



## Hearing Examiner Staff Report and Recommendation

**Report Date:** 05/19/2022  
**Hearing Date:** 05/26/2022

**Application Submittal Date:** 12/21/2020  
**Application Complete Date:** 01/13/2021

**Project Name:** Lake Tahuyeh (alt. Tahuya) Washington State Department of Fish and Wildlife Public Access and Small Craft Launch Project

**Type of Application:** Shoreline Substantial Development and Shoreline Variance Permit

**Permit Number:** 20-06035

### Project Location

The project is located at the eastern shore of Lake Tahuyeh, west of the intersection of Percheron Rd NW and Gold Creek Road NW in unincorporated Bremerton, Kitsap County, Washington, Commissioner District 3.

### Site Address

South and adjacent to 467 Gold Creek Road NW

### Assessor's Account #

172401-3-005-1009

### Applicant/Owner of Record

Alexandra Laughtin  
Capital and Asset Management Program  
Washington Department of Fish and Wildlife  
600 Capitol Way  
Olympia, WA 98501

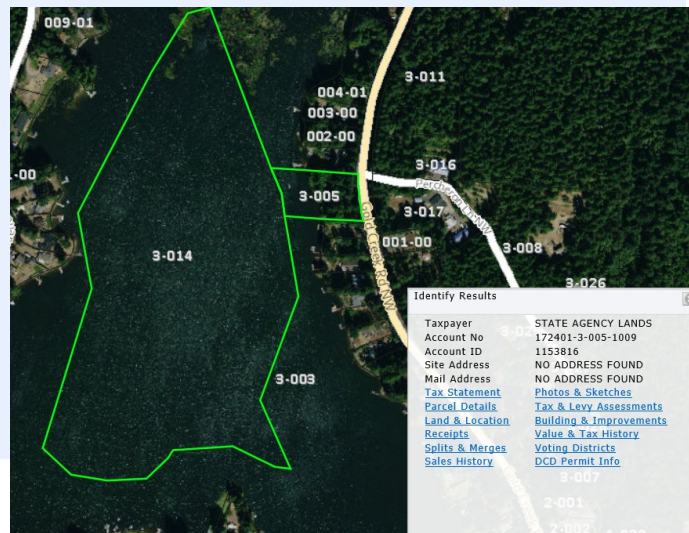
### Recommendation Summary

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

### 1. Background

The Washington State Department of Fish and Wildlife (WDFW) is proposing to develop one of its properties for public use. The site was the subject of a Kitsap County Superior Court judgement (No. 08-2-00728-8; Exhibit 39) issued August 15, 2011, which found in favor of WDFW, specifically that the general public has a right to recreate (e.g., boating, fishing) on Lake Tahuyeh, and that the State owns a wedge-shaped parcel running from the upland to

### VICINITY MAP



the center of the lake which enjoys the rights of development to facilitate recreational use of the lake. *For purposes of the Staff Report, DCD does not address comments on ownership since the issue has been properly adjudicated.*

WDFW, through the Capital and Asset Management Program, seeks to establish a public access parking area, restroom and small hand-launch ramp for public small craft access to Lake Tahuyeh in Central Kitsap County. The planned facility will consist of a parking area for 9 cars, a vault-type toilet facility and a hand-launch only, graveled boat ramp providing lake access. The ramp system will be a geo-web rock filled trail, 8-feet in width and ends at the ordinary high water line. Due to the presence of a Category III wetland on the north of the lake shore property, a shoreline variance is being processed to provide mitigation for the wetland proximity to the ramp and parking area per KCC Title 22, and the associated use code in KCC 22.200.100 D. as follows: D. Critical areas designated pursuant to Chapter [36.70A](#) RCW and located within shoreline jurisdiction shall be subject to the regulations of this program. As the associated wetland buffer is regulated through the SMP and the buffer cannot be met, a shoreline variance is required pursuant to KCC 22.500.100.E for wetland buffer impacts within the Shoreline zone. The required shoreline buffer is 85 feet, and is met with the water-dependent proposal. The wetland is a category 3 wetland requiring a 110-foot buffer. Mitigation is proposed in the form of additional plantings associated with the shoreline wetland and installation of perimeter planting and parking lot screening vegetation.

## 2. Project Request

The project parcel is on Lake Tahuyeh. The proposed project is to construct an asphalt paved road apron entrance from Gold Creek Road that leads into a new gravel parking lot. One parking stall will be lined and asphalt paved to provide ADA compliant parking and access to a vault toilet. The rest of the parking lot will be gravel rather than asphalt and will not be striped or lined. The gravel portion of the parking lot should accommodate approximately 8 vehicles. There will be a geo-web trail for users to carry recreational equipment from the parking lot to hand launch into Lake Tahuyeh. A stormwater treatment pond will be constructed to capture pollutants and sediment-laden runoff from the parking area. A fence will be installed along the north property line where one currently does not exist, and a gate will be installed at the entrance to the access site that may be closed periodically for access maintenance or other agency mandated closures. The project category is recreational. Most project elements (parking lot, stormwater treatment pond, vault toilet, access from Gold Creek Road) will be constructed in upland areas away from Lake Tahuya and the Category III depressional/lake fringe wetland, between the abandoned county road and Gold Creek Road. The geo-web trail is designed to provide users access to Lake Tahuyeh to hand carry equipment that can be launched on the lake (i.e., kayaks, paddle boats, canoes, etc.). As such, the geo-web trail will end at the ordinary high-water mark for Lake Tahuyeh. This geo-web trail will be filled with gravel that will allow water to percolate through. No structures are proposed within the wetland or Lake Tahuyeh. Signs will be

posted to inform the users of the access site to keep out of the sensitive area/wetland. Furthermore, the geo-web trail will encourage users to traverse the property using this trail, limiting future impacts to the wetland.

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

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

#### COMMENTS:

As the applicant is an agency with SEPA authority, the Washington Department of Fish and Wildlife is the lead for SEPA purposes and has issued a Determination of Non-significance for the project (dated November 9, 2020). A 14-day appeal period was provided. There were no appeals or comments related to the DNS noted, so the decision is considered final (see Exhibit 2, SEPA DNS).

### 4. Physical Characteristics

The topography of the project area is on stable shoreline beach sediments and substrate. The public access will be directly from an access area and is primarily a gravel parking lot with vegetation lining the fence lines on the north and south sides. There are established coniferous trees on either side with low-growing vegetation beneath, including Salal, Evergreen huckleberry, grasses and forbs. Douglas fir and western red cedar are present. Low shoreline grasses are found at the shoreline in patchy areas among cobble and gravel. The site is bordered to the north and south by single-family residential properties and Lake Tahuyeh to the west.

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

Comprehensive Plan: Rural Development Zone: Rural Residential	Standard	Proposed
Minimum Density	5 DU/acre	NA
Maximum Density	5 DU/acre	
Minimum Lot Size	217,800 SF	NA
Maximum Lot Size	NA	NA

Minimum Lot Width	NA	NA
Minimum Lot Depth	NA	NA
Maximum Height	35 feet	NA
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes:

None.

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front	50 feet	NA
Side	20 feet	5 feet
Side	20 feet	NA
Rear	Shoreline residential	NA

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

Surrounding Property	Land Use	Zoning
North	RR, development of surrounding area prior to GMA and Zoning designations.	RR
South	RR, development of surrounding area prior to GMA and Zoning designations.	RR
East	RR, development of surrounding area prior to GMA and Zoning designations.	NA
West	Shoreline Residential	NA

**Table 4 - Public Utilities and Services**

	Provider
Water	PUD #1
Power	Puget Sound Energy
Sewer	NA
Police	Kitsap County Sherriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District

## 5. Access

Access to the project is directly off of Gold Creek Road NW, and is a planned new road approach to the parking area.

## 6. Site Design

The site design is as described in the project description. A revised site plan (Exhibit 17) is provided.

## 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:

### *Shorelines*

#### *Policy SH-1*

*Encourage and support shoreline diversity through planned and coordinated development, which gives preference to water-dependent uses, traditional and historic use patterns, resource values, and environmental protection.*

#### *Policy SH-3*

*Uses and activities along shorelines and in the waters of Kitsap County should not have a significant adverse effect on water quality.*

#### *Policy SH-8*

*Land use activities shall be sited and designed to minimize conflicts with and impacts on the shoreline environment.*

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

#### *Kitsap County Code (KCC) Title 17 Zoning*

#### *KCC Title 18, Chapter 18.04 State Environmental Policy Act (SEPA)*

#### *KCC Title 19 Critical Areas Ordinance*

#### *KCC Title 21, Chapter 21.04 Land Use and Development Procedures*

*KCC Title 22, Chapter 22.500.100 B and E, 22.400, 22.600.105, 22.600.160 (C-6), 22.600.165 (C).*

*Please note additional goals and policies are shown below in Section 10.i Analysis.*

**Shoreline Environment Designation:** Shoreline Residential.

**Flood zone Designation:** AE (100-foot elevation under NAVD 88 survey methods (see revised site plan, Exhibit 7)

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

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 15	Flood Zone
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 21.04	Land Use and Development Procedures
Title 22	Shoreline Master Program

## 8. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1-40.

Exhibit #	Document	Dated	Date Received
1	<b>STAFF REPORT</b>	<b>05/19/2022</b>	
2	SEPA Determination of Non-Significance (DNS) – Issued by WA State Dept. of Fish & Wildlife (WDFW)	11/09/2020	01/13/2021
3	Permit Questionnaire		01/13/2021
4	Project Narrative		01/13/2021
5	Photos		01/13/2021
6	Concurrency Test		01/13/2021
7	Stormwater Worksheet		01/13/2021
8	Cumulative Impacts Report		01/13/2021
9	Wetland Rating Form	03/25/2020	01/13/2021
10	Site Visit Memo – Fertig	08/19/2020	01/13/2021
11	DOE Wetland Report Memo – Molstad	08/28/2020	01/13/2021
12	Lake Tahuya Drawings	10/14/2020	01/13/2021
13	SEPA Checklist	10/20/2020	01/13/2021

14	Joint Aquatic Resources Permit Application (JARPA)	11/02/2020	01/13/2021
15	Habitat Assessment & Mitigation Plan	Dec 2020	01/13/2021
16	Engineered Drainage Report	12/22/2020	01/13/2021
17	Engineered Drainage Plan	01/06/2021	01/13/2021
18	Preliminary Conditions Stormwater Memo	06/24/2021	
19	Notice of Application	09/24/2021	
20	INTERESTED PARTY COMMENTS – Combined (Sept 2021 – Mar 2022)	Sept 2021 – Mar 2022	Sept 2021 – Mar 2022
21	COMMUNICATION: Heacock, Laughtin RE Int. Parties & Site Meeting Coordination	10/26/2022	
22	Site Meeting Notes – Combined (Laughtin, Brown, Heacock)		11/18/2022
23	Information Request – Response Letter	01/20/2022	01/28/2022
24	Lake Tahuya Drawings – Updated	01/13/2022	01/28/2022
25	Information Request	03/09/2022	
26	Information Request – Response Letter	04/01/2022	04/11/2022
27	Habitat Assessment & Mitigation Plan – Revised	03/21/2022	04/11/2022
28	Lake Tahuya Drawings – Revised	04/01/2022	04/11/2022
29	Variance Justification		04/11/2022
30	COMMUNICATION – Applicant to DCD EMAIL RE Public Access Mitigation Plan		04/18/2022
31	Notice of Public Hearing	04/27/2022	
32	INTERESTED PARTY COMMENTS – Combined (Apr – May 2022)	Apr – May 2022	Apr – May 2022
33	COMMUNICATION – Attorney EMAIL RE New Hearing Date	05/05/2022	
34	Notice of Public Hearing – Revised	05/06/2022	
35	COMMUNICATION – Applicant to DCD EMAIL RE Vault Toilets IP Comment		05/10/2022
36	COMMUNICATION – Clerk EMAIL RE Hearing Process	05/11/2022	
37	COMMUNICATION – Applicant to DCD EMAIL RE SEPA DNS IP Comment		05/13/2022
38	Certification of Public Notice	05/16/2022	
39	Kitsap County Superior Court Judgment (No. 08-2-00728-8)	08/15/2011	05/19/2022
40	Staff Presentation		
41	Hearing Sign-In Sheet		

## 9. Public Outreach and Comments

We received 38 public comments related to the permit submittal on this proposal. A site visit was conducted by the project proponent, County DCD staff, Washington State Department of Fish and Wildlife, Suquamish Tribal Biologist, and DOE shoreline and wetland staff. Mitigation in the form of the removal of invasive reed canary grass is proposed and will be a condition of approval. The applicant representative has consulted with the U. S. Army Corps of Engineers and a Nationwide Permit has been issued (NWS-2020-234, Exhibit 15)

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
Comments	<p>We received 20 comments during the initial 30-day comment period, primarily via e-mail and response letters from members of the community. A general template letter was provided to Community club members from Lake Tahuyeh Community Club lawyer, Attorney John Bonin. The respondent comments, as follows:</p> <p>We are real property owners with lake use rights and a lawful user of Lake Tahuyeh. My real property is located at (specific address). We are objecting to the coming meeting to approve a public boat launch on Lake Tahuyeh because we are clearly an Interest Party in this matter and the State has made no effort to communicate any of the events that have transpired to date or even this meeting. We want to be present for these meetings (either personally or electronically) so I can understand what is happening and raise my questions and concerns. We would appreciate proper notice of any meeting concerning this project so we have the opportunity to be heard. We have only a short notice of the date of this hearing with no time or location indicated. We are not available on the date currently selected and we would like you to provide new notices of hearing on a differed date so that I can attend.</p> <ol style="list-style-type: none"> <li>1. Will the State pay or help pay for fish stocking?</li> <li>2. Will the state assist in aquatic weed control/maintenance of the lake?</li> <li>3. Will the state monitor beaver and geese populations and pay to assist in that effort?</li> <li>4. Is the state going to assume liability for bodily injury and property damage if an accident occurs on the lake.</li> <li>5. Will the state contribute to the maintenance of the dam, spillway and fish ladder.</li> </ol>	Exhibit 20



	<p>6. Is the state going to enforce fishing and boating laws and hand launch only rules?</p> <p>7. Who is going to monitor the general public for access to our property and for monitoring of overnight uses?</p> <p>8. How is the state going to ensure our these are kept safe from public damage?</p> <p>9. What happens when the general public decides to use the access area for picnicking and swimming?</p> <p>Several comments referenced parking and accident concerns related to the facility and concerns on the shoulder of Gold Creek road, and how will this be enforced.</p> <p>One comment referenced use requirements for Discover pass.</p>	
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Issue Ref. No.	Issue	Staff Response
Exhibit 20	Comment summary response, in italics.	<p>The referenced “meeting(s)” refers to an initial public hearing date scheduled as a tentative date for the proposed shoreline substantial development permit and associated shoreline variance. The Department of Community Development has no mandate to accommodate the schedule of interested parties of record and has made every effort to address the noticing for the project in several mass e-mails and specific e-mails as provided by the Clerk of the Hearing Examiner. Each respondent was notified that their comment would be addressed in the staff report, or at the Public Hearing.</p> <ol style="list-style-type: none"> <li>1. Will the State pay or help pay for fish stocking? <i>The state has agreed to stock the lake</i></li> <li>2. Will the state assist in aquatic weed control/maintenance of the lake? Unknown at this time. <i>The state will provide signage related to methods to control aquatic weeds.</i></li> <li>3. Will the state monitor beaver and geese populations and pay to assist in that effort? <i>Unknown at this time</i></li> <li>4. Is the state going to assume liability for bodily injury and property damage if an accident occurs on the lake. <i>Use of the ramp and facility are subject to the rules of operation.</i></li> <li>5. Will the state contribute to the maintenance of the dam, spillway and fish ladder. <i>Unknown at this time</i></li> <li>6. Is the state going to enforce fishing and boating laws and hand launch only rules? <i>State DWF enforcement</i></li> <li>7. Who is going to monitor the general public for access to our property and for monitoring of overnight uses? <i>Contact the KC sheriff’s office for any trespass concerns via 911.</i></li> <li>8. How is the state going to ensure these areas are kept safe from public damage? <i>Contact WDFW enforcement and the Kitsap County sheriff’s office for public damage complaints</i></li> <li>9. What happens when the general public decides to use the access area for picnicking and swimming? <i>WDFW rules will be posted on the site kiosk.</i></li> </ol> <p>Several comments referenced parking and accident concerns related to the facility and concerns regarding shoulder parking on Gold Creek road, and how will this be enforced. Contact 911 for any parking concerns. <i>No parking signs will be required on the County shoulder of Gold creek road and on Percheron road across the street.</i></p>

		<p>One comment referenced use requirements for Discover pass. As we understand, Discover Passes are required and will be enforced by State WDFW.</p> <p>Exhibit 30. WDFW Memo to KCDCD dated 4/18/22          From Alex Laughtin: I will attempt to spell the comments out here:          1. The community pays to stock the lake with fish. Is this is going to be addressed with stocking assistance from WDFW or what other alternatives are proposed? WDFW is prepared to stock the lake in the early spring and late fall to maximize fishing opportunity for all and to alleviate conflict with the mid-summer water skiers and recreationalists. 2. How will allowing public access to address the concerns on litter control/garbage management, parking enforcement, control of noxious things like loud music, camping, camp fires and on-street overflow parking, including hours of operation. Litter Control will be through pack it in pack it out signage, WDFW’s maintenance team will be making routine visits during high usage and WDFW has an adopt-an-access program with volunteers that would be an option. If there is any criminal activity on site, the neighbors should call 911. For other issues, they can notify Region 6 Headquarters and their concerns will be forwarded to the appropriate staff. 3. What kind of signage will be provided and how will access be limited to within the planned hours of operation. The site will be signed with hours of operations: “closed during hours of darkness”. The gate will be used for maintenance or seasonal closures. There will also be the addition of respect private property signs. The exact location of these signs will be decided during construction to make them the most visible. More than one of each sign will be posted on site.</p>
<p>Exhibit 32</p>		<p>There were 12 additional responses from the interested parties of record related to the desire to have an in-person public hearing. At the request, DCD determined that a hybrid-model hearing was possible and made the determination to provide both an in-person hearing at the KC Administration Building, and via the Zoom hearing format. This revised hearing notice was provided in Exhibit 34.</p>

**10. Analysis**

**a. Planning/Zoning**

The proposed small boat launch is subject to side yard setback requirements. The proposal requires a 5-foot side yard setback.

*The proposal conforms to the required 5-foot side yard setback.*

**b. Lighting**

Not applicable to this proposal.

**c. Off-Street Parking**

Not applicable to this proposal.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
NA	NA	NA	NA
Total	NA	NA	NA

*Based on the proposal and scale of use, DCD agrees with the applicant's determination that the proposed parking is adequate.*

**d. Signage**

No parking signs are suggested to be placed for the roadside areas of NW Gold Creek Road and NW Percheron Road. We will confer with Kitsap County Public Works, Roads Division to see if they may be able to provide signage. We recommend that private property signs be installed at regular intervals to alert the public of adjacent private properties to the north and south.

**e. Landscaping**

Not applicable to this proposal. There is planned fencing to obscure headlight glare for the north and south residences, and we have suggested that plantings be incorporated into the fence landscape.

**Table 6 - Landscaping Table**

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

**f. Frontage Improvements**

Not applicable to this proposal. A Kitsap County Road Approach permit is required.

**g. Design Districts/Requirements**

Not applicable to this proposal.

**h. Development Engineering/Stormwater**

See the associated Stormwater Memo, Exhibit 18. It was determined that the proposal had minimal stormwater impacts and a Site Development Activity Permit was not required for the proposal. We recommend that a minor grading permit will provide a mechanism for the Road Approach application, inspections of plantings associated with the mitigation plan, and for future project monitoring.

**i. Environmental**

Policies: See the previous Policies Section 7 for general policy analysis. Specific goals, policies and regulations are noted below.

**KCC 22.300.125 Shoreline use and site planning**

Goal: Preserve and develop shorelines in a manner that allows for an orderly balance of uses by considering the public and private use, along with the development of shorelines and adjacent land areas with respect to the general distribution, location and extent of such uses and development.

A. Policy SH-20. For shoreline use and development activities, including plats and subdivisions at full build-out, employ innovative development features to achieve no net loss of ecological functions, such as sustainable and low impact development practices where appropriate.

*Staff analysis and comments: the proposed public hand-launch boat ramp design allows the transmission of surface and lake water through the feature and meets the criteria.*

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\(B\)](#).

*Staff analysis and comments: the proposed hand-launch ramp is a water-dependent use, and the facility provides the infrastructure, including parking and a restroom for supporting the water-dependent uses. The project meets the criteria.*

C. Policy SH-22. Designate and maintain appropriate areas for protecting and restoring shoreline ecological functions and processes to control pollution and prevent damage to the shoreline environment and/or public health.

*Staff analysis and comments: the proposed project will enhance buffers, while still providing water-dependent access. The water quality treatment facility will control sediment and will reduce erosive impacts. Minimization of the parking area and controlling the size of watercraft access with the hand-launch facility will limit uses. Native plantings will be installed adjacent to the shoreline per the mitigation design from the applicant. The facility meets the criteria.*

D. Policy SH-23. Through appropriate site planning and use of the most current, accurate and complete scientific and technical information available, shoreline use and development should be located and designed to avoid the need for shoreline stabilization or actions that would result in a net loss of shoreline ecological functions.

*Staff analysis and comments: the proposed hand-launch ramp does not require armoring and it meets the criteria.*

#### **KCC 22.300.145 Shorelines of Statewide Significance**

The Shoreline Management Act (Act) of 1971 designated certain shoreline areas as shorelines of statewide significance. Shorelines, thus designated, are important to the entire state. The project work area is located outside of the designation and therefore requires no further analysis under this classification.

#### **KCC 22.400 General Regulations**

The summary below provides description of project consistency with the general regulations provided in KCC 22.400. The applicable general regulations include mitigation; vegetation conservation buffers; water quality and quantity; historic, archaeological, cultural, scientific and educational resources; view blockage; bulk and dimension standards; public access, and flood hazard reduction measures.

Discussion of mitigation and vegetation conservation buffers are presented as part of the revised Habitat Assessment and Mitigation Plan (Exhibit 27), and the Shoreline variance criteria (Exhibit 29).

*Staff has reviewed the summary analysis and find the proposal is consistent with the required provisions in KCC 22.400.125 Water Quality and Quantity; KCC 22.400.130 Historic, Archeological, Cultural, Scientific and Educational Resources; KCC 22.400.135 View Blockage; KCC 400.140 Bulk Dimension Standards; KCC 22.400.145 Public Access; KCC 22.400.150 Flood Hazard Reductions; KCC 22.400.(110,115, and 120) No Effect Analysis, which includes Mitigation Sequencing, Avoidance, Minimization, Restoration, Compensatory Mitigation and Assessment of No Net Loss.*

## **22.500 Permit Provisions, Review and Enforcement**

### **22.500.100 B. Substantial Development Permit.**

1. The Act provides that no substantial development shall be undertaken on the shorelines of the state without first obtaining a substantial development permit (SDP). *Staff Comment: the proposed application is under review.*
2. An SDP shall be classified under Chapter [21.04](#).
3. An SDP shall be granted only when the applicant can demonstrate that the proposed development is consistent with the policies and procedures of the Act and this program, as well as criteria in WAC [173-27-150](#). *Staff Comment: the proposed application conforms.*
4. The Act provides a limited number of exceptions to the definition of substantial development. Those exceptions are contained in RCW [90.58.030](#) and are summarized below in subsection (C)(3) of this section, and do not require an SDP. Whether or not a development constitutes a substantial development, all development must comply with the requirements contained in the Act and this program and may require other permits or approvals under this master program. Permits may be issued with limitations or conditions to assure consistency with the Act and this program. *Staff Comment: the proposed application is not exempt. A shoreline variance is a component of the application.*
5. All applications for shoreline substantial development permits or permit revisions shall be submitted to the Department of Ecology upon a final decision by local government pursuant to WAC [173-27-130](#). "Final decision by local government" shall mean the order of ruling, whether it be an approval or denial, that is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. *Staff Comment: the proposed application will conform.*

### **22.500.100 E. Variances and Administrative Variances.**

WDFW is applying for a variance in accordance with KCC 22.500.100 E, and KCC 19.200.220(B)(3) to construct within the wetland buffer, as the proposed development cannot meet the buffer reduction or averaging criteria outlined in the code. This document is to provide justification that the proposed project meets the requirements for a variance per KCC Title 22.500.100 E. Variances and Administrative Variances.

1. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional, or performance standards (not uses) set forth in this program where there are extraordinary or unique circumstances relating to the property such that the strict

implementation of this master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW [90.58.020](#). *Applicant response: 1. The variance as proposed for the Lake Tahuya Access Development project would be limited to granting relief from the 110-foot wetland buffer requirements and the buffer enhancement ratio due to the limited size of the subject property. The proposed project would provide public access on publicly-owned lands on Lake Tahuya shorelines; there is currently no public access to Lake Tahuya. Granting this variance would allow for the preservation of the public's opportunity to enjoy the physical and aesthetic qualities of the natural shorelines of Lake Tahuya as outlined in RCW 90.58.020. The project has been designed to minimize effects to the natural environment to the extent practicable, and to mitigate surface runoff from the graveled parking area. Staff Comment: the proposed application conforms.*

2. Variances shall be classified as a Type III permit under Chapter [21.04](#). Administrative variances shall be a Type II permit and may be granted where allowed under the use and modifications matrix or applicable permit requirements. *Applicant response: 2. The variance is classified as a Type III permit under Chapter 21.04 of the Kitsap County Code. Staff Comment: the proposed application is for a Type III permit.*

3. Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW [90.58.020](#). In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect. *Applicant response: 3. Denial of the variance permit would result in the project not being constructed; therefore, public access on publicly-owned lands along the shoreline of Lake Tahuya would not be granted as stated in RCW 90.58.020(5). Staff Comment: the proposed application is for a water-dependent, public access facility. A No-Net Loss of Wetland Functions is provided and is analyzed in the variance criteria, following.*

4. Variance permits for development that will be located landward of the OHWM, except within those areas designated as marshes, bogs, or swamps pursuant to Chapter [173-22](#) WAC, may be authorized provided the applicant can demonstrate all of the following. *Applicant response: The proposed variance is located landward of the OHWM and meets the requirements below in a-f:*

a. That the strict application of the bulk, dimensional or performance standards set forth in Chapters [22.400](#) and [22.600](#) precludes, or significantly interferes with, reasonable use of the property. *Applicant response, a. The proposed project is the construction of an access area and hand launch ramp on the shore of Lake Tahuya. The project does not require new or maintenance dredging, or shoreline stabilization. The project has been designed to the minimize impacts to the shoreline and critical areas to the maximum extent practicable. Due to size constraints of the property, the project cannot be constructed outside of the vegetated wetland buffer. Strict adherence to the standard buffer widths will preclude the construction of a public access site on publicly-owned lands. Staff comment: the application conforms to the requirement.*



b. That the hardship described in subsection (E)(1) of this section is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of this program, and, for example, not from deed restrictions or from the actions of the applicant or a predecessor in title. *Applicant response, b. The hardship described above is due to the size limitations of the parcel and presence of a wetland and the 110-foot wetland buffer. Staff comment: the application conforms to the requirement.*

c. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this program, will not cause net loss to shoreline ecological functions and does not conflict with existing water-dependent uses. *Applicant response, c. The property is classified as Shoreline Residential with a non-motorized, water-oriented use proposed as permitted in Table 22.600.105 Shoreline Uses and Modifications. The project is proposing no net loss through minimization measures and enhancement of the existing buffer as outlined in the Habitat Assessment and Mitigation Plan submitted with this application (Exhibit 27). The site is currently undeveloped. Construction of the access site will not conflict with existing water-dependent uses. Staff comment: the application conforms to the requirement.*

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area. *Applicant response, d. The variance will not grant a special privilege not enjoyed by other properties in the area as many of the surrounding residences have docks and/or boat access to the shores of Lake Tahuya. Construction of this access site will foster inclusion and allow the public the opportunities to recreate on Lake Tahuya. Staff comment: the application conforms to the requirement.*

e. That the variance requested is the minimum necessary to afford relief. *Applicant response, e. The project design has been minimized to the extent practicable and the variance request is the minimum necessary to afford relief from the strict adherence to code. Staff comment: the application conforms to the requirement.*

f. That the public interest will suffer no substantial detrimental effect. *Applicant response, f. The majority of the shorelines on Lake Tahuya are privately-owned, many with boat access and private docks. The subject property is the only publicly-owned property on this lake. The proposed access site will be the only public access site on Lake Tahuya. The Bremerton Sportsmen's Club is in strong support of the project to bring public recreation opportunities to Lake Tahuya. The public interest will benefit from having the access site developed. Staff comment: the application conforms to the requirement.*

5. Variance permits for development and/or uses that will be located waterward of the OHWM, or within any wetland as defined in RCW [90.58.030](#)(2)(h), may be authorized provided the applicant can demonstrate all of the following:

- a. That the strict application of the bulk, dimensional or performance standards set forth in Chapters [22.400](#) and [22.600](#) preclude all reasonable use of the property;
- b. That the proposal is consistent with the criteria established under subsections (E)(4)(a) and (b) of this section; and
- c. That the public rights of navigation and use of the shorelines will not be adversely affected.

*Applicant response, 5. No development would occur waterward of the OHWM or within wetlands on site. Staff comment: the application conforms to the requirements in a. through c.*

6. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall remain consistent with the policies of RCW [90.58.020](#) and shall not cause substantial adverse effects to the shoreline environment. The applicant shall demonstrate such consideration through submittal of a cumulative impacts report, where required (Section [22.700.130](#)). *Applicant response, 6. The subject property is the only publicly-owned property on the shores of Lake Tahuya; therefore, it is the only site where public access is reasonably likely to occur. A cumulative impacts report has been submitted as part of the application package for the Lake Tahuya Access Development project. Staff comment: the application conforms.*

7. Variances may not be granted to authorize uses different from the shoreline use and modifications matrix in Section [22.600.105](#). *Applicant response, 7. The property is classified as Shoreline Residential; the proposed project is for a non-motorized hand-launch access trail to Lake Tahuya. The access site is considered a non-motorized, water-oriented use and is permitted under Recreation and Public Access in table 22.600.105 Shoreline Uses and Modifications. Staff comment: the application conforms.*

8. All applications for shoreline variances approved by the county, including administrative variances, shall be forwarded to Ecology pursuant to WAC [173-27-200](#), for final approval, approval with conditions, or denial. No approval shall be considered final until it has been acted upon by Ecology. *Applicant response, 8. This variance permit application will not be considered final until approved by the WA Department of Ecology. Staff comment: the application conforms.*

#### **22.600.160 Mooring structures and activities**

As detailed in KCC 22.600.160, shoreline boat ramps are permitted uses in the Shoreline Residential zone under mooring structures and activities, section C 6.

A. Environment Designations Permit Requirements. When mooring structures are proposed in the aquatic designation and are adjacent to the following upland designations, the identified permit requirements shall apply:

1. Natural: a. Prohibited for single use. *Comment: NA*
- b. Prohibited for joint or public use, unless the adjoining upland is a public park, then up to two mooring buoys may be permitted with a Substantial Development Permit (SDP).  
*Comment: NA*
2. Rural conservancy, urban conservancy, shoreline residential, and high intensity: SDP.  
*Comment: the application meets the criteria; the zone is shoreline residential.*
- B. Application Requirements. In addition to the general permit requirements, proposals for mooring structures shall include the following:
  1. A staff consultation meeting with the department, state and federal agencies (where applicable), and tribes affected by proposals within their usual and accustomed grounds and stations shall be required prior to application for new piers and docks, pursuant to Chapter [22.500](#) (Permit Provisions, Review and Enforcement); *Comment: a staff consult was performed. The proposal is not for a dock or pier.*
  2. Description of the proposed structure, including size, location, design, and any other modification required by the project; *Comment: these items are included in the analysis.*
  3. Ownership of tidelands, shorelands, and/or bedlands; *Comment: Adjudicated in Superior Court in 2011; provided in the JARPA.*
  4. Proposed location of mooring structures relative to property lines and OHWM; *Comment: the proposal is located within the property lines.*
  5. Location, width, height, and length of mooring structures on adjacent properties;  
*Comment: NA; the proposal is for a new boat launch on State lands. Adjacent mooring structures are freshwater piers and are privately owned.*
  6. If for residential moorage, demonstration that existing facilities, including public moorage within ten driving miles of the applicant's parcel, are not adequate or feasible to accommodate the proposed moorage; *Comment: NA; the proposal is not for residential moorage.*
  7. Demonstration that alternative types of moorage, including buoys, are not adequate or feasible; *Comment: NA; the proposed intent is for public use and proposes a public use ramp.*
  8. For residential docks, written confirmation from each adjoining landowner indicating whether or not a joint-use mooring structure agreement will be entered into; *Comment: NA; the proposal is not for a residential use.*

9. Habitat surveys as described in Section [22.700.145](#) shall be required for mooring structures, with the exception of buoys, and shall be conducted according to WDFW, Washington Department of Natural Resources, and the U.S. Army Corps of Engineers parameters, where applicable. *Comment: a habitat management plan/biological survey and mitigation plan has been provided.*

C. Development Standards.

1. General Development Standards

a. New mooring structures shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use and may be permitted; provided, that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of the Act and this program. *Comment: the proposal is water-dependent and is for public access.*

b. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated. *Comment: NA; the use is not an over-water facility.*

c. Mooring structures shall follow all applicable state and federal requirements for building standards, materials, installation timing, and surveys. *Comment: the proposed use is for public access. The proposal will meet all standards.*

d. Mooring structures shall only be allowed in critical saltwater and freshwater habitats when the standards provided in this section for such habitats are met. *Comment: the proposed boat ramp will meet the intent of the SMP for public access.*

e. Over-water structures shall be constructed to the minimum size necessary to meet the needs of the proposed water-dependent use, including single-family residences, provided the additional development standards of this chapter are met. *Comment: NA*

f. Buoys shall be preferred over piers, docks or floats. Applicants shall demonstrate that a buoy is not a feasible option prior to proposing a less preferred option. *Comment: NA; the proposal is for a freshwater boat ramp.*

g. Single-use mooring structures, with the exception of buoys, shall be prohibited except where it can be demonstrated that a joint use facility is not feasible. *Comment: NA*

h. Proposed moorage structures for new residential development of two or more dwellings shall be limited to a single, joint-use community facility except where demonstrated to be infeasible, with no more than one moorage space per dwelling unit or lot. If shared moorage is

provided, the applicant/proponent shall file a legally enforceable joint use agreement or other legal instrument at the time of plat recordation. *Comment: NA; the proposal is for public access.*

- i. Except when accessory to single-family residences, any new pier or dock construction may only be permitted if the applicant has demonstrated that a specific need exists to support the intended water-dependent use. This may include justification through port or county comprehensive plans. *Comment: NA; the proposed use is a public boat ramp.*
- j. Mooring structures shall be readily discernible under normal daylight conditions to the unaided eye at a minimum distance of one hundred yards and must be marked for night-time visibility. *Comment: NA; the proposed launch ends at the ordinary high water line and is not located within navigable waters.*
- k. No creosote, chromate copper arsenate, or pentachlorophenol treated wood, or other comparably toxic compounds, shall be used as part of the decking, pilings, or other components of any in-water structures such as docks, piers, and floats. No treated woods are required: *Comment: NA*
- l. During maintenance, existing deteriorated treated wood shall be replaced with alternative materials such as untreated wood, steel, concrete, or recycled plastic, or encased in a manner that prevents metals, hydrocarbons and other toxins from leaching out. If maintenance activities exceed fifty percent repair or replacement of the existing structure, then the application requirements in subsection (B) of this section shall apply. *Comment: NA*
- m. Tires are prohibited as part of above- and below-water structures or where tires could potentially come in contact with the water. *Comment: NA*
- n. During maintenance or repair of a pier, dock or ramp, existing tires used for flotation shall be replaced with inert or encapsulated materials such as plastic or encased foam. Likewise, any unencapsulated foam material must be removed or replaced. *Comment: NA*
- o. To prevent scouring of the substrate, power-assisted pressure washing or cleaning of equipment, machinery, or structures in water less than seven feet deep shall be prohibited. In addition, equipment that contains or is covered with petroleum based products should not be pressure washed in or over the water. *Comment: NA.*
- p. New covered moorage, over-water boat houses, side walls or barrier curtains associated with single-family residential moorage are prohibited. When covered moorage and covered watercraft lifts are replaced, the replacement structures should use transparent roofing materials that are rated by the manufacturer as having ninety percent or better light transmittance. *Comment: NA*

q. New structures shall be designed and located so no new bulkheading or armoring of the shoreline is necessary. *Comment: NA.*

r. Functional grating resulting in a total open area of a minimum of twenty-four percent must be installed on piers which are new or replacement greater than fifty percent. This can be achieved by installing grating with sixty percent open area on at least forty percent of the pier or by grating a larger percentage of the pier with grating with openings of less than sixty percent. Exceptions to these standards may be permitted where need is demonstrated and when approved by the U.S. Army Corps of Engineers. *Comment: NA*

s. Grating must not be covered, on the surface or underneath, with any stored items and must be kept clean of algae, mud or other debris that may impede light transmission. *Comment: NA*

t. All mooring facilities shall be designed and constructed to avoid, or where avoidance is not feasible, to minimize and mitigate impacts to achieve no net loss of ecological functions, including functions associated with critical saltwater habitats and species, such as eelgrass beds, and fish habitats and processes such as currents and littoral drift. *Comment: N/A.*

u. Proposed moorage facilities should be evaluated to ensure that the project does not conflict with existing water-dependent uses. *Comment: N/A.*

## 2. Critical Saltwater Habitats Standards.

a. Except for private, noncommercial mooring facilities for individual or community use, all mooring structures may only be permitted if the applicant can clearly demonstrate the public's need for the structure, the structure is consistent with the public trust protections in RCW [90.58.020](#), and the structure is consistent with the state's interest in resource protection and species recovery. *Comment: The proposal is located within a freshwater shoreline.*

## 3. Pilings.

a. New or replacement pilings may be made of steel, concrete, plastic, untreated wood or treated wood where approved for the marine or freshwater environment, except creosote and similar products. *Comment: the NA.*

b. New pilings must be spaced twenty feet apart lengthwise. If the structure is less than twenty feet in length, pilings may be allowed at the ends of the structure only. In areas with forage fish spawning or rearing and submerged aquatic vegetation, when allowed, pilings must be spaced forty feet apart lengthwise. *Comment: NA*

c. A maximum of two moorage pilings beyond or parallel to a mooring structure may be allowed to accommodate moorage of boats exceeding the length of the mooring

structure or to provide supplementary tie-down locations for boats that require additional stabilization. *Comment: NA*

- d. New or replacement pilings shall be driven only during construction windows approved by WDFW. These include protection for spawning periods and periods of presence of juvenile salmonids, forage fish and groundfish. *Comment: NA*

4. Piers.

*Comment: Analysis for piers in sections a-f are not applicable to the proposal.*

5. Floats.

*Comment: Analysis for floats in sections a-h are not applicable to the proposal.*

6. Boat Launching Ramps, Railways and Lifts.

- a. Private boat launches shall not extend below ordinary high water, unless they:
  - i. Are elevated; and
  - ii. Will result in no net loss of shoreline ecological functions; and
  - iii. Minimize aesthetic impacts.

*Comment: the proposed freshwater boat ramp meets the criteria.*

- b. Commercial or community boat launching ramps shall provide a wash-down drainage crypt which incorporates oil-water separators for the treatment and disposal of wastewater associated with the boat launching ramp. *Comment: the hand-launch ramp is for non-motorized small craft only. Craft using the facility should follow aquatic weed abatement protocols.*
- c. Private marine rail systems are preferred over private boat launch ramps. Applicants shall demonstrate that the preferred option is infeasible before selecting the less preferred option. *Comment: the planned facility is a public boat ramp and is not a private facility.*
- d. Marine rail systems shall be maintained in operating condition or must be removed. *Comment: NA*
- e. Marine rail systems shall be designed, to the greatest extent feasible, so they are not barriers to littoral drift. *Comment: NA*

- f. Floating watercraft lifts shall be located greater than nine feet waterward from the OHWM. *Comment: NA*
- g. The area of floating boat lifts to be installed on the over-water structure must be included in the float grating calculations. *Comment: NA*

7. Buoys and Anchors.

*Comment: Analysis for buoys and anchors in sections a-g are not applicable to the proposal.*

8. Lakes, Rivers and Streams.

- a. Mooring structures shall be prohibited on rivers and streams.
- b. No mooring structures shall be constructed within one hundred feet of the mouth of a river, stream or creek.

*Comment: Analysis for lakes was completed for the project. There are no streams within the boat launch proximity.*

**j. Access, Traffic and Roads**

A Kitsap County Road Approach permit for access to the site will be required. Traffic on Gold Creek is not expected to increase appreciably for the additional 9 parking spaces.

**k. Fire Safety**

Fire and emergency vehicles will have access to the parking area.

**l. Solid Waste**

The Washington State Department of Fish and Wildlife will provide garbage receptacles and regular garbage and litter pick up.

**m. Water/Sewer**

Not applicable to this proposal.

**n. Kitsap Public Health District**

Health approval is required for the associated public vault restroom.

**22.600.165 Recreation and Public Access**

A. Environment Designations Permit Requirements. Where recreational development is proposed in the following designations, the identified permit requirements shall apply:



1. Natural:

- a. Prohibited for non-water-oriented recreational development;
- b. SDP for nonmotorized, water-oriented recreational development; and
- c. CUP for all other forms of recreation, except where demonstrated to be consistent with approved park plans prior to application, and then with an SDP.  
*Comment: NA; the designation is shoreline residential*

2. Rural conservancy, urban conservancy, shoreline residential, high intensity: SDP.  
*Comment: the application analysis is for a SDP.*

3. Aquatic: The required permit type will be determined by the specific recreational development proposed as set forth in this chapter. For example, see Section [22.600.125](#), Boating facilities. *Comment: NA*

B. Application Requirements. In addition to the general permit requirements, a description of how the proposed use is water-oriented is required if applicable. *Comment: the proposed public access provides for water-dependent access to Lake Tahuyeh via a new non-motorized hand-launch boat ramp. Parking for up to 9 cars with garbage receptacles and public vault toilet are proposed to provide for sanitation and access.*

C. Development Standards.

1. Recreational development shall not result in a net loss of shoreline ecological functions or ecosystem-wide processes. *Comment: the development will conform to the requirement. Mitigation is proposed for necessary impacts and have demonstrated minimization.*

2. All recreational facilities shall be designed, located and operated in a manner consistent with the purpose of the environment designation in which they are located. *Comment: the proposal is consistent with the shoreline residential designation.*

3. Water-oriented recreation may be allowed in shoreline buffers. The removal of on-site native vegetation shall be limited to the minimum necessary for the recreational development areas, such as picnic areas, campsites, selected views, or other permitted structures or facilities. *Comment: the development will conform to the requirement. Mitigation is proposed for necessary impacts and have demonstrated minimization. No camping is proposed. Signage and rules are posted on a provided kiosk limiting uses to control noise, fire risk, parking limits and hours of operation, thus reducing neighbor impacts. Fencing and private property signs will be provided including additional vegetative screening.*

4. Preference shall be given to activities which are consistent with approved state and local park plans for water-oriented recreational development. *Comment: the development will conform to the requirement. Washington State Department of Fish and Wildlife access rules will be posted and adhered to.*

5. Non-water-oriented recreational facilities, such as golf courses, playing fields, and facilities with extensive impervious surfaces, shall observe critical area buffers and vegetation conservation standards (Sections [22.400.115](#) and [22.400.120](#), respectively). *Comment: NA*

6. Commercial recreational development shall be consistent with Section [22.600.130](#) (Commercial development). *Comment: the proposed development is not a commercial use.*

7. Vehicular traffic is prohibited on beaches, bars, spits and streambeds, except for permitted construction and boat launching, or in areas where it can be demonstrated that a historical use has been established. *Comment: the development will conform to the requirement.*

8. Public road-ends, tax-title lands and rights-of-way adjacent to shorelines of the state shall be preserved for public access, unless the property is zoned for industrial uses. Pursuant to RCW [36.87.130](#), as now or hereafter amended, vacation of such shall only occur if the purpose is to:

- a. Enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites; or
- b. Provide for park, viewpoint, recreational, educational or other public purpose.

*Comment: the development will conform to the requirement.*

9. Trail access shall be provided to link upland facilities to the beach area where feasible and where impacts to ecological functions can be mitigated. *Comment: the development will conform to the requirement. Mitigation is proposed for necessary impacts and have demonstrated minimization.*

10. When applicable, recreational development shall make adequate provisions for:

- a. Vehicular parking and pedestrian access;
- b. Proper wastewater and solid waste disposal methods;
- c. Security and fire protection;

- d. The prevention of overflow and trespass onto adjacent properties, including, but not limited to, landscaping, fencing, and posting of property;
- e. Screening of such development from adjacent private property to prevent noise and light impacts.

*Comment: the development will conform to the requirements. Mitigation is proposed for necessary impacts and have demonstrated minimization. Screening for parking lot headlight glare is proposed by installation of slatted-chain link fencing and installation of perimeter plantings.*

11. Shoreline trails and pathways shall be located, designed, and constructed to protect bank stability. *Comment: the development will conform to the requirement.*

12. As required by RCW [90.58.100](#)(4), applications providing for wilderness beaches, ecological study areas, and recreational uses for the public on state-owned shorelines shall be considered a preferred use. *Comment: the development will conform to the requirement.*

13. Public access sites shall be made barrier-free and accessible for physically disabled uses where feasible, and in accordance with the Americans with Disabilities Act (ADA). *Comment: the development will conform to the requirement. ADA access will be provided.*

## **11. Review Authority**

The Hearing Examiner has review authority for this Shoreline Substantial Development Permit and Shoreline Variance application under KCC Sections 17.550.020 and 21.04.100. The Hearing Examiner may approve, approve with conditions, remand, or deny a Shoreline Substantial Development Permit and Shoreline Variance Permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make a proper decision. The powers of the Hearing Examiner are at KCC Chapter 2.10. Once the Hearing Examiner Decision is made, the proposal is forwarded to the Washington Department of Ecology pursuant to WAC 173-27-020. As there is a Shoreline Variance component to the project, final approval is required by Washington State Department of Ecology, Shoreline Division.

## **12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 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. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 22.500.100.B, 22.400, 22.500.100E, 22.600.160, 22.600.165 and KCC 21.04, the Department of Community Development recommends that the Shoreline Substantial Development Permit and Shoreline Variance Permit request for the WDFW Lake Tahuyeh Public Access and Boat Ramp Project be **approved**, subject to the following 11 conditions:

#### **a. Planning/Zoning**

1. The proposal must meet the 5-foot side yard zoning setback.

#### **b. Development Engineering**

2. Per Stormwater Development review, the associated project is exempt from stormwater requirements. Should over-water impervious surfaces be incorporated in the future, a site plan review is required. A minor grading permit shall be submitted to address on-site improvements and required mitigation.

#### **c. Environmental**

3. A Hydraulic Project Approval permit is not required from the Washington Department of Fish and Wildlife (Exhibit 22). An HPA may be required for any project revisions.
4. Project work shall be subject to the conditions of the Washington Department of Fish and Wildlife Hydraulics Project Approval (HPA) should an HPA be required.
5. Shoreline construction activities shall be conducted in a manner such that private properties adjacent to the project area are not impacted.
6. All recommendations of the revised Habitat Assessment and Mitigation Plan shall be followed (Exhibit 27).
7. To prevent scouring of the substrate, power-assisted pressure washing or cleaning of equipment, machinery, or structures in water less than seven feet deep shall be prohibited. In addition, equipment that contains or is covered with petroleum-based products shall not be pressure washed in or over the water.
8. All mooring facilities shall be designed and constructed to avoid, or where avoidance is not feasible, to minimize and mitigate impacts to achieve no net loss of ecological functions, including functions associated with critical saltwater

habitats and species, such as eelgrass beds, and fish habitats and processes such as currents and littoral drift.

9. Upon final permit issuance, all construction for the project must commence within two years and be complete within five years. A one-time one-year extension is available but only if requested on or before ninety days of original permit expiration. No exceptions are allowed unless provided for by law.

**d. Traffic and Roads**

10. A Kitsap County Public Works Road Approach Permit will be required. This may be reviewed with the associated minor grading permit (grading 1).

**e. Fire Safety**

None. Fire access will be adequate.

**f. Solid Waste**

None. Waste services will be collected by WDFW.

**g. Kitsap Public Health District**

11. The Health District shall approve the vault toilet design.

**Report prepared by:**



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Steve Heacock, Staff Planner / Project Lead

05/19/2022  
Date

**Report approved by:**



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Scott Diener, Manager

05/19/2022  
Date

**Attachments: A. Revised Site Plan**

CC: Applicant: Alexandra Laughtin, WDFW, [Alexandra.Laughtin@dfw.wa.gov](mailto:Alexandra.Laughtin@dfw.wa.gov)  
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Attachment A, Revised site plan

