition: "It sets a bad precedent for people to build closer and closer to the shoreline." The proposal would not directly impact the view of this property owner. The concern is a general concern which is valid for considering shoreline encroachment cumulatively. The Kitsap County Shoreline Master Program (KC SMP) not only regulates the proximity of residences through a structure setback line for views, but also for habitat function through a vegetation conservation buffer. The proposal is meeting the administrative buffer reduction requirements set forth in the KC SMP, even with the proposed structure setback line for views being reduced as proposed. The proposed structure would not be located further back from the shoreline than many of the existing structures currently in the vicinity. The request for the waiver is because of the distance on the adjacent home is setback over 200 feet from the ordinary high water mark which creates a sharp view line. Further, the KC SMP allows for these conditional view blockage waivers subject to meeting the criteria set forth.

## 10. Analysis

### a. Planning/Zoning

Single family residential development is a permitted use in this zone subject to meeting the applicable development standards. Please see Table 1 for zoning setbacks. Condition 1 addresses zoning setbacks.

### b. Lighting

Not applicable to this project.

### c. Off-Street Parking



Off-street parking will be analyzed under the building permit review.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-family residence	3 per a unit	3	Please see Condition 2

**d. Signage**

Not applicable to this project.

**e. Landscaping**

Kitsap County Code 17.500.010 exempts single-family lots from landscaping requirements.

**Table 6 - Landscaping Table**

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

**f. Frontage Improvements**

Not applicable to this project.

**g. Design Districts/Requirements**

The subject property is not within a design district.

**h. Development Engineering/Stormwater**

Stormwater review will occur within the building permit.

**i. Environmental**

The proposal was reviewed under the Kitsap County Shoreline Master Program (KC SMP). Specific development standards in the KC SMP such as for shoreline vegetation conservation buffers, building and impervious surface setbacks, and bulk and dimensions will be reviewed at the time of the building permit application. The Shoreline Designation is Urban Conservancy, which requires a 100 foot standard buffer and allows for a reduction of 85 feet with mitigation. This vegetation conservation buffer is in addition to the shoreline setback line and may or may not be more restrictive. KCC 22.400.135(D) Conditional Waiver Procedure outlines the specific criteria for requests from the structure setback line for view blockage.

#### KCC 22.400.135(D) Conditional Waiver Procedures

1. An applicant aggrieved by the strict application of this chapter may seek a conditional waiver from the director. Such a waiver shall be a Type II administrative decision. A conditional waiver may be granted after the applicant demonstrates the following:
  - a. The hardship which serves as the basis for granting the conditional waiver is specifically related to the property of the applicant and does not apply generally to other property in the vicinity;

*Staff Comment: The existing lot is not a regular shaped lot but is a flag lot with an access to the road, the parcel widens approximately at the center of the lot and narrows again as it extends out into the tideland in a v shape. The parcel has a unique burden of access and utility easements on the parcel through the plat that other parcels in the area do not have. The residential development on two adjacent properties are largely what drives the issue for the structure setback as one residence on one side is built approximately 245 feet from the shoreline and the residence on the other adjacent side is approximately built 75 feet from the shoreline. Therefore, the view line that is established between the two structures per KCC 22.400.134(3) is a very dramatic diagonal across the property creating a building area in the far corner of the lot. In an attempt to preserve a view for the existing residence located directly behind the parcel, the proposal is to build a long rectangular shaped home that does not have a very wide width to the shoreline. Having a sharp diagonally view line creates a tighter building area. The requested shoreline setback for view is not any closer than many other existing residences along the shoreline and would not be providing any special privileges to the applicant.*

- b. The hardship which serves as the basis for granting the conditional waiver is specifically related to the property of the applicant and does not apply generally to other property in the vicinity;

*Staff Comment: KCC 22.400.135(D)(a) and (b) are the same requirements, this is a Scribner's error in the code. Please see subsection a above for staff comments to this criterion.*

- c. The hardship which results from the application of the requirements of this chapter is not a result of the applicant's own actions;

*Staff Comment: The parcel is part of plat recorded in 2008. The parcel was created with this view line issue. The adjacent residences were built in 1995 and 1961 and the applicant did not have any impact on the location that these adjacent homes were built. The dramatic diagonal line for the shoreline structure setback is a result of the current SMP requirements and the adjacent residences, and not a result of the property owners' actions.*

- d. The conditional waiver, if granted, will be in harmony with the general purpose and intent of the Act and this program in preserving the views of the adjacent shoreline residences; and

*Staff Comment: Only one of the two directly adjacent residences views will be impacted. The property owners whose view will be impacted provided comments in support of the proposal. It is not expected that the proposal will impact the views of other residences within the vicinity as most homes are already at the same distance or closer than the proposed. Single family residential use is a preferred use of the shoreline and is consistent with the with KC SMP and Shoreline Management Act.*

- e. In balancing the interest of the applicant with adjacent neighbors, if more harm will be done by granting the conditional waiver than would be done by denying it, the conditional waiver shall be denied.

*Staff Comment: The proposal would benefit the applicants but would not harm the neighbors. The submitted comment of support from the directly adjacent neighbor whose view has potential for the greatest impact demonstrates no harm will directly come to them. The comment received in opposition to the proposal did not identify direct harm would come to that neighbor either and their view would not be impacted. The project as proposed is consistent with the character of the shoreline residential designation and reflects the character of the surrounding area. The project is consistent with the goals and intent of the KC SMP.*

- j. Access, Traffic and Roads**  
Not applicable to this project.
- k. Fire Safety**  
Not applicable to this project.
- l. Solid Waste**  
Not applicable to this project.



**m. Water/Sewer**

Water and sanitation review will occur with the building permit.

**n. Kitsap Public Health District**

The associated required building permit will be routed to the Health District for their review.

**11. Review Authority**

The Director has review authority for this Administrative Decision application under KCC, Sections 22.400.135 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Director. The Director may approve, approve with conditions, or deny an Administrative Conditional Use Permit.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and 22 and complies with or will comply with all of the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

**13. Decision**

Based upon the analysis above and the decision criteria found in KCC 22.400.135(D), the Department of Community Development recommends the Waggoner Conditional View Blockage Waiver be approved, subject to the following five (5) conditions:

**a. Planning/Zoning**

1. Development shall adhere to all zoning setbacks and height limitations in the Kitsap County Code 17.420.052.
2. At the time of the building permit review, adequate parking shall be identified on the site plan as required by Kitsap County Code 17.490.030.

**b. Development Engineering**

None

**c. Environmental**

3. Development subject to the shoreline structure setback shall not intrude into the view line further than by established in this waiver. The approved site plan identifies the compromised shoreline structure setback line to be located between the residence on the adjacent parcel to the west and the residence located on the second parcel adjacent to the east.

4. Associated building permits shall be subject to verification of the shoreline structure setback for the view line at the foundation inspection.

5. In addition to the shoreline structure setback, appropriate shoreline vegetation conservation buffers and building and impervious surface setbacks are required and will be reviewed with the building permit application.

**d. Traffic and Roads**

None

**e. Fire Safety**

None

**f. Solid Waste**

None

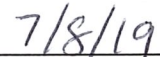
**g. Kitsap Public Health District**

None

**Report prepared by:**



Anna Bausher, Staff Planner / Project Lead



Date

**Report approved by:**



Shawn Alire, DSE Supervisor



Date

**Attachments:**

Attachment A - Aerial Photo

Attachment B - Shoreline Designation

Attachment C - Zoning Map

CC: Owner/Applicant: Kurt Waggoner, kurt@kingstonlumber.com

Project Representative: Team 4 Engineering LLC, Kevin Biggs, kevin@team4eng.com

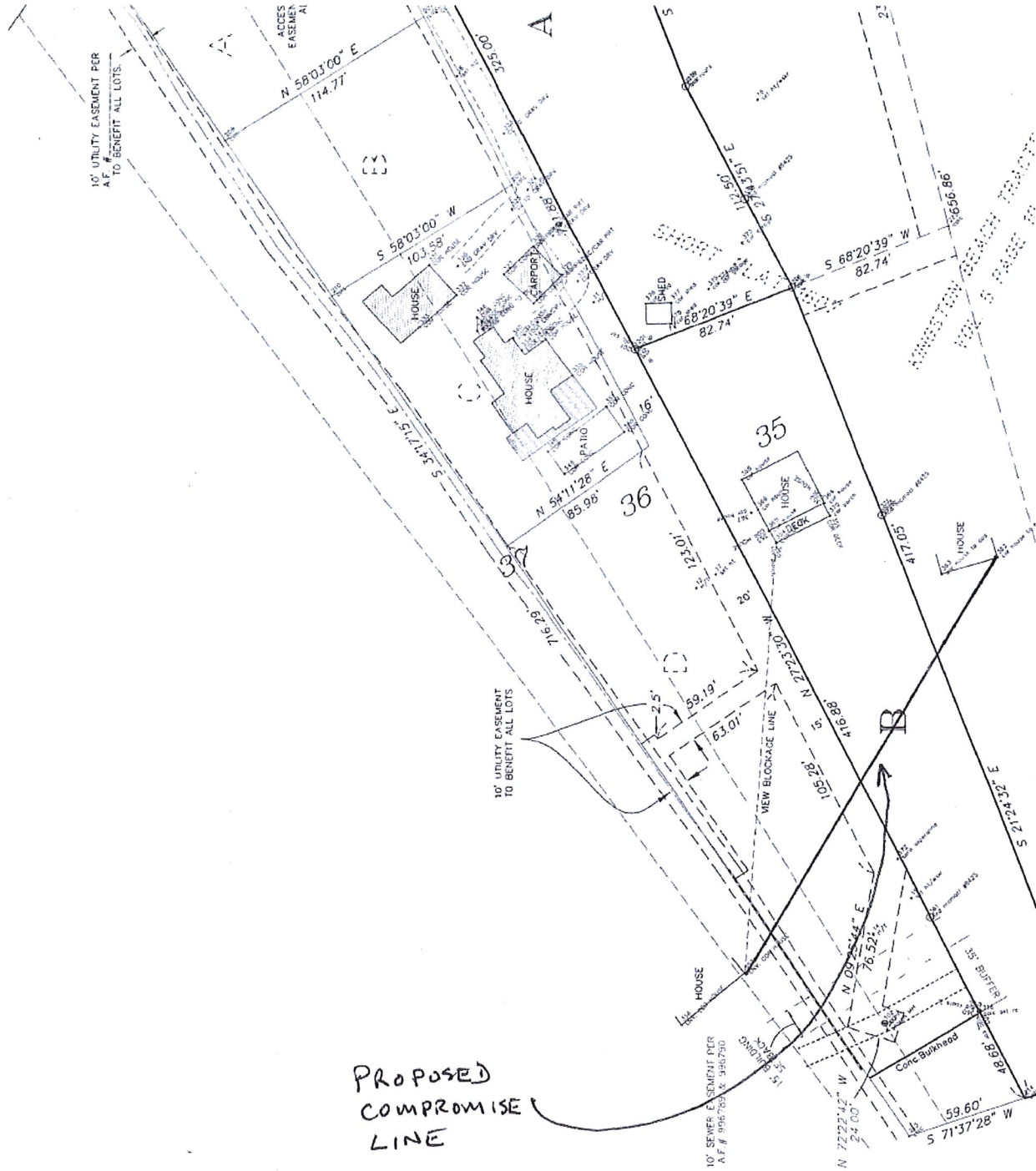
Interested Party: David and Rosemary Highlander, rosemary.highlander@gmail.com

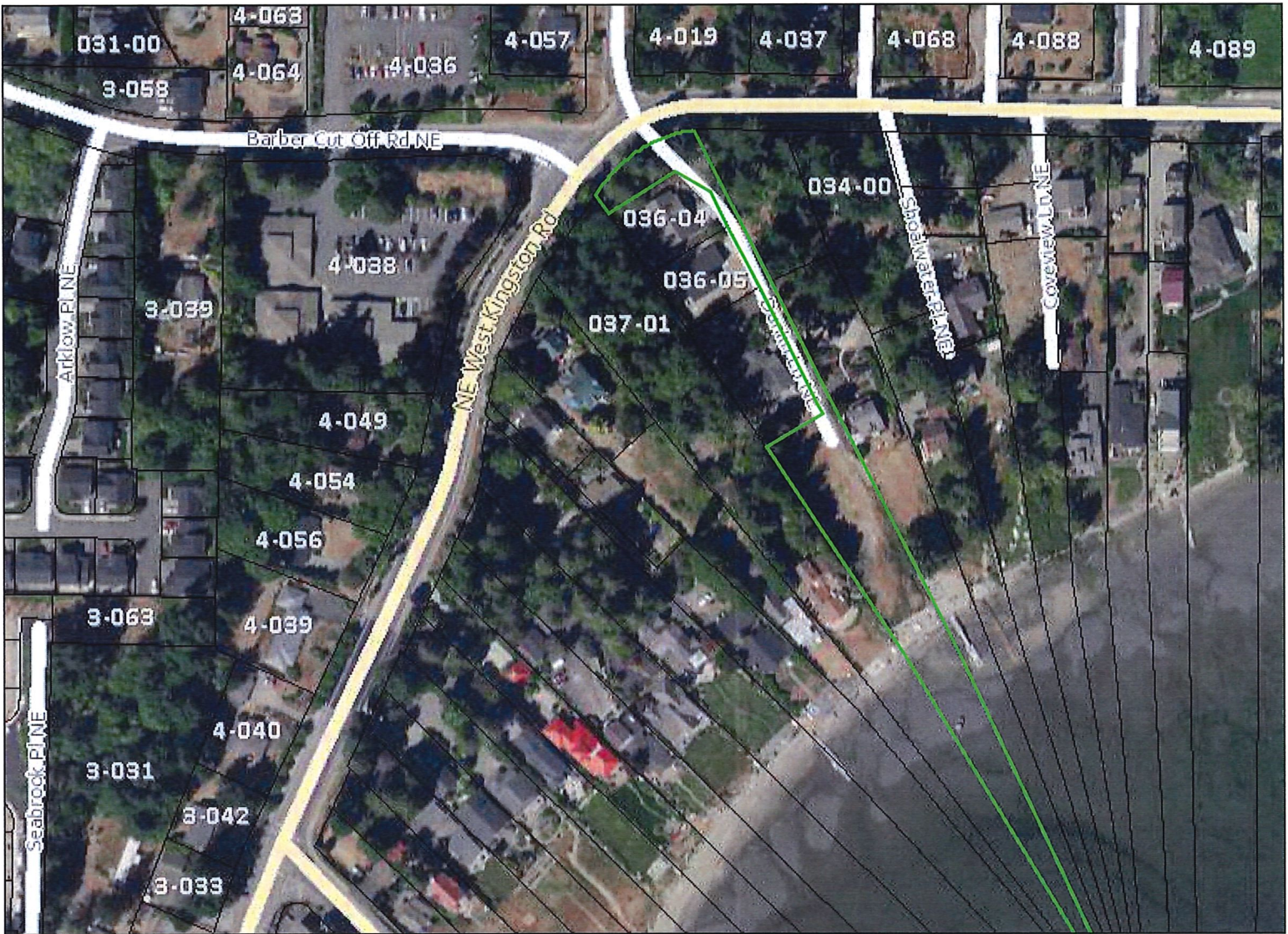
Interested Party: Jason Trichler, jtrichler@yahoo.com

DCD Staff Planner: Anna Bausher



Site Plan



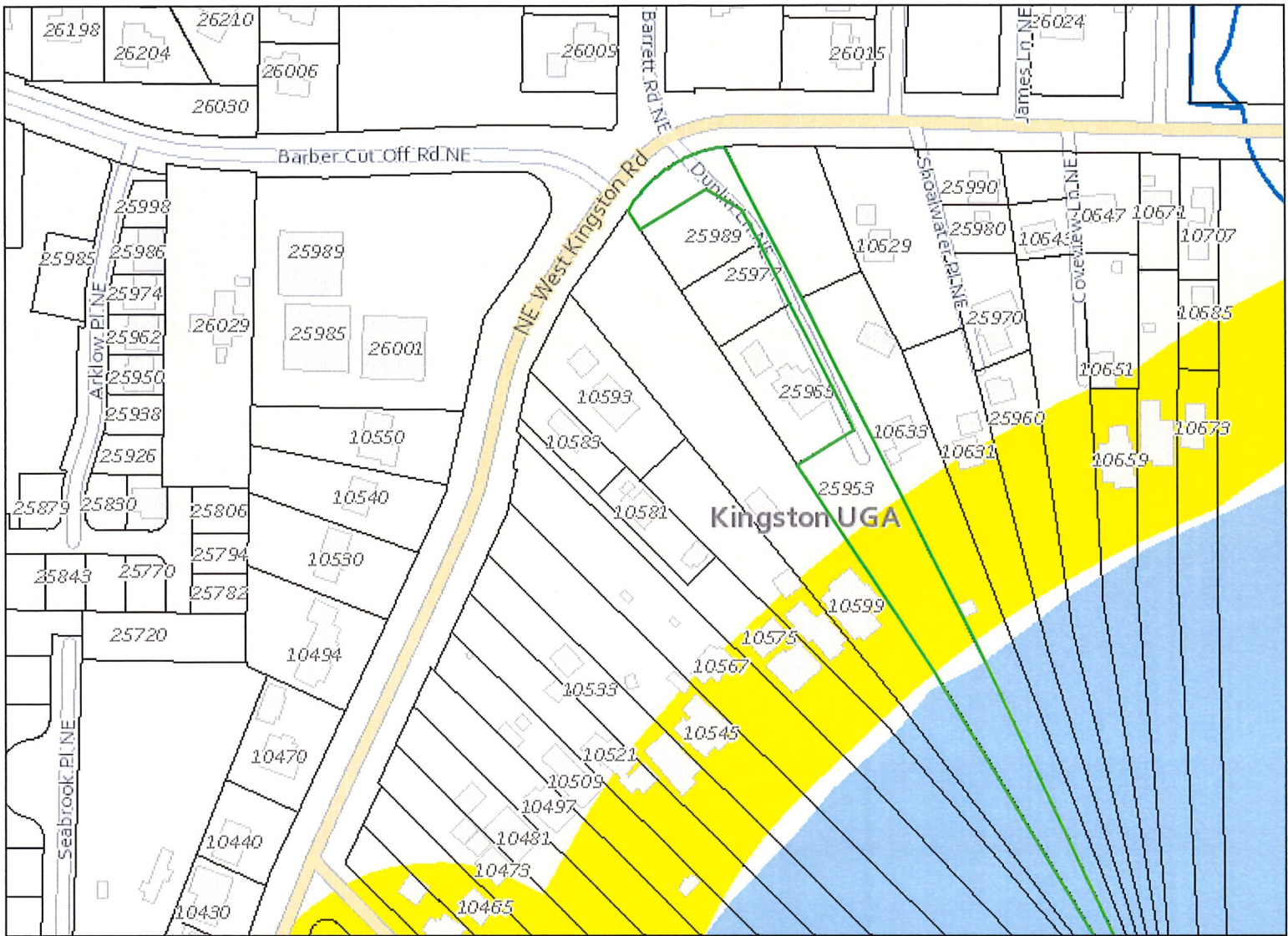


\*\* This map is not a substitute for field survey \*\*

Map Scale: 1 inch = 200 feet







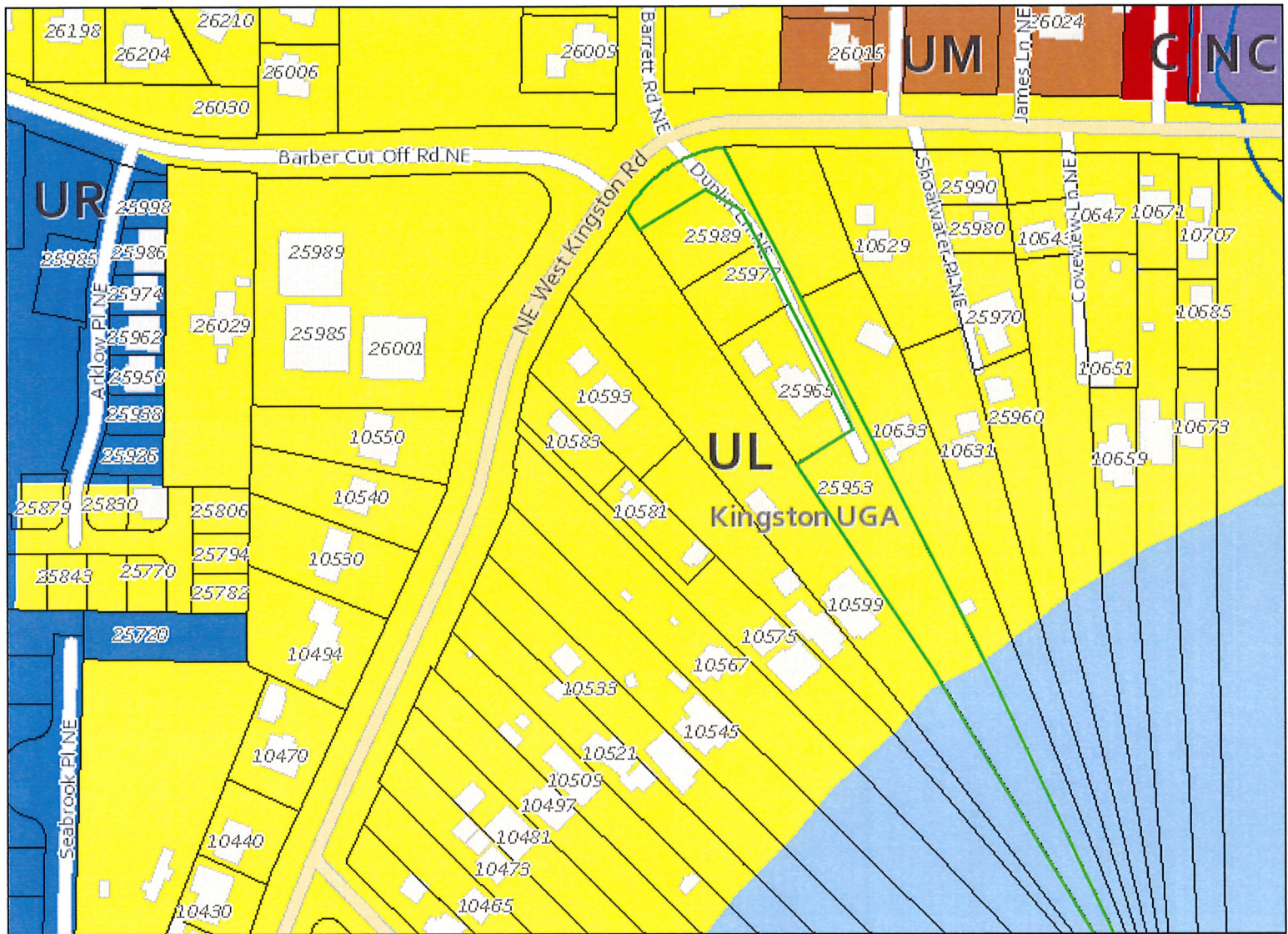
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**Legend**

- Tax Parcels Outlines
- Building Footprints
- Watercourse - DNR and Wildfish Conservancy**
  - (S) Designated Shoreline of the State
  - (F) Fish Habitat
  - (N) Non-fish Habitat
  - (U) Unknown, unmodeled hydrographic feature
- No Channel as depicted by DNR
- Shoreline Master Plan Environmental Designations 2014**
  - Natural
  - Rural Conservancy
  - Shoreline Residential
  - Urban Conservancy
  - High Intensity
  - Aquatic







\*\* This map is not a substitute for field survey \*\* Map Scale: 1 inch = 200 feet

Legend

View Protection Overlay	FRL - Forest Resource Lands (1 DU/40 Ac)	Low Intensity Commercial (10-30 DU/Ac)	UR - Urban Restricted (1-5 DU/Ac)	KVLR - Keyport Village Low Residential	RHTR - Rural Historic Town Residential	MIL - Military
<b>Kitsap County Zoning Designations</b>	Mineral Resource/Forest Resource Lands	RCO - Rural Commercial	MRO/UR - Mineral Resource/Urban Restricted	KVR - Keyport Village Residential	RHTW - Rural Historic Town Waterfront	Mineral Resource/Military
<b>RURAL</b>	RR - Rural Residential (1 DU/5 Ac)	REC - Rural Employment Center	UL - Urban Low Residential (5-9 DU/Ac)	MANCHESTER VILLAGE	SUQUAMISH VILLAGE	P - Park (Kitsap County)
MRO/RR - Mineral Resource/Rural Residential	BC - Business Center	RI - Rural Industrial	UM - Urban Medium Residential (10-18 DU/Ac)	MVC - Manchester Village Commercial	SVC - Suquamish Village Commercial	T - Tribal Land
RP - Rural Protection (1 DU/10 Ac)	BP - Business Park	TTEC - Twelve Trees Employment Center	UH - Urban High Residential (19-30 DU/Ac)	MVL - Manchester Village Low Residential	SVL - Suquamish Village Low Residential	Lake
MRO/RRP - Mineral Resource/Rural Protection	IND - Industrial	MRO/TTEC - Mineral Resource/12 Trees Employment Center	UVC - Urban Village Center (up to 18 DU/Ac)	MVR - Manchester Village Residential	SVR - Suquamish Village Residential	Salt Water
RW - Rural Wooded (1 DU/20 Ac)	MRO/IND - Mineral Resource/Industrial	URBAN	KEYPORT VILLAGE	RURAL HISTORIC TOWN	OTHER	INDUSTRIAL
MRO/RW - Mineral Resource/Rural Wooded	Commercial (10-30 DU/Ac)	GB - Greenbelt (1-4 DU/Ac)	RHTC - Rural Historic Town Commercial	CITY INCORPORATED CITY	LI - Light Industrial	CITY OF POULSBORO
	Regional Center (10-30 DU/Ac)	UCR - Urban Cluster Residential (5-9 DU/Ac)	KVC - Keyport Village Commercial	Park	RL - Residential Low	
	NC - Neighborhood Commercial (10-30 DU/Ac)					

