



## Staff Report for the Hearing Examiner

Report Date: March 16, 2017

Application Submittal Date: August 24, 2016

Hearing Date: March 23, 2017

Application Complete: December 7, 2016

**Permit Number:** 16 03857

**Project Name:** Catania Shoreline Residence

**Type of Application:** Shoreline Variance

*This staff report was prepared by Steve Heacock, Planner, based on information available up until the time the report was prepared. New information relevant to review of this application may become available prior to the hearing or at the hearing. Staff may wish to change their analysis based upon that new information, and reserves the right to do so.*

### **Proposal Summary:**

The Department of Community Development is recommending approval of the applicant's request for a Shoreline Variance for the proposed new residence and will be analyzed under the Shoreline Variance criteria.

### **Project Request:**

Anthony and Barbara Catania are requesting an approval for a Shoreline Variance to allow the construction of a new single-family residence on the shoreline of Admiralty Inlet.



### **Project Location:**

72XX Twin Spits Road, between 7264 and 7274  
Hansville, WA 98340

### **Assessor's Account #:**

4272-000-008-0005

### **Applicant/Owner of Record:**

Anthony and Barbara Catania

PO Box 903  
Redmond, WA 98073

**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 Non significance (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.

Pursuant to WAC 197-11-800 (6) (e), the proposal is a variance and is SEPA exempt. The proposal is considered SEPA exempt per the County Environment Code pursuant to KCC Title 18.04.

**Physical Characteristics:**

The 0.26-acre parcel is an undeveloped platted property located on the shoreline of Admiralty Inlet, locally known as Norwegian Point in Hansville. The parcel is undeveloped, but fenced and is essentially planted in grass lawn. The property has been historically used for family outings and is within the Rural Residential Zone. The parcel consists of a low bank waterfront on the north and is located within the AE flood zone.

**Comprehensive Plan Designation and Zoning:**

The subject property's Comprehensive Plan designation is Rural Residential - Density Residential (ULDR) and the Zoning designation is Rural Residential (RR) (one dwelling unit per 5 acres). The intent of this zone is to promote low-density residential development consistent with rural character.

Minimum Lot Area - 5 acres  
Minimum Lot Width - 140-feet  
Minimum Lot Depth - 140-feet  
Maximum Height - 35-feet

**Standard Rural Residential Zoning Setbacks**

Front - 50-feet  
Side - 20 feet  
Rear - 20-feet

Because the property is less than one acre, the urban setbacks can be used per Kitsap County Code 17.382.110 Footnote A4.

**Standard UR Zoning Setbacks**

Front - 20 feet  
Side - 5 feet,  
Rear - 5 feet



**Surrounding Land Use and Zoning:**

The surrounding parcels are all zoned Rural Residential.

**Public Utilities and Services:**

Water: PUD #1 Water District  
Power: Puget Sound Energy  
Sewer: Onsite septic  
Police: Kitsap County Sheriff  
Fire: North Kitsap Fire District  
Schools: North Kitsap School District

**Access:**

Access to the site is off of Twin Spits Road NE, a county maintained right of way.

**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 December 11, 2006 (Amended December 2012)

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

Rural and Resource Lands

Policy RL-1

*Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.*

Policy RL-2

*Provide a variety of densities in the rural areas to make more efficient use of land, maximize the return on public infrastructure investment, and provide for affordable housing opportunities.*

Policy RL-3

*Permit residential uses in rural areas consistent with the existing and planned rural character of the surrounding area.*

Policy RL-4

*Outside of Type III LAMIRDs, limit development only to that which serves rural residential or resource needs and not draw people from UGAs.*

Policy RL-14

*Provide road and access standards that enable all-weather access for emergency response vehicles while preserving and enhancing rural character.*

Policy RL-15

*Ensure proper installation, use and maintenance of on-site septic systems.*

Housing

Policy HS-6

*Ensure that a broad range of housing types are available through innovative planning, efficient and effective administration of land and building codes and financial assistance.*

Policy HS-8

*Encourage and facilitate development of a variety of housing types, including single-family residential, multi-family, mobile, modular, and manufactured homes. Doublewide mobile, modular and manufactured homes should be considered a single-family dwelling.*

Policy HS-9

*Encourage innovative land use practices and development standards that will have the effect of minimizing housing costs.*

Policy HS-11

*Permit and encourage the development of residential accessory dwelling units (mother-in-law apartments) in all residential zones with sufficient public facilities to support such development. Subject accessory dwelling units to development standards and design guidance that facilitates their compatibility with existing neighborhood character.*

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 12 Storm Water Drainage
- Title 13 Water and Sewers
- Title 14 Buildings and Construction
- Title 17 Zoning
- Title 19 Critical Areas Ordinance
- Title 22 Shoreline Master Program

Chapter 18.04 State Environmental Policy Act (SEPA)

Chapter 20.04 Transportation Facilities Concurrency Ordinance

Chapter 21.04 Land Use and Development Procedures

**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 1-17.

Exhibit #	Document	Date or date stamped
1	Project Application – Shoreline Variance	8/24/2016
2	Supplemental Checklist	8/24/2016



3	Supplemental Application JARPA, Critical Area Variance	8/24/2016
4	State Environmental Policy Act (SEPA) checklist	8/24/2016
5	Site Plan	8/24/2016
6	Survey Map	8/24/2016
7	Elevations	8/24/2016
8	Vicinity map and aerials	8/24/2016
9	Abbreviated drainage plan	8/24/2016
10	Health Officer decision- BSA design	8/24/2016
11	Floodplain Habitat Assessment, No-Net- Loss and Cumulative Effects Analysis	8/24/2016
12	Notice of Complete Application	8/24/2016
13	Notice of Application	8/24/2016
14	Shoreline Variance Criteria	12/07/2016
15	Communication – Stephanie Trudel, Suquamish Tribe	3/01/2017
16	Certification of Public Notice	3/16/2017
17	Staff report	3/16/2017

**Public Comments:**

We received several phone inquiries from neighbors, but no public comments were received. The Suquamish Tribe provided comments related to tribal discovery and potential cultural resources in the general vicinity. The tribal archeologist visited the site and although nothing was discovered, has asked to be notified when the initial site work is planned to conduct a proper survey.

**Analysis:**

**Land Use and Zoning Analysis**

**Residential Standards**

A single family residence is proposed within the rural residential zone. Setbacks are guided under the original plat recorded August 4, 1939. Because the property is less than one acre, the urban setbacks can be used per Kitsap County Code 17.382.110 Footnote A4.

**Shoreline Variance analysis**

**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 December 11, 2006 (Amended December 2012)

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.*

## **22.200.125 Rural Conservancy Designation**

A. Purpose. To protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities.

B. Designation Criteria. Shorelines outside the UGA or LAMIRD that have any of the following characteristics:

1. Currently support lesser intensity resource-based uses, such as agriculture, aquaculture, forestry, or recreational uses, or are designated agriculture or forest lands;
2. Currently accommodate residential uses but are subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or floodplains or other flood-prone areas;
3. Have high recreational value or have unique historic or cultural resources; or
4. Have low-intensity water-dependent uses.

Land designated urban conservancy and from which a UGA boundary is retracted may be designated as rural conservancy, if any of the above characteristics are present.

C. Management Policies.

1. Uses should be limited to those which sustain the shoreline area's physical and biological resources, and those of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Developments or uses that would substantially degrade or permanently deplete the physical and biological resources of the area should not be allowed.
2. New development should be designed and located to preclude the need for shoreline stabilization. New shoreline stabilization or flood control measures should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied.



3. Residential development standards shall ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the “rural conservancy” environment.
4. Low-intensity, water-oriented commercial uses may be permitted in the limited instances where those uses have been located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.
5. Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline area are mitigated.

*The proposed residential development is located within a flood zone and will be designed for flood proofing per KCC Title 15. The proposal is a platted undeveloped rural-residential zoned property. The associated Floodplain Habitat Assessment Report indicates that there will be no net loss of habitat. The associated effects analysis concurs there are no effects to endangered or threatened species related to the proposed development. The above-referenced items will meet or exceed the requirements of the code.*

### **22.300.100 Critical Area and Ecological Protection**

Goal: Protect and conserve shoreline natural resources, including protection of critical areas, while accommodating reasonable and appropriate uses which will assure, at a minimum, no net loss to shoreline ecological functions and processes.

- A. Policy SH-1. Protect and conserve shoreline areas that are ecologically intact and minimally developed or degraded. Develop incentives and regulations for privately owned shorelines that will protect and conserve these areas while allowing reasonable and appropriate development.

*The proposed development is the minimum necessary to afford construction of a single family residence while still protecting ecological functions.*

- B. Policy SH-2. Recognize that nearly all shorelines, even substantially developed or degraded areas, retain important ecological functions.

*Ecological functions, with proposed mitigation, will still be retained.*

C. Policy SH-3. Utilize transfer of development rights as allowed by Chapter 17.580, or as now or hereafter amended, as an option to protect ecological functions.

*The proposal will not implement the TDR program.*

D. Policy SH-4. Permitted uses and developments should be designed and conducted in a manner that protects the current ecological condition, and prevents or mitigates adverse impacts. Mitigation measures shall be applied in the following sequence of steps listed in order of priority:

1. Avoid the impact altogether by not taking a certain action or parts of an action;
2. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
3. Rectify the impact by repairing, rehabilitating or restoring the affected environment;
4. Reduce or eliminate the impact over time by preservation and maintenance operations;
5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and
6. Monitor the impact and the mitigation projects and take appropriate corrective measures.

*With mitigation, the proposed residence will not impact the associated critical areas on site. A mitigation plan and associated monitoring and maintenance plan will assure compliance with these requirements.*

E. Policy SH-5. Shoreline ecological functions that should be protected include, but are not limited to:

1. Habitat (space or conditions for reproduction; resting, hiding and migration; and food production and delivery);
2. Water quality maintenance; and
3. Water quantity maintenance.

*Impacts to shoreline ecological functions are not anticipated, and habitat enhancement will offset any temporary disturbance through implementation of the required mitigation, monitoring and maintenance plans.*

F. Policy SH-6. Shoreline processes, both freshwater and marine, that should be protected to support the above functions include but are not limited to the delivery, loss and movement of:

1. Sediment;
2. Water;
3. Nutrients;
4. Toxins;
5. Pathogens; and
6. Large woody material.

*Impacts to shoreline and freshwater processes are not anticipated, and habitat enhancement will offset any temporary disturbance through implementation of the required mitigation, monitoring and maintenance plans.*



G. Policy SH-7. In assessing the potential for new uses and developments to impact ecological functions and processes, the following should be taken into account:

1. On-site and off-site impacts;
2. Immediate and long-term impacts;
3. Cumulative impacts, from both current and reasonably foreseeable future actions, resulting from the project; and
4. Any mitigation measures or beneficial effects of established regulatory programs to offset impacts.

*Implementation of the mitigation plan along with the required monitoring and maintenance of the project area will assure no net loss of ecological functions and processes.*

H. Policy SH-8. Critical areas in the shoreline jurisdiction shall be protected in a manner that results in no net loss to shoreline ecological functions. Pursuant to RCW 36.70A.030(5), critical areas include:

1. Wetlands.
2. Frequently flooded areas.
3. Fish and wildlife habitat conservation areas.
4. Geologically hazardous areas.
5. Critical aquifer recharge areas.

*There are no wetlands on site. No flood zone impacts are proposed. Associated Impacts from buffer intrusions will be mitigated.*

### **22.300.105 Vegetation Conservation Buffers**

Goal: Conserve, protect and restore shoreline vegetation to provide for ecological and habitat functions as well as human health and safety. These functions include, but are not limited to, variable shading of the nearshore, food and shelter for terrestrial and aquatic organisms, and slope/soil stabilization.

A. Policy SH-9. Preserve native plant communities on marine, river, lake and wetland shorelines. In order to maintain shoreline ecological functions and processes, development along the shoreline should result in minimal direct, indirect, or cumulative impacts. This includes:

1. Keeping overhanging vegetation intact along the shoreline edge to provide shading and other ecological functions;
2. Preserving established areas of native plants and minimizing clearing and grading near bluff edges and other erosion or landslide-prone areas in order to maintain slope stability and prevent excess surface erosion and stormwater runoff;
3. Designing and placing structures and associated development in areas that avoid disturbance of established native plants, especially trees and shrubs; and
4. Removal of noxious weeds in accordance with WAC 16-750-020.

B. Policy SH-10. Shoreline landowners are encouraged to preserve and enhance native woody vegetation and native groundcovers to stabilize soils and provide habitat. When shoreline uses or modifications require a planting plan, maintaining native plant communities, replacing noxious weeds and avoiding installation of ornamental plants are preferred. Nonnative vegetation requiring use of fertilizers, herbicides/pesticides, or summer watering is discouraged.

C. Policy SH-11. Maintaining native or ecologically functional vegetation is preferred over clearing to provide views or lawns. Limited and selective clearing may be allowed when slope stability and ecological functions are not compromised. Limited trimming and pruning is generally preferred over removal of native vegetation.

*Existing vegetation on site is essentially grass lawn, so no tree removal related to future construction is planned. Implementation of the Habitat Assessment and restoration plan by Ecological Land Services, (Exhibit 11), provides for restoration of the shoreline with native plantings and will be augmented and enhanced through implementation of the planting plan at time of the building permit.*

#### **22.300.110 Water quality and quantity**

Goal: Provide regulations and voluntary incentives to encourage practices which protect water quality and reduce stormwater runoff and erosion in order to protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and its aquatic life.

A. Policy SH-12. Shoreline use and development should minimize impacts that contaminate surface or ground water, cause adverse effects on shoreline ecological functions, or impact aesthetic qualities and recreational opportunities, including healthy shellfish harvest.

B. Policy SH-13. Ensure mutual consistency with other regulations that address water quality and stormwater quantity, including standards as provided for in Title [12](#) (Storm Water Drainage) and Chapter [173-201A](#) WAC (Water Quality Standards).

C. Policy SH-14. Utilize pervious materials and other appropriate low impact development techniques where soils and geologic conditions are suitable and where such practices could reduce stormwater runoff.

D. Policy SH-15. All shoreline use and development shall be conducted in accordance with Title [15](#) (Flood Hazard Areas). The subdivision of land should not be established when it would



be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. When evaluating alternate flood control measures or floodplain restoration opportunities, consider the removal or relocation of structures in flood-prone areas.

*The proposed residential construction will use low impact development techniques for both the control of water on-site, and the treatment of water quality through implementation of a dispersion stormwater system.*

### **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.
- 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\(B\)](#).
- 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.
- 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.

*The implementation of the Habitat Management Plan (Exhibit 11) and associated planting plan, along with the minimization of the building size and limitation to buffer and shoreline access,*

*and incorporation of the proposed water quality infiltration system will meet the associated goals and policies.*

#### **22.400.105 Proposed Development**

##### **A. Location.**

1. New development shall be located and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.
2. New development shall be located and designed to avoid the need for future shoreline stabilization for the life of the structure. Likewise, any new development which would require shoreline stabilization which causes significant impacts to adjacent or down-current properties shall not be allowed.
3. New development on lots constrained by depth, topography or critical areas shall be located to minimize, to the extent feasible, the need for shoreline stabilization.
4. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.
5. Subdivision shall be planned to avoid the need for shoreline stabilization for newly created lots, utilizing geotechnical analysis where applicable.
6. Non-water-oriented facilities and accessory structures, except for preferred shoreline uses, such as single-family residences and single-family residential appurtenances when consistent with buffer provisions in this chapter, must be located landward of buffers and adjacent water-oriented uses, or outside shoreline jurisdiction, unless no other location is feasible.

*The proposed development for a new residence is a use requiring variance approval. As such, the proposed new residence meets all aspects of location, and will not require shoreline armoring. This criteria will be further analyzed in the shoreline variance criteria.*

#### **22.400.110 Mitigation (Sequencing and Mitigation Options)**

*The planned new residence proposes mitigation through incorporation and implementation of the Habitat Assessment report (Exhibit 11) and meets all qualifications for mitigation sequencing and options. Per 22.400.100 B (3) the proposed variance will be analyzed under the shoreline variance criteria under 22.500.100 (E).*

#### **22.400.115 Critical Areas**

*The flood zone has been addressed by the Floodplain Habitat Assessment Report. There are no other critical areas on site.*

#### **22.400.120 Vegetation Conservation Buffers**

*The associated vegetation conservation buffer standards for this proposal are analyzed under the Rural Conservancy buffer criteria in 22.400.120 (B) requiring a 130 foot buffer. As the proposed development requires review under the variance criteria of 22.500.100 (E), review of this code falls under that analysis.*

#### **22.400.125 Water Quality and Quantity**



*The proposal is located outside of the urban census area, and as such is creating less than 10,000 square feet of impervious surfaces. However as stormwater mitigation is required due to the proximity to critical areas, a Site Development Activity Permit (SDAP) may be required and will be further analyzed at time of building permit review.*

#### **22.400.130 Historic Archeological, Cultural, Scientific and Educational Resources**

##### **A. Applicability and Other Regulations.**

1. This section applies to archaeological and historic resources either recorded by the Department of Archaeology and Historic Preservation, local jurisdictions or applicable tribal databases or predictive models.
2. HASCE sites shall comply with Kitsap County Contract KC 442-07 (Agreement with Department of Archaeology and Historic Preservation), Chapter 25-48 WAC (Archaeological Excavation and Removal Permit), Chapter 27.44 RCW (Indian Graves and Records), and Chapter 27.53 RCW (Archaeological Sites and Resources).

*Members of the Suquamish Tribe's Cultural Resources and Archeological Division visited the site to determine if there were concerns related to prior occupancy by tribes or potential remains on site. The shoreline was analyzed and the Tribe had asked that they be notified upon site work and excavation so that an assessment could be completed. Kitsap County further recommends that should any middens or remains be found during work, that the applicant or representative notify Kitsap DCD staff and the Suquamish Tribe. This on-site excavation tribal review will be made a condition of approval.*

#### **22.400.135 View Blockage**

*There is no view blockage concern for the proposed new residence.*

#### **22.400.140 Bulk and Dimension Standards**

*The proposed new residence meets the criteria under this code.*

#### **22.500.100 Shoreline Variance Criteria**

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 per KCC 22.500.100.E.4:

- 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;
- 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;

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;

d. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

e. That the variance requested is the minimum necessary to afford relief; and

f. That the public interest will suffer no substantial detrimental effect.

*The applicant's representative has provided a comprehensive analysis of the variance criteria to DCD staff, including a project narrative, which is provided as (Exhibit 14). We have reviewed the document and find that it meets all of the variance criteria under items a through f. In addition to meeting the project variance criteria, the associated Floodplain Habitat Assessment report, cumulative effects analysis and No-Net-Loss analysis prepared by Ecological Land Services provides for and meets the expectations under the Kitsap County Code, and we find that the proposed actions, with the implemented mitigation meets the intent of the shoreline code and Critical Area Ordinance.*

## **22.600.170 Residential Development**

### **A. Environment Designations Permit Requirements**

#### **2. Rural conservancy and urban conservancy:**

- a. Primary single-family residences are exempt pursuant to criteria in Section [22.500.100\(C\)](#).
- b. SDP if exemption criteria not met.
  - c. CUP for multifamily units, accessory dwelling units and subdivisions.

*The proposal is for approval of a new primary residence and is addressed through the shoreline variance.*

#### **4. Aquatic: prohibited.**

*Not applicable*

### **B. Development Standards.**

- 1. All new residential development, including subdivision of land, shall be designed, configured and developed in a manner that ensures no net loss of shoreline ecological function.



2. All sewage disposal and water systems shall be in compliance with state and local health regulations including but not limited to Kitsap County board of health Ordinance 2008A-01 for on-site sewage requirements.

3. New and remodeled residential development and new subdivisions shall be designed, located and constructed so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.

*No armoring is required and the permit is conditioned to indicate that no armoring shall be allowed for residential protection purposes.*

4. New over-water residences, including floating homes, are prohibited. Where such homes exist as of the adoption date of this program, they shall be reasonably accommodated to allow improvements associated with life safety matters and property rights.

*Not applicable.*

5. Stormwater quality and quantity measures for residential development must comply with current codes.

*The proposal meets the stormwater control guidelines for Kitsap County under Title 12.*

6. Flood hazard reduction measures for residential development shall comply with Chapter 19.500, as incorporated here by Section 22.400.115 (Critical areas), and Section 22.400.150 (Flood hazard reduction measures) of this program and shall be designed to prevent net loss of shoreline ecological functions.

*The application will comply with the flood zone requirements at time of building permit submittal.*

7. New multi-unit residential development, including the subdivision of land for five or more parcels, shall provide for joint or community and/or public access, except where demonstrated to be infeasible due to any of the following:

- a. Incompatible uses;
- b. Safety;
- c. Security;

- d. Impact to the shoreline environment;
  - e. Constitutional or other legal limitations that may be applicable.
8. In cases where on-site access is infeasible, alternate methods of providing public access shall be considered, such as off-site improvements.
9. Lot area shall be calculated using only those lands landward of the OHWM.
10. Single-family residential uses are a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

*This is not a subdivision proposal. Not applicable.*

### **Agency Recommendation**

Land Use review recommends approval based on 11 conditions (1-11). Development Engineering has 10 conditions of approval (12-21). There are no traffic concerns. Environmental Review recommends approval with 7 conditions (conditions 22-28).

### **Staff Evaluation of Decision Criteria**

1. The Hearing Examiner has review authority for this Variance permit application under KCC, Sections 17.410.010(C) and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions or deny a Shoreline Variance permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner are at KCC, Chapter 2.10.
2. The proposal is consistent with the comprehensive plan and the Shoreline Master Program.
3. The proposal complies with or will comply with requirements of Title 17 and complies with or will comply with all of the other applicable provisions of the KCC and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report. The proposal is consistent with the code and provisions of the Kitsap County SMP.
4. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity.
5. 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.

### **Recommendation:**

Based upon the information above, the Department of Community Development recommends that the Shoreline Variance permit request for the Catania Shoreline residence be **approved**, subject to the following conditions:



### **Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The new residence is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
4. Only one residence shall be permitted on the subject property.
5. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
6. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
7. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code (KCC). Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.
8. 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.
9. The decision set forth herein is based upon representations made and exhibits contained in the project application (1-17). 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.
10. The Shoreline Variance Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within two years of the Notice of Decision date or the resolution of any appeals.

11. Any violation of the conditions of approval shall be grounds to initiate revocation of this Variance Permit.

### **Development Engineering**

12. At building permit application, submit KCPW Form 1601 for issuance of a concurrency certificate, as required by KCC Section 20.04.030, Transportation Concurrency.
13. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
14. The information provided demonstrates this proposal contains critical areas. A Site Development Activity Permit (SDAP) may be required and will be analyzed at time of building permit submittal.
15. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, April 13, 2016. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances.
16. The Washington State Department of Ecology (Ecology) may require registration of the infiltration trench as a Underground Injection Control (UIC) well in accordance with the Underground Injection Control Program (Chapter 173-218 WAC). The applicant shall contact Ecology to determine if the facility is regulated under the UIC program.
17. The design of the infiltration facilities will be accordance with Section 7.3.4 of the Kitsap County Stormwater Design Manual.
18. The infiltration facilities shall remain off line until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities. In addition, retention ponds shall not be utilized as temporary erosion and sedimentation control ponds.
19. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.
20. All retention facilities shall be a minimum of 200 feet from any slope steeper than 30%. This distance may be reduced based on a geotechnical engineering report. That analysis will be prepared by a Civil Engineer licensed in the State of



Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.

21. 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.

**Environmental**

22. Follow the recommendations of the Floodplain Habitat Assessment report and details provided by Ecological Land Services.
23. The planting and mitigation plan will be monitored for a minimum of 5 years to ensure survival.
24. The newly created single-family residence will be limited to 35 feet in height per Kitsap County Code 22.500.100.a.2. Building height is defined in Kitsap County Code 17.110.140.
25. The application requires that no new shoreline armoring is proposed, and that no armoring will ever be needed for the protection of any facilities on site.
26. Permit approval requires that refuse shall not be placed in buffers.
27. The Suquamish Tribe shall be notified prior to site disturbance activities, and at the time of foundation excavation work so they may complete their archeological investigation.
28. There shall be no clearing of vegetation or grading in the buffer area, as is depicted on the approved site plan. Prior to any clearing or development, please contact Development Services and Engineering Environmental staff at (360)337-5777 to confirm buffer boundaries.

  
Steve Heacock, Staff Planner

3/16/17  
Date

 Fon  
Scott Diener, Development Services and Engineering Manager

3/16/17  
Date

CC: Applicant/Owner: Anthony and Barbara Catania  
Engineer: Mike Wnek, Wnek Engineering  
Interested Parties: None  
Suquamish Tribe, Stephanie Trudel

Kitsap County Health District, MS-30  
Department of Ecology, Shoreline Section, Misty Blair  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Steve Heacock  
DCD File (16 03857)