



## Notice of Hearing Examiner Decision

05/12/2020

To: Interested Parties and Parties of Record

RE:           Project Name: Ward Short Plat  
Applicant/Owner: Claire and Jason Ward  
                  P.O. Box 144  
                  Keyport, WA 98345  
                  Application: Preliminary Short Plat (PSP) & Shoreline Substantial  
                                  Development Permit (SSDP)  
                  Permit Number: 19-05106 & 19-05107

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **19-05106 & 19-05107 Ward Preliminary Short Plat (PSP) & Shoreline Substantial Development Permit (SSDP)**, subject to the conditions outlined in this Notice and included Decision.

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

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

<https://spf.kitsapgov.com/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>

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

The complete case file is available for review at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. 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.

CC: Applicant/Owner: Jason and Claire Ward, [csbward@gmail.com](mailto:csbward@gmail.com)  
Engineer: Seabold Engineering, [kelsey@seaboldeng.com](mailto:kelsey@seaboldeng.com)  
Project Representative/Surveyor: Gavin Oaks, [gavin@agols.com](mailto:gavin@agols.com)  
Health District  
Public Works  
DSE  
North Kitsap Fire District

Puget Sound Energy  
Water Purveyor - KPUD  
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-SEPA  
Interested Parties:

Sheila Campbell, [sheilac55@comcast.net](mailto:sheilac55@comcast.net)

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

**Ward Preliminary Short Plat and  
Shoreline Substantial Development Permit**

**File Nos. 19-05106 (Plat) and 19-05107 (SSDP)**

**April 23, 2020**

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**1. FINDINGS OF FACT**

**1.1 Proposal.** Division of one lot into two. One lot will be a half acre; the other, .72 acre. The lot with existing improvements is within shoreline jurisdiction. The lot to be developed is not.

- **Applicant/Property Owner.** Jason and Claire Ward, P.O. Box 144, Keyport, WA 98345.
- **Location.** 15490 Cove Point Lane NE, Keyport, WA 98345. Assessor Parcel No. 352601-1-012-2008.

**1.2 Administrative Record.** The Hearing Examiner admitted Exhibits 1-30, which included the Staff Report, application materials, documentation of agency consultation, public notice documents, and a DCD Power Point presentation. Exhibit 30 was a comment submitted via e-mail on April 8, opposing land division. The Record was re-opened April 20, to allow submission of Condition 16's impervious surface table. The table was admitted as Exhibit 31.

**1.3 SEPA.** DCD issued an unappealed Determination of Non-Significance.<sup>1</sup>

**1.4 Hearing.** An open record public hearing was held April 9, 2020. Due to COVID-19 restrictions, the hearing was conducted remotely, with the Examiner, Kitsap County Department of Community Development (“DCD”), and Applicant calling in. Access information was provided to the public to allow citizens to join via video link and/or telephone call-in. There were no reported technical difficulties during or following the call. However, in case any citizens who wished to comment had difficulty calling in, the record was kept open for a week, through April 16.<sup>2</sup> No additional written comments were received. DCD, through Ms. Shaffer, testified on how the proposal conforms to shoreline variance requirements. The Applicant, through Ms. Ward, confirmed she had no objections to DCD's proposed conditions.

**1.5 Agency Comment.** The project was circulated within the County and there were no objections as long as conditions/code requirements are met.

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<sup>1</sup> Exhibit 18; Exhibit 27 (Staff Report), p. 2.

<sup>2</sup> Temporary Emergency Rule to Address COVID-19 Situation (April 1, 2020).

**1.6 Notice.** The proposal was properly noticed, with publication and mailing for both the application and public hearing.<sup>3</sup> No notice concerns were raised.

**1.7 Site/Project.** The 1.22 acre lot would be divided in two. The existing lot is adjacent to the shoreline, and developed with a one-story 2,440 square-foot single-family residence, an 848 square-foot detached garage, and a bulkhead. A single-family home is planned for the second lot.

**1.8 Zoning/Plan Designations.** The Comprehensive Plan designation is Limited Area of More Intense Rural Development, and the site is zoned Keyport Village Low Residential (KVLR). Except for the shoreline, KVLR zoning and single-family residences surround the site. The plat meets KVLR development requirements.<sup>4</sup> Lot dimensional requirements are met. The rectangular site is 640 feet long and 85 feet wide, and will meet lot width and depth requirements (80 feet), exceed minimum lot size (12,500 square feet), and comply with density restrictions (two dwelling units per acre).<sup>5</sup> Height, impervious surface coverage, and zoning setback consistency will be confirmed with building permit review.

**1.9 Shoreline Designation/Critical Areas.** The existing lot has a Shoreline Residential designation. The new lot is more than 200 feet from the high-water mark, so is outside shoreline jurisdiction. The existing home is outside the FEMA AE flood zone and away from the geologic hazards (slopes exceeding 15%). The new lot is upland of these critical areas. The 11% slopes on the upland lot are under the moderate geologic hazards threshold.<sup>6</sup>

**1.10 Utility and Public Services.**

- **Water:** Kitsap PUD #1
- **Power:** Puget Sound Energy
- **Sewer:** Septic
- **Police:** Kitsap County Sheriff
- **Fire:** North Kitsap Fire & Rescue
- **Schools:** North Kitsap School District #400

**1.11 Access.** Cove Pointe Lane, a private drive, provides access. It connects to NE Peterson Road. Improvements to ensure adequate access will be made.<sup>7</sup>

**1.12 Conditions/Staff Report.** The Applicant accepted the proposed conditions, which are incorporated without substantive revision. The impervious surface table included at Condition 16 was inadvertently omitted from the Staff Report, but submitted following the hearing without objection. Except as the Decision revises it, the Staff Report is incorporated.

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<sup>3</sup> Exhibits 13, 25, and 26.

<sup>4</sup> KCC 17.420.056; *see also* KCC 22.400.140.

<sup>5</sup> Citizen comment objected based on density, but the plat complies with code density limits. Exhibit 29.

<sup>6</sup> Exhibit 27 (Staff Report); Exhibit 16 (BGE Technical Memo).

<sup>7</sup> Exhibit 27 (Staff Report); Exhibit 2 (Project Narrative).

## 2. CONCLUSIONS OF LAW

**2.1 Hearing Examiner Review Authority.** The Hearing Examiner reviews the shoreline substantial development permit<sup>8</sup> and because review has been consolidated before the Examiner, the preliminary short plat.<sup>9</sup> The Examiner may approve, approve with conditions, or deny the permits.

**2.2 Short Plat.** The single additional lot has limited impact, and meets basic platting requirements, as "appropriate provisions" have been made for its addition.

For all types of land segregations, appropriate provisions shall be made for the public health, safety and general welfare, including but not limited to: open spaces, drainage ways, streets or roads, alleys, other public ways, nonmotorized access, road and pedestrian connectivity, parking, transit stops, fire protection facilities, potable water supplies, sanitary sewage wastes, solid wastes, landscaping, parks and recreation, playgrounds, sites for schools and school grounds, sidewalks or other planning features that assure safe walking conditions for students who only walk to and from school. The public use and interest will be served by the proposed land segregation.<sup>10</sup>

Many of these criteria are duplicated in the rural platting requirements, KCC 16.24.050, which are also met. Adequate access is provided, County stormwater requirements are met,<sup>11</sup> and the Kitsap County Fire Marshal has approved the proposal.<sup>12</sup> As the plat is only two lots, requirements for four or more lot projects do not apply, and neither does the Mosquito Fleet Trail Plan, as the plat is not included in it. The added lot does not require additional outdoor lighting, landscaping, or frontage improvements, and signage is not proposed. The plat is not within a design district, and parking adequacy will be reviewed with the building permit. More generally, appropriate provisions have been made for non-vehicular access, and water supply and septic systems will meet health district requirements. Supporting infrastructure is adequate to support the new lot, the addition of which is consistent with the public health, safety, and welfare.

**2.3 Shoreline Substantial Development Permit.** Although the new lot and new construction will be outside shoreline jurisdiction, as the original lot is inside shoreline jurisdiction, the Applicant requested an SSDP for the plat.<sup>13</sup> An SSDP is granted if consistent with SMA and SMP policies and procedures, and WAC 173-27-150.<sup>14</sup> These criteria are met.

The plat follows the shoreline regulations. New construction is outside shoreline jurisdiction, so has no shoreline impacts, and is not subject to shoreline regulation, and there are no cumulative impacts and no net loss of ecological functioning. Mitigation is not required as

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<sup>8</sup> KCC 22.600.105; KCC 22.500.100(B); KCC 22.600.170(A)(3); KCC 21.04.080, .100.

<sup>9</sup> KCC 21.04.180(A).

<sup>10</sup> KCC 16.04.080.

<sup>11</sup> Title 12 KCC; Exhibit 18 (DNS).

<sup>12</sup> Exhibit 15 (Seabold Engineering Memo, detailing fire review); Exhibit 27 (Staff Report).

<sup>13</sup> KCC 22.600.170(A)(3)(c); KCC 16.24.070.

<sup>14</sup> KCC 22.500.100(B)(3).

new development is outside the standard 85-foot buffer (KCC 22.400.110, .120), and outside shoreline jurisdiction altogether. The existing lot is developed with a bulkhead, but no dredging or shoreline stabilization will be needed (KCC 22.400.105). Critical areas are not impacted due to the location of new construction (KCC 22.400.115). No cultural resources have been identified on site.<sup>15</sup> With compliance with setback and height requirements, there are no view blockage concerns.<sup>16</sup> Bulk and dimension requirements are also met.<sup>17</sup> Due to the lack of impact, residential development standards (KCC 22.600.170) are also met.

The use at this location is a preferred shoreline residential use. The proposal follows shoreline policies and regulations. The plat will not cause a net loss to shoreline functioning and will not have significant environmental impacts on the shoreline. The proposal is consistent with the policies and procedures of the SMA, Ch. 90.58, and the County's SMP, and should be approved consistent with WAC 173-27-150.

## **DECISION**

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the SSDP and Preliminary Short Plat, provided these conditions are adhered to:

### **Planning/Zoning**

1. Proof of rights of use of the easement shown as providing access to the subject property shall be submitted with the Final Plat application materials.
2. A Road Maintenance Agreement will be required for the access easements shown on the face of the plat. This may be in the form of a note on the face of the Final Plat that addresses ownership and maintenance responsibilities of the access easement, or in the form of a Road Maintenance Agreement document to be recorded separately and referenced on the face of the Final Plat.
3. A Final Short/Large Lot/Subdivision Plat shall be prepared by a licensed Land Surveyor in compliance with KCC Title 16.
4. The names of the roads in this land segregation shall be approved by Community Development prior to final subdivision approval.
5. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
6. The decision set forth herein is based upon representations made and exhibits contained in the project application (19-05106 and 19-05107). 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.

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<sup>15</sup> KCC 22.400.130.

<sup>16</sup> KCC 22.400.135.

<sup>17</sup> KCC 22.400.140.

7. 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.

8. The following condition shall be added to the face of the Final Plat: At the time of submittal of a building permit for any lot within this plat, soil amendment is required for all disturbed areas not covered by hard surface.

9. The final short plat may need adjacent property owners' signature and parcel number if the access or the existing easement is modified.

10. At the time of building permit, each lot will be required to meet the requirements from KCC 17.420.056.

11. A binding water letter from Kitsap Public Utility District will be required at the time of building permit for the newly created undeveloped lot.

### **Development Engineering**

12. Construction plans and profiles for all roads, storm drainage facilities and appurtenances shall be submitted to Kitsap County, with the building permit application, for review and acceptance. No construction shall be started prior to said plan acceptance.

13. Approval of the preliminary plat shall not be construed to mean final approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be revised for the final design to meet all requirements of KCC Titles 11 and 12.

14. The information provided demonstrates this proposal is a Small Project as defined in KCC Title 12, and as such will require future building permits provide Stormwater Site Plans that depict a design in compliance with Minimum Requirements #1-5, as outlined in the Kitsap County Stormwater Design Manual.

15. On-site Stormwater Management, and erosion and sedimentation control shall be designed in accordance with KCC Title 12 effective at the time the Preliminary Short Subdivision application was deemed complete, November 19, 2019.

16. The allowable impervious area for each lot shall be determined by dividing the available impervious area between the lots created. Information shall be provided in a table as shown below.

Total Available Impervious Area	5,000 square feet
Allowable Impervious Area, Lot A	
Allowable Impervious Area, Lot B	

17. The following condition shall be added to the face of the Final Short Plat: If any proposed impervious area exceeds the allowable square-foot area as designated per the table, then an engineered Site Development Activity Permit (SDAP) will be required for that lot.

18. The following condition shall be added to the face of the Final Plat: At the time of submittal of a building permit for any lot within this plat, soil amendment is required for all disturbed areas not covered by hard surface.

19. If the project proposal is modified from that shown on the submitted site plan received November 4, 2019, Development Services and Engineering will require additional review and potentially new conditions.

### **Traffic and Roads**

20. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the KCC. The KCPW 1601 form reserves road capacity for the project.

21. The following note shall appear on the face of the final plat map: All interior roads shall remain private.

22. All rights of access for adjoining properties currently in existence shall be preserved and documented on the face of the final plat. Any amendment to the existing easement rights of adjoining property owners shall be properly executed and recorded prior to recording the Final Short Plat.

23. All lots shall access from interior roads only. This note shall appear on the face of the final plat map.

24. The property owners within the plat shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the final plat map. In addition, Development Services and Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.


25. With building permit application, submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the KCC. Existing approaches may need to be improved to meet current standards.



26. 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 or building permit if no SDAP is required. The need for and scope of bonding will be determined at that time.

Absent a timely appeal, this Decision is final.<sup>18</sup>

DECISION entered April 23, 2020.



Kitsap County Hearing Examiner  
Susan Elizabeth Drummond

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<sup>18</sup> See Ch. 36.70C RCW (any appeal to be filed within 21 days to superior court).