



Kitsap County Hearing Examiner

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OFFICE OF THE HEARING EXAMINER

KITSAP COUNTY

REPORT AND DECISION

CASE NO.: 080814-067
Chico Beach Cottages

**APPLICANT/
OWNER:** The Cottage Company, LLC
Linda Pruitt and Jim Soules
8215 – 41st Ave. NE
Seattle, WA 98115

SUMMARY OF REQUEST:

The applicants are requesting a Conditional Use Permit and a Shoreline Development Permit for a cottage housing development. The project will include the construction of seven mid-sized dwelling units, an 18 space parking garage and a common building on a 1.11 acre parcel on the westside of Dyes Inlet along Chico Way NW and south of Silverdale. Each of the single-family cottage residences would share a parking garage, as well as a commonly owned courtyard or common area. The common area will include the entire waterfront courtyard and common building.

PROJECT LOCATION:

The site is located at 7740 Chico Way NW, Bremerton, Central Kitsap County, Commissioner District No. 3.

SUMMARY OF DECISION:

Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing Department of Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was conducted in the chambers of the Kitsap County Board of Commissioners on August 14, 2008.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
1	Pre-application meeting request	12/18/07	12/19/08
2	Site Plan	12/18/07	12/19/07
3	Pre-Application Meeting Request	No Date	12/19/08
4	Pre-Application Conference Letter	12/28/07	n/a
5	E-mail between Dennis Oost & Jim Soules	1/18/08	1/18/08
6	Written Summary of Pre-Application Meeting	1/23/08	n/a
7	Administrative Conditional Use Permit Application	2/1/08	2/26/08
8	Sewer Availability Contract	2/1/08	2/26/08
9	Water Availability Letter	2/7/08	2/26/08
10	Preliminary Drainage Report	2/12/08	2/25/08
11	Environmental (SEPA) Checklist	2/9/08	2/26/08
12	Application for Concurrency Test	2/21/08	2/26/08
13	Site Plan	2/22/08	2/26/08
13A	Site Plan-Color	2/22/08	2/26/08
14	Letter from the Cottage Company	2/22/08	2/26/08
15	Notice of Complete Application	2/24/08	n/a
16	Affidavit of Publication	3/12/08	3/29/08
17	Revised Preliminary Grading & Utilities Plan	4/1/08	4/1/08
18	Revised Site Plan	4/1/08	4/1/08
19	Notice of Application	4/7/08	n/a
20	Affidavit of Mailing	4/7/08	n/a
21	Notice of Complete Application	4/9/08	n/a
22	Revised Notice of Application	4/11/08	n/a

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
23	Affidavit of Mailing	4/11/08	n/a
24	Letter from Edward Arnold	5/10/08	5/14/08
25	Letter from Carl Haslip	5/12/08	5/15/08
26	Letter from Anna & David Lewis	5/15/08	5/21/08
27	Letter from Kay Gordon	5/12/08	5/14/08
28	Letter from Dorothy Goldstein	5/12/08	5/15/08
29	Letter from Steve Stirrett	5/12/08	None
30	Letter from Barbara Goddard	5/15/08	5/16/08
31	Letter from Michael Bowling	5/18/08	5/21/08
32	Letter from James Rodman	5/18/08	5/21/08
33	Letter from Virginia Olson	5/19/08	5/29/08
34	Letter from T.G. Goddard	5/19/08	5/20/08
35	Letter from Lenore Stanfel	5/19/08	5/22/08
36	Letter from Diane Almojuela	5/19/08	5/20/08
37	Letter from Richard & Beverly	5/20/08	5/21/08
38	Letter from Robert & Shirley Harader	5/20/08	5/22/08
39	Letter from Corrine Williams	5/20/08	5/22/08
40	Letter from Todd & Vickie Josal	5/21/08	5/28/ 08
41	Letter from Bob Cashmore	5/21/08	5/23/08
42	Letter from David Rubens	5/21/08	5/23/08
43	Letter from Brian Buskirk	5/21/08	None
44	Letter from Bonnie Ingram	5/21/08	5/28/08
45	Letter from Gladys & Dennis Weeks	5/22/08	5/23/08
46	Letter from Debra & Gary Davis	5/22/08	5/28/08
47	Letter from Richard & Karla Cook	5/23/08	5/28/08
48	Letter from Lloyd & Jane Hill	5/23/08	5/28/08
49	Letter from Dorothy Jensen	5/23/08	5/28/08
50	Letter from David Cook	5/23/08	5/30/08
51	Letter from Janine Rinehart	5/24/08	5/28/08
52	Letter from Walter Hannawacker	5/24/08	5/28/08
53	Letter from Shirley Edgington	5/24/08	5/26/08
54	Letter from Beverly & Franklin Murphy	5/24/08	5/28/08
55	Letter from Jennie & Richard Lund	5/24/08	5/28/08
56	Letter from Laura & Mark Talbert	5/25/08	5/26/08
57	Letter from Shaun & Shannon Dickey	5/25/08	5/28/08

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
58	Letter from Douglas & Margaret Yoder	none	5/30/08
59	Letter from Arthur Sperber	5/26/08	5/28/08
60	Letter from Richard & Carol Arper	5/26/08	5/30/08
61	Letter from James Skewes & Susan Countryman	5/27/08	5/28/08
62	Letter from Ian MacKenzie & Nina Gonn	5/27/08	5/28/08
63	Letter from Jim & Sheresa VanAntwerp	5/27/08	5/28/08
64	Letter from Linda Keyser	5/27/08	5/29/08
65	Letter from Jennifer & Matt Tammen	5/27/08	5/29/08
66	Letter from Karen Best	5/27/08	5/28/08
67	Letter from Walter Emery	5/27/08	5/28/07
68	Letter from Gladys Buskirk-Weeks	5/28/08	5/29/08
69	Letter from Norma Johnson	None	5/28/08
70	Letter from Mary Zabinski	5/29/08	6/3/08
71	Letter from Mitchell & Sherrie Gordon	5/29/08	5/30/08
72	Letter from Brad Buskirk	5/29/08	5/30/08
73	Letter from Amy Lawrence	5/29/08	5/30/08
74	Letter from Heather Aray	None	5/29/08
75	Revised Notice of Application with Corrected Project Description	5/30/08	n/a
76	Letter from Todd Buskirk	None	6/2/08
77	Letter from Douglas Yoder	6/15/08	6/20/08
78	Letter from Nathan Holburn KCHD	4/16/08	N/A
79	Memorandum from Shawn Alire, KCDE	5/15/08	N/A
80	Affidavit of Mailing	6/6/08	N/A
81	Legal Notice-Newspaper	6/25/08	N/A
82	Migitated Determination of Non-Significance	7/25/08	N/A
82A	Affidavit of Mailing – MDNS	7/29/08	N/A
83	Notice of Public Hearing	7/28/08	N/A
83A	Affidavit of Mailing – NPH	7/28/08	N/A
84	Affidavit of Posting	7/30/08	N/A
85	Revised Notice of Application	6/30/08	N/A
85A	Affidavit of Mailing – RNOA	6/6/08	N/A
86	Memo from Shawn Alire	5/15/08	N/A
87	Letter from Linda Pruitt The Cottage Company	7/30/08	8/7/08
88	Staff Report	8/4/08	N/A

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
89	Appeal of SEPA Determination	8/8/08	8/8/08
90	Recommendation to Hearing Examiner – SEPA Appeal	8/11/08	N/A
91	Power Point Presentation	8/14/08	8/14/08
92	Letter from Mary & Roger Zabinski	8/13/08	8/14/08
93	Fax from Mike & Barb Ingham	8/14/08	8/14/08
94	Power Point Presentation from Jim Soules	8/14/08	8/14/08
95	Comment Outline Douglas E Weeks	8/14/08	8/14/08
96	Photo from Richard Arper	No Date	8/14/08
97	Letter from Richard Arper – SEPA Appeal	8/13/08	8/14/08
98	Letter from Richard Arper - Stormwater	8/13/08	8/14/08
99	“Puget Sound Begins in your neighborhood” Post Card - Richard Arper	No Date	8/14/08
100	Surface & Stormwater Management Program	8/13/08	8/14/08
101	Storm Water Runoff in Kitsap County	No Date	8/14/08
102	Architects Perspective Section of Chico Beach Cottages	8/14/08	8/14/08

Appearing was DENNIS OOST, senior planner, who briefly summarized the staff report which, with its attachments, was admitted into evidence. Exhibits 1 through 90 were previously admitted. He submitted exhibits # 91, 92 and 93. The applicants are requesting a Shoreline Substantial Development permit in order to construct seven single-family residences along Dyes Inlet, about halfway between Bremerton and Silverdale. There are many sites in the area with multiple structures. The sites along the waterfront are similar in size with some narrower than others and have been developed over the years. It is zoned Urban Low Residential which allows four to nine units per acre. Side yard setback is five feet, the front yard setback is 20 feet. The height limit is 35 feet. The shoreline designation is semi-rural. Sewers are available to the site. The site has a bluff about 30 feet high above the sound and it is bulkheaded and has a pull out area, as well as a gazebo. The dimensions of the lot are 152 feet in width by about 300 feet in length. The applicant is proposing two and three bedroom units with a common recreational facility, two parking units per unit with four parking spaces available for visitors. This proposal is one of the first in this area of the country and has been encouraged by the provisions of the Kitsap County Code. The proposal is encouraged by the infill provisions of the Kitsap County Code. Substantial attention has been paid to the landscaping. There will be shoreline plantings, buffer plantings both north and south, plus six foot fences, plantings along Chico Way, a six foot privacy fence, as well as many of the larger trees along Chico Way and the shoreline will be maintained. While the single-family residence currently on the site will be removed, the chimney and fireplace of the single-family residence will be reused in the community

center, which will include a working gym. Each of the units will have waterfront views. Architectural design will reflect the neighborhood style. Cottage housing is by code, an administrative permit process, but because it also requires a Shoreline Substantial Development permit, both requests are submitted to the hearing examiner. Staff has reviewed this plan and recommends approval as presented.

Appearing was LISA LEWIS, the Shoreline Administrator for Kitsap County. Exhibits No. 1 – 42 were previously admitted into evidence. Exhibit #43, a Power Point presentation, was admitted into evidence. References in the report to Kitsap County Code 22.28.280 need to be clarified. The site is located in a semi-rural shoreline environment. The purpose of this area is to promote multiple uses. It is a moderate range of development. See Kitsap County Code 22.16.080. The shoreline in the area is completely developed and staff feels that this proposal will be consistent with the surrounding shoreline area. A habitat management plan must be submitted and approved by the Washington State Department of Fish and Wildlife. A critical area buffer reduction will be required. Those structures existing on the shoreline will be maintained and the houses will be about 65 feet back from the shoreline. Joint uses are encouraged by the code. A building permit will not be approved until an HBA has been approved, as well as approval for the stormwater system is obtained. The existing shoreline buffer will be maintained, improved, and enhanced. Staff recommends approval.

Appearing was SHAWN ALIRE, of development engineering, who indicated that the application does meet all of the preliminary site development criteria. The proposal is consistent with the provisions of Title 11 and 12 of the Kitsap County Code and the stormwater system will be via catch basins that will catch stormwater, hold it, and release it directly into the sound. Stormwater will use a diffuser system. A major road approach will be developed for this site.

Development Engineering recommends approval, as the applicants' request at this time complies with the provisions of the Kitsap County Code.

Appearing was DAVID GRETHAM with reference to the SEPA review. He summarized the SEPA appeal staff report. The basic issues of the appeal are broken up into the following areas: stormwater, wildlife, noise, recreation and land use. There was an issue as to eagle perching, however, this site is just outside of the territory limits, but the applicant is allowing full grown trees to remain on the four corners of the site. The EIS for the comprehensive plan recommends infill development and with the conditions recommended herein, he would not say that there will not be any impact on the environment, but what he does say is that the impacts that do occur will not be significant. See Exhibit 90.

The hearing was adjourned and reconvened after lunch.

Appearing was JIM SOULES of The Cottage Company. They have been in existence for 12 years and have facilities similar to what is being proposed in the Winslow area. They are proposing the construction of seven cottages. They have completed five cottage

projects, and about 60% are single-family residences. The rest are two person families and empty nesters. They have received regional and national awards. Their first development was in Langley, Washington. The cottages respond to the changing needs of households, single women and empty nesters. The first project was in Langley, Washington. They received the Gold Nugget award for west coast for the best project on the west coast for their project in Kirkland, Washington. They also won a national award for the best detached housing project. The Silverdale sub area plan of policy 11 has a photograph of one of their developments. The development involves energy efficient single-family detached residences.

He introduced CHARLES WINSLOW, architect for the project, who described the site plan and pedestrian orientation. You are not able to drive up to the home, the home's face, the center courtyard common area. There will be one covered space for each of the cottages. The front trees will be maintained as a buffer. They are looking at two to three bedroom homes with an average of 1,600 square feet. Each cottage has a private area. They then walked the examiner through the site plan. Gardens and landscape are the most prominent feature of the project. Twenty-eight percent of the site is open space. Recreation is four times the requirement of the code. Windows have obscure glass providing privacy to the individual. The surrounding area has no single style, basically the styles are traditional to contemporary.

Reappearing was JIM SOULES. Garages are not part of any of these residences. They are clustered off to the side. The main access to these residences is through the common area, as opposed to a street appearance. The proposal has the advantage of maximizing the views of the landscaping for the individual owners, as opposed to views of vehicles and streets. The proposal is consistent with the comprehensive plan and the code.

Appearing was DOUGLAS WEEKS, property owner to the immediate south. He has lived on his site for 18 years. He submitted Exhibit #95, which is his testimony. He is also a registered architect in the State of Washington who has been in practice for 40 years. The proposal is inconsistent with the third provision of the conditions for a conditional use permit. The proposal is not consistent with the appearance of the surrounding neighborhood and is inconsistent with provision #4 for conditional use permits. He then went through and showed various houses in the surrounding neighborhood. The proposal involves a three-story residence five feet from the property line. The density is greater than the neighbor's property. The setbacks for this project are not compatible with the neighborhood. The board fence and the appearance of the proposal and design are inconsistent with the properties in the area. The trees along the east property line are going to be removed because of the five-foot setback. The project, as proposed, involves the removal of most of the trees, other than in the four corners and the property.

Appearing was RICHARD ARPER. He is 100 feet south of the proposal. The proposal does not fit in with the character of the neighborhood. He is a registered mechanical engineer. The sewer that runs along on Chico Way is a high-pressure sewer that was never designed to have connections to it along the way. He submitted Exhibits #96, 97, 98,

99, and 100. The board fence appearance proposal is inconsistent with the design of properties in the areas. The area is not highly developed and this proposal will have significant impacts, particularly aesthetic impacts, as well as impacts as to density and character. It does not fit in the area. The front is the view side where the water is and that is where the 20-foot setback should be, as opposed to the five-foot setback. He was concerned about staff's indication that there was no quality control of stormwater being discharged into the Sound. He feels that is inconsistent with the code. The impacts are significant. Density and aesthetics are significant impacts, as well as stormwater. The stormwater management system needs to be completely revisited and revamped, which will result in a significant change in the project and the layout and therefore it should not be approved at this time.

Appearing was PATRICK FUHRER. He is a licensed civil engineer. The stormwater system that is being used is consistent with the system that has been used for 21 years. The design of the system was sent out to all of the governmental agencies, including the tribe. None of them responded with a problem, which speaks volumes for the system. It is sufficient to handle the stormwater.

Appearing was BRAD BUSKIRK, homeowner south of the project. There have been four bulkhead failures within a quarter of a mile of the site within the last ten years. They are a result of being blown out from water pressure from the homes and the high water table that creates that pressure. The blow out on this site failed about ten years ago. The seawall on this site is bulging. Part of it has been repaired, but it is in very bad shape. This project does not fit. There is too much density for the waterfront. He has cruised the waterfront in all areas over the years and not seen anything like this. He expressed concerned about blow overs from windstorms when you start taking the trees down.

Appearing was IAN MACKENSIE. He is a neurological nurse and just wanted to say that, despite the small turnout, there really is a very substantial amount of resistance and opposition to this project in the neighborhood. He lives on Chico Way. His deck faces Chico Way and it is the one truly multi-purpose road in Kitsap County. His concern is for the road itself and sometimes their area is a dangerous stretch of road.

Appearing was CAROL ARPER who has lived in the area for 32 years. The project does not fit or blend with the area. She is opposed to it and its overall density.

Reappearing was JIM SOULES. He will be restoring and enhancing 60 plus feet of the waterfront with vegetation. Fences will only be along the houses. The solid board on the fences will be alternated. This project will probably have 25% less traffic than single-family residences. No RV or boat storage is permitted on the site. There will be photovoltaic cells on all of the roofs. This is a green project, they needed to slope roofs with a sustainable design approach. Upon questioning from the examiner, Mr. Soules indicated that there are these types of structures all over the county. It is a low maintenance modern type design similar to the county building where we were sitting.

Reappearing was DENNIS OOST. He explained the method the county used to calculate permissible density.

Reappearing was SHAWN ALIRE of Development Engineering. With reference to direct conveyance of stormwater into the sound. Kitsap County Code 12.20.030(4)(A) permits direct conveyance to the sound. The quality control was not required. The system involves energy dissipation, which is a preferable method and not what exists on the site currently. The design of the system is more than is required by code.

Reappearing was LISA LEWIS. Last year there was a large storm that modified the shoreline a substantial amount. This site remained unchanged. Shoreline vegetation maintains the slope.

No one spoke further in this matter and so the Examiner took the request under advisement.

NOTE: A complete record of this hearing is available in the office of Kitsap County Department of Community Development.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, viewed the property, heard testimony, and taken this matter under advisement.
2. Appropriate notice was provided pursuant to the Kitsap County Code.
3. SEPA. – A Mitigated Determination of Non-Significance (MDNS) was issued July 25, 2008, pursuant to WAC 197-11-355. The optional DNS process was utilized. A timely appeal of the MDNS was properly filed. (See Exhibit #41) on August 8, 2008.

- a. Kitsap County Code 21.04.120(C) (3) provides as follows:

The appeal shall contain the specific aspects of the SEPA determination being appealed. The reason why each aspect is in error and as a matter of fact or law and the evidence relied upon to prove the error and...

Appellant ignored these provisions. The appeal reads more like a summary critique without much factual basis or support other than disagreeing with the findings of the responsible official.

- b. The examiner adopts Exhibit #42, the staff report, which clearly sets out the appellant's statements and the reasons the appeal fails. The SEPA appeal must fail, for having failed to set out the reasons why each item is in error as

a matter of fact and law and the evidence and law relied upon to prove the error. The appeal is wholly insufficient.

- c. There was no evidence introduced during the appeal hearing which demonstrated that any of the aspects of this cottage style housing project would have a significant adverse environmental impact.
4. Each of the staff reports submitted herein appropriately set out the issues, findings, conclusions, and recommendations and they are hereby incorporated by reference.
5. The applicants have a possessory interest in a 1.1-acre site located on the westside of Dyes Inlet. The site is located at 7740 Chico Way Northwest, about halfway between Bremerton and Silverdale. The lot depth ranges from 290 feet to 303.08 feet, and the lot width is approximately 151.91 feet. The site is currently developed with a single-family structure, garage, and existing shoreline gazebo and beach stairs, as well as a bulkhead. The shoreline consists of a 30-foot high waterfront bluff with small areas of instability due to weathering above an existing bulkhead. The shoreline is well vegetated with native second growth conifer, deciduous trees, shrubs, vines, grasses, and various species of ferns. The slope from the top of the bulkhead to the top of the bluff is 75% in some areas and 60% in other areas.
6. The applicants are requesting a conditional use permit and a shoreline development permit for a "cottage housing development." The project will include construction of seven mid-sized detached dwelling units, an 18 space parking garage, and a common building on a 1.1-acre parcel. The single-family residences will share a parking garage, as well as a commonly owned center courtyard or common area, as well as the entire waterfront, and the common building.
7. The Kitsap County Comprehensive Plan designates this area as urban low residential, allowing four to nine dwelling units per acre. Minimum setbacks are 20 feet for the front yard and five feet for side and rear yards. It is to be noted that cottage style housing appears to be encouraged by the comprehensive plan by inclusion of a photograph of cottage style housing in the plan. In fact, the cottage housing which is contained in the comprehensive plan in the area of the low residential designation contains a picture of one of the applicant's developments.
8. The shoreline environmental designation is semi-rural. The purpose of the semi-rural environment is to promote the utilization of an area by multiple human uses on a scale between that of low and urban environments. The semi-rural environment is distinguished from the urban environment by having primarily moderate residential uses. Active recreational facilities are encouraged. Modifications to the environment should harmonize whenever possible with preexisting natural conditions.
9. The site, as well as surrounding land use, is zoned urban low residential. The intent

of the urban low residential zone is to recognize, maintain and protect urban low density residential areas and establish urban density for a full range of community services and facilities that are present or will be present at the time of development in accordance with the urban growth areas as depicted in the comprehensive plan. The zone is intended to create energy efficient residential areas which are capable of allowing the provision of community services in a more economical manner and provide for additional related uses, such as schools, parks and utility uses necessary to serve the immediate residential areas. It is to be noted that there are lots of similar size, ranging from one to 1.5 acres, which are developed with residential structures along the waterfront.

10. Silverdale Water District #16 will furnish water to the site. Power will be furnished by Puget Sound Energy. Sewer will be furnished by Kitsap County Public Works. Access to the site will be from Chico Way NW, and the interior road will remain private. The proposed cottages will use the existing residential driveway and a common area garage. There will be a total of 18 parking spots available. Stormwater will be discharged directly into the sound through a diffuser system, which maintains the quantity of the dispersal at any one point in time. Kitsap County Sheriff will provide public police services. Central Kitsap Fire and Rescue District #1 will provide fire district services, and Central Kitsap School District will provide school services.
11. Kitsap County Code 17.421.030 sets out the criteria the hearing examiner must use in determining whether or not to issue a conditional use permit for a proposal. It provides in pertinent part:
 - A. The hearing examiner may approve with conditions, or deny a hearing examiner conditional use permit. Approval or approval with conditions may be granted only when all of the following criteria are met:
 1. **The proposal is consistent with the comprehensive plan;**

The applicant is proposing seven dwelling units and a community recreation center on a 1.1-acre site, which is consistent with the provisions of the comprehensive plan. The comprehensive plan encourages infill housing, with which this applicant's proposal of cottage type construction is consistent. In fact, a photograph of one of the applicant's cottage style single-family residential area is included within the comprehensive plan with reference to urban low residential development.
 2. **The proposal complies with the applicable requirements of this title;**

As designed, the cottage housing development meets the height requirements, off street parking requirements, and setback requirements of the zone. The lots, as proposed, are smaller than the minimum for the zone, but are permitted in the UL zone when performance related development criteria are met for open space and recreational space. The proposal meets the minimum criteria as follows, according to staff: Common open space requirements are 15% of the site (28% is proposed), recreational open space is 5% of total lot area or 563 square feet. (2,200 square feet are proposed). The proposal meets all the criteria for cottage housing in the urban low zone, according to staff.

3. **The proposal will not be materially detrimental to uses or properties in the immediate vicinity.**

The applicant is proposing a six-foot tall fence on the sideyard property lines to buffer this development from adjoining parcels. The fence will be augmented with trees and vegetation. The applicant is also proposing a homeowners' association with stringent conditions dealing with owner occupancy requirements and prohibiting the storage of boats, RVs, and other types of vehicles which could litter the area. The covenants are conditions of approval. They will be reviewed during the site development activity permit to ensure they are consistent with cottage style housing.

4. **The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality of development and physical characteristics of the subject property in the immediate vicinity.**

The cottage type development does appear to be compatible with the surrounding area. Many of the surrounding sites have multiple structures on them. The features of this proposal include fencing, maintenance of existing trees, additional shrubs, a common area and homeowner covenants will ensure a quality development, which will be consistent with the surrounding area. The layout of the proposal on the site responds to the sensitivity of the shoreline by keeping automobiles away from the shoreline and keeping a common open space corridor down the center of the units connecting to the shoreline. The architectural character of the buildings is a cohesive coordinated style that is currently being used throughout the county. The existing vegetation is being retained and implemented where possible along Chico Way NW, the shoreline and around the parking

lots with additional landscaping throughout the development. This cottage development will be developed with a high level of green features. Each home will have its own photovoltaic 1.4 KW system and they also have supplemental solar power water. The homes will meet built green and energy star certified standards. The refuse and recycling room adjacent to the proposed westerly garage building is provided for waste management with 64 and 96 gallon refuse and recycling totes for joint use of all residents. An additional fenced yard is adjacent to the refuse room for larger items and other recycling activities. A condition of approval herein will require double plantings of fast growing trees around the entrance, parking lots, garages and along Chico Way.

12. The applicant's proposal appears to be consistent with the provisions of Kitsap County Code 22.16.080 governing the semi-rural environmental designation and the management policies therein. The applicant's modifications to an existing single-family residential site are designed to harmonize wherever possible with the preexisting natural conditions and appear to work to emphasize and retain significant existing natural features such as the shoreline and vegetation throughout the site. Recreational facilities will be designed to meet the needs of the individuals using the single-family residences.
13. Kitsap County Code 22.28.230 contains the policies governing residential development in the shoreline area. The policies and my findings follow:

- a. Residential development should be compatible with the character of the shoreline environment.

The area of Dyes Inlet where the applicant is proposing to construct the cottage housing development is developed with single-family residences that have modified landscapes and armored shorelines. Many of the lots have more than one structure and thus the cottage development would be consistent with the residential character of the shoreline environment.

- b. Adequate distance between the ordinary high water mark and residential development should be maintained to protect water quality, protect natural systems, and insure preservation of the integrity of the shoreline environment. Placement of structures should be located on property so as to avoid the necessity for shore protection structures.

The development does comply with the 50-foot shoreline buffer as specified in Kitsap County Code 19.300.315(A)(4). Installation of a shoreline protection structure is not proposed at this time and conditions of approval herein prohibit such structures in the future. However, it needs to be recognized that shoreline structures are in existence on this site at this time.

- c. Residential development shall be consistent with the purpose and intent of the applicable environment designation.

Single-family residential development is permitted in the semi-rural shoreline environment, subject to a Shoreline Substantial Development Permit. Staff has testified that the application for cottage development is in compliance with applicable shoreline substantial development requirements subject to conditions as listed herein.

- d. Sewage disposal, storm drainage, and water supply facilities should be in compliance with local and state health regulations.

According to staff, the applicant will be required to obtain a SDAP for an engineered stormwater system. The stormwater will be collected and pipelined to the shoreline on top of the existing concrete bulkhead. A condition of approval herein requires a hydraulic project approval by the Washington State Department and Fish and Wildlife, as well as health district and Kitsap County stormwater approval. The seven lots will require building clearance for sewage to be approved by the health district before building permits are issued. A water main extension is required to be installed or bonded to 150% of the construction costs before approval or clearance for sewage systems would be granted.

- e. Residential development should provide, preserve, or restore shoreline vegetation for control of erosion, slope stability, and habitat.

Twelve of the existing large trees will remain on site. Additional trees will be planted as part of the new landscaping to fill in and adapt to the new development. The existing shoreline vegetation will be maintained and supplemented. A native vegetation enhancement plan will be a required condition of the SDAP permit.

- f. Joint use of shoreline access and shoreline facilities should be encouraged.

This cottage cluster of seven homes allows each of the residents the use of 150 feet of waterfront, as well as the common recreation area and the gym. The existing stairs to the beach were renovated and remain the same in appearance.

- g. Lot area should be calculated using only those lands landward of the ordinary high water mark.

Staff has indicated that the proposed residential development should be consistent with the adopted comprehensive plan.

- h. Proposed residential developments should be consistent with the adopted comprehensive plan.

The single-family residential use of four to nine dwelling units per acre is an allowable use in the urban low residential zone with the administrative conditional use permit.

- 14. Single-family residential developments in the semi rural environment are permitted, subject to a shoreline substantial development permit. (Kitsap County Code 22.28.233(A)). Section 22.08.010 KCC addresses substantial development permits, but provides no criteria therein other than the development "comply with requirements contained in the (Shoreline Management Act and the master program)." Said section also authorizes placement of conditions to ensure consistency with the act and the master program. Conditions of approval set forth herein ensure compliance with the semi-rural shoreline environment.
- 15. Kitsap County Code 22.28.230(3)(A) indicates that single-family residential developments are permitted subject to a shoreline substantial development permit. Previous findings indicate that the application is consistent with the requirements of the shoreline substantial development permit.
- 16. Kitsap County Code 22.28.230(4) contains the general regulations concerning single-family residential development on the shoreline. Following are findings with reference to each of these regulations:
 - a. Kitsap County Code 19.300.315(A)(4) allows a buffer reduction with an approved Habitat Management Plan (HMP) to not less than 50% of the minimum buffer. The applicant's proposal meets the requirement of this regulation in that the minimum 50-foot shoreline buffer shall include a native vegetation enhancement plan, which the applicant proposes, to be reviewed and approved by the Kitsap County DCC prior to construction. The conceptual plan has been submitted as Exhibit #13A (in the CUP file).
 - b. As previously found, the residential development is consistent with the purpose and intent of the semi-rural environment.
 - c. The single-family residences will be approximately 65 horizontal feet from the ordinary high water mark, which with a habitat management plan, as previously found, is consistent with Kitsap County Code 19.300.315(4).
 - d. The site is presently armored with concrete bulkheads. New development will not require additional structures.
 - e. A condition of approval herein requires Kitsap County Health District approve

water supply and sewage disposal.

- f. Septic systems will not occur within 100 feet of a wetland buffer.
 - g. Surface water drainage will comply with the Kitsap County Stormwater Management Program. The applicant is required to obtain an SDAP for stormwater management on this site. Development engineering has reviewed the above land use proposal and finds the concept supportable in approach to the civil site development.
 - h. Staff has indicated that the applicant's proposal is consistent with Kitsap County 22.80.280 governing the use activities for utilities in that all material that is removed to install utility conveyance systems and outfall behind the concrete bulkhead will be replaced and landscaping will be planting upon installation of the stormwater system. The applicant's proposal also meets the intent of the Kitsap County Code 22.28.280(3) with reference to utilities in that they are permitted subject to a shoreline substantial development permit in a semi-rural environment.
 - i. The proposal is also consistent with the provisions of Kitsap County Code 22.28.280(4) in that the construction materials are required to conform to the current standards of the Washington State Department of Fish and Wildlife regarding the design and materials. The design of the outfall will be conditioned pursuant to Washington State Department of Fish and Wildlife hydraulic project approval requirements.
17. Staff has reviewed the applicant's proposal for consistency with Kitsap County Code Title 17 (Zoning) and Title 22 (Shoreline Management Master Program) including policies and regulations relating to the semi-rural shoreline environment, urban low single-family residential development, and shoreline substantial development criteria permit and staff has indicated that they believe the proposal is conformant with the above policies, procedures, and regulations.
18. There was substantial testimony throughout the hearing from surrounding neighbors about their belief that this cottage style housing is inconsistent with the appearance of their neighborhood. As noted during the hearing, many of the lots in the area have more than one structure. However, this number of structures proposed herein consistent with county regulations and comprehensive plan should be buffered from single-family residences adjacent thereto. The final landscape plan should include the following if it does not. The front of this site and the side yards of this site shall be buffered, with fast growing trees, buffering it from the adjacent properties. The examiner recognizes that 12 trees will remain. However, along the frontage there should be additional trees placed where I have drawn Xs on the site plan submitted by the applicant. There should be trees in the nature of arborvitae along the recycle area in order to shelter the facility from the viewpoint along Chico Way. There

should also be trees along each of the single-family residences to buffer them from the adjacent single-family residences. These trees should be in addition to the proposed fencing.

From the foregoing findings, the examiner makes the following conclusions:

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The SEPA appeal filed herein by Douglas E. Weeks, Richard Arper, and Bradford Buskirk is denied for failure to comply with the provisions of the Kitsap County Code.
3. The applicant's request for a conditional use permit and a shoreline substantial development permit meets the requirement of Kitsap County Code governing the issuance of a shoreline substantial development permits and conditional use permits and, therefore, the request should be granted. The request for the cottage style housing approach will provide an attractive setting for seven single-family residences.
4. The applicant's request for site plan review, shoreline conditional use permit, and shoreline substantial development permit is consistent with the Kitsap County Comprehensive Plan, the Shoreline Environmental Designation of Semi-rural, as well as the Urban Low Residential zoning.

The proposed development will be harmonious and compatible with existing and future development within the Urban Low Residential zone classification and general area.

The project makes appropriate provisions for public health, safety and general welfare for open spaces, drainage ways, streets, roads, and other public right of way, transit stops, potable water supply, sanitary waste products, and recreation, playgrounds, schools, and other relevant factors to include sidewalks.

The location, size, design and operating characteristics of this applicant's proposal will not be detrimental to the public interest, health, safety, or welfare of the county. Therefore, their request should be granted, subject to the following conditions:

1. 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.
2. Approval of the preliminary plat shall not be construed to mean 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 Kitsap County Code Titles 11 and 12.

3. All construction must commence within two years and be completed within five years. A one-time one-year extension is available, but only if requested on or before ninety days of the original permit expiration. No exceptions allowed unless provided for by law.
4. The minimum 50-foot shoreline buffer shall include a native vegetation enhancement plan, to be reviewed and approved by Kitsap County DCD prior to construction.
5. Hydraulic Project Approval will be required from the Washington Department of Fish and Wildlife prior to placement of stormwater facilities at or below Ordinary High Water of Dyes Inlet.
6. The proposed seven lots will each require a Building Clearance for Sewered Properties to be approved by the Health District, before Building Permit Issuance. A water main extension will be required to be installed or bonded to 150 percent of the construction costs, before approval of the Building Clearance for Sewered Properties.
7. The shoreline bulkhead construction is prohibited. Structures shall be sited such that a hard shoreline bulkhead structure is not required to protect the residences.
8. Automatic fire sprinklers are required to be installed throughout homes here and after constructed on lots. This condition is to be transferred to new tax parcel numbers, which will be created by the subdivision.
9. The information provided demonstrates this proposal is a *Major Development* as defined in Kitsap County Code Title 12, and as such will require a Site Development Activity Permit (SDAP) from Development Engineering.
10. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 or as amended at the time of SDAP application. 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 in effect at the time of SDAP application.
11. Kitsap County Code Title 12 classifies all water quality BMPs other than wet ponds/vaults, oil/water separators, and biofilters as experimental. The design engineer shall provide the required information as described in Section 6.6 of

the Kitsap County Stormwater Design Manual with the SDAP application in order to gain approval from Development Engineering to use the experimental BMP. This requirement may be waived if the Washington State Department of Ecology (Ecology) has approved the specific BMP and the BMP is being utilized in accordance with the Ecology approval parameters. The water quality BMP shall be sized to provide treatment of the post-developed peak flow rate from the 6-month, 24-hour storm event per the KCSDM Section 6.2.

12. If an HPA is required, the applicant shall submit an approved HPA from the DFW or documentation from DFW specifying that an HPA is not required.
13. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.
14. Kitsap County will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in Kitsap County's judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.
15. The impervious area per lot accounted for in the overall drainage facilities installed shall be indicated on the face of the final plat. Additional impervious surfaces created on an individual lot beyond the amount accounted for in the overall drainage facilities shall be mitigated in accordance with Kitsap County Code Title 12.
16. At Building Permit application, submit (KCPW Form 1601) for issuance of a Concurrency Certificate, as required by KCC Section 20.04.030 Transportation Concurrency.
17. The following note shall appear on the face of the final plat map. "All interior roads shall remain private as proposed by the applicant. Should the applicant or his successors or assigns choose to dedicate these roads to Kitsap County, it shall be subject to a further review by Kitsap County

Development Engineering and Public Works. For roads to be dedicated to Kitsap County, they must meet all the requirements of the Kitsap County Code as adopted at the time of dedication. All improvements necessary to bring said roads to the then current Kitsap County standards shall be done at no expense to the County prior to being accepted into the Kitsap County road system for maintenance.”

18. 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 SDAP or final plat acceptance.
19. Private driveway approaches to existing County roads shall be reviewed and approved by Development Engineering.
20. 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 and the accepted construction plans. In addition, Development Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.
21. 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 Kitsap County Code. Please denote the design vehicle on the plan set if different than the Kitsap County design vehicle. Existing approaches may need to be improved to meet current standards.
22. The approach to Chico Way NW Road shall be designed in accordance with Kitsap County Road Standards and WSDOT Design Manual Figure 920-5, with minimum return radii of 35 feet. The approach grade shall not exceed 5% from the flow line to twenty feet beyond the right-of-way line. Note the design vehicle on the final plans.
23. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of the site access and Chico Way NW. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The sight distance shall meet the requirements of the Kitsap County Road Standards. The certification shall also note necessary

measures to correct and maintain the minimum sight triangle.

24. Any work within the County right-of-way shall require a permit to perform work on County right-of-way 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.
25. Kitsap County sanitary sewer is available for the project. Applicant needs to submit a complete set of sewer plan, profiles, and specifications designed in accordance with KCPW - Wastewater Division Standards and Regulations.
26. Prior to SDAP approval, Waste Management (360) 674-3166 shall be contacted for information on implementing the solid waste/recycling storage requirements influenced by the service provider (e.g. dumpster size and location) for the project. Pay particular attention to the access requirements of collection trucks. Provide documentation from the solid waste/recycling service provider that their requirements for this project have been met.
27. The SDAP submittal shall show that at least 150 square feet of exterior recyclable materials storage space for the project. Describe collection containers and show their locations, method for securing the enclosure gates in an open position and pad dimensions on the civil plans submitted for approval. Details of the enclosure, including interior dimensions, building materials and lighting must be included with the civil plans prior to final approval. These details may be architectural drawings attached to the civil plans.
28. A 6 foot tall, 3-rail, 8-foot section, solid cedar fence shall be constructed along the east and west property lines.
29. An association of owners shall be formed and continued for the purpose of maintaining the separate tracts for buffers, and integrity of the shoreline setbacks, stormwater system and roads and common areas, requirements and or restrictions on occupancy and activities. The association shall be created as an association of owners under the laws of the state of Washington and shall adopt articles of incorporation of association and bylaws. The association shall adopt, in a form acceptable to the prosecuting attorney, covenants and restrictions on the buffer, and open space providing for the continuing care of the area. No area of the buffers, or open space may be altered or put to a change in use in a way inconsistent with the final development plan unless the final development plan is first amended. No change of use or alteration shall be considered as a waiver of any covenants limiting the use of the common open space, and all rights to enhance these covenants against any use permitted are expressly reserved. Review and approval by DCD staff will be needed prior to SDAP approval.

30. A land use permit binder on a form provided by the department with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit.
31. Pursuant to KCC 21.04, land use approval is valid for a period of up to three (3) years from the decision date.
32. Land use approval is limited to the uses proposed by the applicant on the recommended site plan and the SEPA Environmental Checklist dated March 29, 2007. Any modifications or expansion of the project will be subject to further review pursuant to the requirements of the appropriate sections of the Kitsap County Code. A landscape plan for the common area will be provided to the DCD planner for approval, the details shall show irrigation intent, soil amendments and planting plan and details, and a minimum of 3 inches of bark mulch over all disturbed soils of the root ball planting area. Per KCC Section 385.010 H. I. J., prior to SDAP approval.
33. All Building permits on these lots will be subject to impact fees pursuant to Kitsap County Code.
34. Attached hereto and hereby incorporated by reference is the site plan as submitted by Chico Beach Cottages (A1). The examiner has placed Xs on the site plan review, where the examiner wishes that rapidly growing trees and shrubbery should be part of the final landscape plan. The area where the recycle bins are shall be surrounded by something in the nature of arborvitae. The areas where the Xs are drawn shall have fast growing trees to provide a buffer from adjacent residential properties.

In addition to the adult trees, as marked on this plan, the applicant shall also place shrubs of the nature of an arborvitae along the residential fences on each side of this development. The intent of the examiner is to completely screen this development from adjacent single-family residences.

35. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.

36. 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 precedent 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.

DECISION:

The appeal of the MDNS is denied.

The applicant's request for a conditional use permit and a shoreline development permit for a cottage housing development providing for seven single-family residences on a 1.1 acre site, as well as a common area building, located at 7740 Chico Way NW, Bremerton, Washington should be granted, subject to conditions above.

ORDERED this 8th day of October 2008.

TERRENCE F. McCARTHY
Hearing Examiner

TRANSMITTED this _____ day of October 2008, to the following:

APPLICANT: The Cottage Company, LLC
Linda Pruitt and Jim Soules
8215 – 41st Ave. NE
Seattle, WA 98115

OTHERS:

See attached.

Kitsap County Board of Commissioners
Kitsap County Department of Community Development
Kitsap County Department of Public Works
Kitsap County Prosecutor – Civil Division
Kitsap County Department of Parks and Recreation
Bremerton-Kitsap County Health Department
The Sun Newspaper

Pursuant to Kitsap County Code Section 21.04.120 and the Land Use Hearing Examiner Rules of Procedure, an OBJECTION to the Examiner's Decision may be filed, in this matter, in writing, with the Clerk of the Board of County Commissioners, on or before _____, 2008. Prior to the filing of an Objection, the objector shall pay the sum of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) to the Department of Community Development.