



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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LARRY KEETON,

Revised
**STAFF REPORT
and
INFORMATION FOR THE HEARING EXAMINER**

Report Date: January 3, 2011 **Application Submittal Date:** August 18, 2010
Hearing Date: January 13, 2011 **Application Complete Date:** August 24, 2010

**Project: Kurpgeweit 9-lot Short Plat Subdivision, Shoreline Conditional Use
Permit and Critical Area Variance**

This staff report was prepared by Steve Heacock, Environmental Planner and was 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.

Type of Application: Shoreline Conditional Use Permit (SCUP), Short Plat Subdivision Development, and Critical Area Variance (CVAR).

Project Summary:

The proposed project is to subdivide a 5.85 acre shoreline-adjacent parcel into 9 platted lots for future home sites. A 2.34 acre dedicated Open Space tract will be created adjacent to the Carpenter creek estuarine wetland on the west portion of the site. The existing farm and homestead will remain in a 0.96 acre parcel near the west end, or waterward side, of the rectangle shaped property and is approximately 60 feet at its closest point from the ordinary high water mark (OHWM) of the Carpenter Creek estuary. The platted lots will be located on 2.55 acres, landward of the shoreline and Open Space tract, on the east portion of the site.

Under the Kitsap County Shoreline Master Program (SMP), subdivisions proposed within shorelines with a Conservancy environment designation require a Shoreline Conditional Use Permit (SCUP).

The proposed project requires a Critical Area variance (CVAR) in order to reduce the buffer from a Category 1 wetland from 250 feet (200 ft base buffer plus 50 feet for high intensity land use) to 150 feet, for a total reduction of 100 feet (a 40% reduction). A wetland mitigation plan and associated habitat management plan have been submitted in support of the variance, in order to demonstrate no net loss of critical area functions and values.

The applicant has a permit application with Kitsap County (Permit 10-93028) for a preliminary short subdivision to subdivide the 5.85 acre parcel into 9 lots, Lot A through I, including a Private Road Tract of 24,000 square feet. A 2.34 acre Open Space tract includes the restoration of 1.24 acres of pasture land into native plant buffers adjacent to the undisturbed salt marsh estuarine habitat to the west. The existing residence and its appurtenant structures will be located on a 0.96 acre parcel as Lot I. The proposed additional 8 parcels would be located in Lot A through H on the east portion of 2.55 acres, as far from the critical area as possible (See attached site plan).

The applicant has proposed collection and conveyance of storm water from the new development into a bioswale facility with direct discharge to the estuary. Access for the development will be from NE West Kingston Road via a Private Road Tract.

Application Number: 10-93030 SSDP and CVAR and 10-93028 Preliminary Plat

Project Location:

10310 NE West Kingston Rd
Kingston, North Kitsap County
Commissioner's District 1

Assessor's Account #:

262702-3-029-2004

Applicant/Owner of Record:

Owen Kurpgeweit
10310 NE West Kingston Rd
Kingston, Washington 98346

Project Representative:

Mark Kuhlman, Team 4 Engineering

State Environmental Policy Act (SEPA) Status:

The State Environmental Policy Act (SEPA), found in Chapter 43.21C Revised Code of Washington (RCW), 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 (Exhibit 5) 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 be a Determination of Nonsignificance (DNS), a Mitigated DNS (MDNS) requiring special conditions, or a Determination of Significance (DS) requiring 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 Washington Administrative Code (WAC) 197-11-355, the optional DNS process was used for this project. The SEPA comment period previously occurred concurrent with the Notice of Application dated September 27, 2010 (Exhibit 14). A MDNS was issued November 4, 2010 (Exhibit 21). SEPA noted the parcel is currently developed with an existing single family residence and homestead area adjacent to the shoreline. The new short subdivision development would be located on the easterly portion of the site. The westerly 50 feet of the newly proposed plat falls within the outer edge of the 200 foot shoreline jurisdiction. SEPA mitigation conditions have been imposed and are listed under conditions at the end of this report for wetlands and wetland mitigation, Cultural Resource report requirements, and Stormwater control.

The SEPA appeal period expired on November 18, 2010. No SEPA comments were received and there were no SEPA appeals.

Physical Characteristics:

The project is located on the northeast shore of the Carpenter creek salt marsh estuary, associated with Apple Tree Cove, at 10310 NE West Kingston Road, Kingston. The parcel has a gradual slope from the east to the west, with the category 1 salt marsh wetland located on the west portion of the property. At present, the site has a single family residence, barn, pastures and horse facilities. A shed structure is located within 80 feet of the salt marsh boundary. The residence is located within 125 feet of the salt marsh.

Comprehensive Plan Designation and Zoning:

The Comprehensive Plan designation for the existing parcel is Urban Low Density Residential, and the Zoning designation is Urban Restricted.

Base/Maximum Density	1 to 5 dwelling units per acre
Minimum Lot Size	8,712 square feet
Lot Width	60 feet
Lot Depth	145 feet
Maximum Height	35 feet
Proposed Minimum	9,250 square feet
Proposed Depth	154 feet (minimum)

Setbacks

Front	20 feet
Side	5 feet
Rear	5 feet

Surrounding Land Use and Zoning:

The surrounding land use is Public Facility (Carpenter Natural Area Park), Urban Low Density, Urban Restricted, and Rural Residential.

Shoreline Environment Designation: Conservancy

Public Utilities and Services:

Water: Kitsap PUD #1

Sewer: Kitsap County- Kingston Sewage Treatment facility

Police: Kitsap County Sheriff

Policies and Regulations Most 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 May 7, 1998 (Amended December 11, 2006)

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

Land Use

Policy LU-125

Coordinate and cooperate with national, state, local tribal governments, and local historic and cultural preservation organizations.

Policy LU-129

Promote ongoing communication and coordination strategies with local tribal governments in an effort to better preserve and enhance cultural resources.

Policy LU-136

Require that all surface water and stormwater entering a project site in its predevelopment state be received at the naturally occurring or otherwise legal location. Require all surface and stormwater leaving a project site to be discharged at all times during and after development at the naturally occurring or otherwise legally existing locations so as not to be diverted onto or away from downstream properties.

Policy LU-137

Require that runoff resulting from development activity and roads be controlled so that the peak rates, durations and volumes of runoff leaving the post-developed site do not exceed the capacity of receiving drainage conveyance facilities, do not increase the potential for stream bank erosion, and do not add significant volume to an offsite closed depression. Seek to maintain the quantity of runoff, flow peaks, and flow durations at pre-development levels to reduce runoff and related flooding.

Policy LU-148

Encourage Low Impact Development (LID) practices to reduce the need for stormwater facilities and maximize groundwater resources. Monitor the effectiveness of LID techniques when they are implemented as stormwater control BMPs.

Policy LU-163

Promote construction of facilities and technologies that maximize the retention and recharge of stormwater.

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

Chapter 18.04 State Environmental Policy Act (SEPA)

Title 19 Critical Areas Ordinance

Chapter 21.04 Land Use and Development Procedures

Chapter 22.28.230 Residential Development

Relevant 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 - 24.

Public comments:

1. A telephone comment was received from Marylou Luttington at 10420 NE West Kingston Rd. She discussed that the property should remain as it is and that there should be no more growth in Kingston. She stated that traffic speeds were excessive in the area. I asked if she would put her comments in writing, and she was not interested in doing so.
2. In an e-mail dated October 7, 2010, Sandy Francis, an adjacent neighbor to the east of the project raised a concern about the trees on the site and was concerned that there were Great blue herons and osprey using the area. DCD staff visited the site with the applicant and also had consulted the Washington State Department of Fish and Wildlife (WDFW) web site regarding any known activity of Great blue herons or Osprey within the project area or vicinity. A Great blue heron colony is known to occur approximately 2,000 feet south from the project area. Osprey nesting sites were not found within the vicinity of the project. No nests or sign of any recent or past activity from any species of concern were observed during the site visit. In a later site visit with Ms. Francis, staff discovered that Ms. Francis had observed these birds flying overhead, but did not directly observe the species in the trees on the site.

3. In an email dated October 18, 2010, staff received an e-mail from Merry Crawford stating that they saw no problem with the plans, as long as the estuary would not be affected. DCD staff responded that indeed the estuary would not be impacted by the development, and that the applicant was proposing to restore over an acre of pasture land with native plantings to offset wetland impacts from past activities.
4. An e-mail from Suzanne Arness dated October 28, 2010, expressed concern that septic drainfields from the development could cause impacts to vegetation in the estuary by decreasing salinity. In response, DCD indicated that the proposal will be on public sewer, and that all stormwater will be required to treat stormwater runoff on-site to pre-colonial settlement values.

ANALYSIS:

Stormwater

The applicant proposes to accomplish onsite stormwater management by collection and conveyance of storm water from the new development to onsite bioretention rain gardens with underground drainage to the estuary. No storm water will be directly discharged into the estuary. Access for the development will be from NE West Kingston Road and the interior road will remain in a private dedicated tract. See the revised site plan [Exhibit 23].

Critical Areas Ordinance Standards (KCC Title 19) and Staff Findings

Overall, the site is constrained on the west by a Category 1 salt marsh estuarine wetland associated with the shoreline and requires a 250 foot buffer (200 foot base buffer and 50 ft additional buffer for high-intensity land use) per KCC Section 19.200.220F. The shoreline environment designation for the existing parcel is Conservancy, which under KCC Section 19.300.315 requires a 50 foot buffer and 15 foot construction setback for new construction. In order to provide flexibility within the wetland requirements at KCC Tables 19.200.220A the applicant has submitted a Critical Areas Variance request in association with the preliminary plat application.

The majority of the on-site wetland has a degraded buffer, due to the fact that material has historically been placed in the buffer area for the purposes of operating a horse riding facility. The presence of this degraded buffer presents a significant opportunity for restoration and buffer enhancement. The applicant has proposed a variance that will allow a reduced buffer width, but an increased buffer function over the existing degraded conditions.

Following the original SEPA comment period, Kitsap County staff met with the applicant to review the proposed mitigation for the plat. These measures were adopted as SEPA mitigation measures pursuant to WAC 197-11-350(3) and (5), and are included in the recommended conditions of approval at the end of this staff report.

A variance application [Exhibit 10] and a Mitigation Plan [Exhibit 4], and associated Habitat Management Plan (HMP) [Exhibit 6] have been submitted in support of the variance request. Variance criteria are listed below, followed by staff comments.

KCC 19.100.135 (Variances). A variance may be granted when it can be shown that the application meets all of the following criteria:

A. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance.

Staff Comment: The strict application of the 250 foot wetland buffer would severely limit the ability of the landowner to develop at the designated Urban Restricted density of 1-5 units per acre, as established through the Kitsap County Comprehensive Plan process, and consistent with the existing development densities to the north and east of the project site. The application materials indicate that approximately one-third of the property is defined as wetland, stream or associated buffer area, and that the proposed reduction is necessary for a viable development project consistent with the designated zoning allowance of 1-5 dwelling units per acre.

B. The special circumstances referred to in item A above are not the result of the actions of the current or previous owner.

Staff Comment: The special circumstances described under item A above are not the result of actions by the current owner. The owner purchased the parcel with the existing site conditions. The previous owner did not pursue any permit activity on the parcel, and presumably purchased it under the existing historically farmed site conditions as well.

C. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or be injurious to the property or improvements in the vicinity and area in which the property is situated, or be contrary to the goals, policies and purpose of this Ordinance.

Staff Comment: As described in the wetland analysis report [Exhibit 3] and the Mitigation Plan/ Habitat Management Plan [Exhibits 4 and 6], the existing critical area buffers are degraded due to prior grazing and site disturbance activities, and the proposal is intended to provide a net gain in critical area function. The westerly wetland area currently lacks significant native vegetation within the buffer area. The defined goal of the Mitigation Plan / HMP “...is to maintain, enhance and improve habitat conditions of the wetland and its associated buffer post-project development”, citing the

HMP definition at KCC 19.150.400. The mitigation plan proposes wetland buffer enhancements to mitigate for the loss of buffer area. The applicant's habitat consultant states that the restoration, reestablishment and enhancement of the wetland would result in "...wetland functions as good as or better than the buffer at the required 250 foot width".

The proposal to enhance the previously degraded critical areas is consistent with CAO policy goal KCC 19.100.105(B)(12), which states: "*Whenever mitigation is required, pursue as a preferred option, restoration and enhancement of previously impacted critical areas and their buffers.*"

D. The granting of the variance is the minimum necessary to accommodate the permitted use.

Staff Comment: The proposed variance would result in a moderate buffer reduction of 40 percent, and will be consistent with the 150 foot buffers proposed for the same wetland system for the recently approved plat development to the north. The applicant has stated both in site meetings and in the variance application that the amount of requested variance is necessary to maintain a viable development project at the designated residential density of 1-5 units per acre. The reduction is requested only on lots B through F, with lots G and H separated by the existing lot I located within the already impacted buffer area. Lot A is located outside of the 250 foot buffer area. Staff cannot state with certainty a specific lot density that would no longer result in a viable project for the developer. As such, staff is inclined to give some deference to the applicant on this particular issue given the applicant representative's experience with similarly sized subdivisions throughout Kitsap County.

E. No other practicable or reasonable alternative exists (See Definitions, Chapter 19.150).

Staff Comment: The proposed lot density is less than 2.5 dwelling units per acre, resulting in a project that is in the mid-range of the allowable density of 1-5 units per acre. The Critical Area Code defines a reasonable alternative as "*an activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation*" (KCC 19.150.560). As described above, the review process resulted in project modifications that continue to meet the proposal's objectives for lot size and density, but at a lower environmental cost (see revised site plan, Exhibit 23). Specifically, the project was revised to decrease the amount of buffer intrusion from stormwater conveyance facilities.

F. A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.

Staff Comment: A Mitigation Plan/HMP has been submitted [Exhibits 4 and 6]. County staff have reviewed and approved the plan, subject to a monitoring program as described below.

KCC 19.200.250(F) (Monitoring Requirements) allows staff to determine an appropriate monitoring period between 5 and 10 years in duration. Based on the condition of the existing buffer, staff concurs with the proposed 5-year buffer monitoring period as outlined in the mitigation plan, and will be made a condition of approval.

Shoreline Review

KCC 22.16.080 Conservancy Shoreline Environment Designation

Purpose. The purpose of the conservancy environment is to protect, conserve, and manage existing natural resources and valuable historic and cultural areas in order to ensure a continuous flow of recreational benefits to the public and to achieve sustained resource utilization. Another purpose is to protect fish and wildlife habitat and environmentally sensitive areas.

Staff Comment: The proposed project would be located within the conservancy shoreline environmental designation.

Designation Criteria. A conservancy environment is an area intended to protect, conserve, and maintain its existing character. Non-consumptive uses which can utilize resources on a sustained-yield basis while minimally reducing opportunities for future uses are preferred. Such areas may be identified by one or more of the following:

- (a) Areas that can be managed on a sustained-yield basis while minimally reducing opportunities for other future uses of the resources of the area.
- (b) Areas presenting severe biophysical limitations. Typical biophysical limitations include steep slopes, biological wetlands, areas prone to flooding, areas prone to landsliding, and areas with inadequate water supply or sewage disposal capabilities.
- (c) Areas which present potential for current or future community recreational needs and are located near existing or potential population centers.
- (d) Areas important to regional ecological balance, such as areas rich in quality and quantity of life forms, areas important to the maintenance of natural water quality and flow, or areas important to maintaining the food chain process such as estuaries, riparian corridors, and wetlands.

Management Policies. The following policies should be applied to any permissible uses occurring in the conservancy environment:

- (a) Uses of a non-permanent nature which do not substantially degrade the existing character of the areas should be encouraged.
- (b) Non-consumptive uses should be encouraged.
- (c) Development should be limited to those proposals which demonstrate preservation of environmentally sensitive features.

Staff comment: This section is applicable to the proposed project and further discussed in the Use Activities section below. Residential plat development is permitted in the Conservancy shoreline environment subject to a SCUP, and in accordance with

KCC 22.08.020, as follows:

Conditional use. Defined as a use, development, or substantial development which is classified as a conditional use or is not classified within the master program (WAC 173-27-160).

A request for deviating from the permitted uses in a shoreline area requires a conditional use permit. Such requests shall be evaluated using the criteria set forth in WAC 173-27-160.

The applicant must supply whatever evidence, information, or agreements that are necessary to evaluate the proposal. Shorelines conditional use permits shall be granted only after the applicant can demonstrate all of the following:

- (1) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
- (2) That the proposed use will not interfere with the normal public use of public shorelines;
- (3) That the proposed use of the site and 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 Shoreline Management Master Program;
- (4) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
- (5) That the public interest suffers no substantial detrimental effect.

All applications for shoreline conditional use permits shall be forwarded to the Department of Ecology pursuant to WAC 173-27-200, for final approval, approval with conditions, or denial. No approval or disapproval shall be considered final until it has been acted upon by the Department of Ecology.

Certain classifications of uses, as provided in this master program, require that special conditions be attached to the use to prevent undesirable effects, to assure compatibility with specific shoreline environments and to assure consistency with the act and this master program. Other uses which are not classified as conditional uses under this master program may be authorized as conditional uses provided the applicant can demonstrate that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the master program. In granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. Cumulative impacts may serve as a basis for approval, denial or conditioning project permits.

Staff Comment: Staff finds the application to be in compliance with all of the applicable SCUP requirements, subject to the recommended conditions of approval listed at the end of this report.

22.28.230 Use Activities – Residential Development

2. Policies.

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

Staff Comment: The Conservancy environment is distinguished from the urban, rural and semi rural environments by having primarily non-consumptive uses. The Carpenter Creek estuarine shoreline area is developed with other single-family residences that have modified landscapes. This proposed development would be compatible with the character of the existing shoreline environment, and demonstrates compliance with the Conservancy criteria, inclusive of the existing residence and homestead area.

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.

Staff Comment: Development will comply with the minimum 50 foot shoreline buffer as specified at KCC 19.300.315. Installation of shore protection structures is not proposed and the prohibition of these will be a recommended condition of approval.

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

Staff Comment: Residential plat development is permitted in the Conservancy shoreline environment subject to an SCUP. Staff finds the application to be in compliance with the applicable SCUP requirements, subject to conditions of approval listed at the end of this report.

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

Staff Comment: The Kitsap Public facility District #1 will provide water to this project and public sewer will be provided by Kitsap County.

The applicant has proposed collection and conveyance of storm water from the new plat development into an onsite bioretention rain garden facility. No stormwater will be directly discharged into the estuary. A Site Development Activity Permit (SDAP) for the onsite stormwater collection system will be required for development of the plat.

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

Staff Comment: As designed, the residential plat would be located approximately 150 feet from OHWM and no vegetation removal is proposed. A mitigation plan is proposed to re-vegetate approximately 1.24 acres of previously disturbed buffers with native plant species to enhance the wetland area.

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

Staff Comment: Due to the critical environmental designation of the Category 1 wetland, there is no proposal for public or joint use access for this plat. Per KCC 19.100.115, when provisions of any other chapter of the Kitsap County Code conflicts with this title, that which provides the most protection to the critical area, as determined by the department, shall apply. A public shoreline park is located within easy walking distance to the park and therefore there will be no direct shoreline access for plat residents or the public.

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

Staff Comment: The application complies with this requirement.

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

Staff comment: Single family residential use is consistent with the "Urban Low Residential" Comprehensive Plan designation for the surrounding vicinity. The zoning designation of Urban Reserve allows one to five dwelling units per acre. The proposal complies with these designations

3. Environments and Permit Requirements.

a. Accessory dwelling units, subdivisions and multi-family residential developments are permitted subject to a SCUP in the conservancy environment.

Staff Comment: The subject lot occurs within the 200 foot shoreline jurisdiction of the conservancy environment. The applicant has properly applied for an SCUP; thus meeting this requirement.

4. General Regulations.

a. Adequate distance between the ordinary high water mark and residential development shall be maintained to protect water quality, protect natural systems, and insure the integrity of the shoreline environment.

Staff Comment: The proposed 8 additional lots for the plat portion of the project will be located near the east end, or landward side, of the rectangle shaped property and 150 feet from OHWM of the Carpenter salt marsh estuary. Only a portion of the proposed plat falls within the 200 foot shoreline jurisdiction. As designed, the proposed plat would be located at an adequate distance to protect water quality, protect natural systems and insure the integrity of the shoreline environment.

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

Staff Comment: The proposed development is consistent with this regulatory requirement. Please refer to the response under Policy 2a for additional information.

c. Setback and buffer requirements for residential development shall be based on the minimum criteria set forth within the Critical Areas Ordinance (Title 19 of this code) in addition to the site specific critical areas requirements.

Staff Comment: KCC 19.300.315 requires a minimum 50 foot buffer and additional 15 foot construction setback from the ordinary high water line in the Conservancy environment. The applicant has demonstrated compliance with this requirement. As depicted in exhibit 23, the development would be approximately 150 horizontal feet from ordinary high water.

d. The placement of residential development on property shall be designed so as to make the installation of shore protection structures unnecessary.

Staff Comment: The property is presently in a natural condition and the new development will not require shore protection structures.

e. Sewage disposal and water systems shall be in compliance with state and local health regulations.

Staff Comment: The property is currently served by Kitsap County sewer and the Kitsap Public Utility District #1; thus, meets the requirements of this regulation.

f. Septic systems shall not occur within one hundred feet of a biological wetland.

Staff Comment: The property is on Kitsap County sewer; thus, a septic system is not needed for the proposed development.

g. Surface water drainage shall comply with the Kitsap County Storm Water Management Ordinance (Chapters 12.04 through 12.32 of this code).

Staff Comment: The applicant will be required to obtain an SDAP for stormwater management on site. Development Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. Development Engineering accepts the concepts contained in the preliminary submittal and requires no additional information.

The applicant will be required to submit a stormwater pollution prevention plan (SWPPP) for drainage and erosion control through the SDAP for the plat development. Silt and erosion control measures will be a condition of Kitsap County SWPPP approval, and conveyed to the applicant during the pre-construction SDAP permit meeting.

An application for a permit shall be made on forms prescribed by the shoreline administrator. The application shall be made on behalf of the property owner, lessee, contract purchaser or other person entitled to possession of the property.

Staff Comment: The applicant, who is also the property owner, has properly filed a Joint Aquatic Resource Permit Application (JARPA) for the proposed development.

Staff Evaluation of Decision Criteria:

1. The Hearing Examiner has review authority for this Shoreline Conditional Use Permit and Critical Area Variance application under KCC, Sections 17.421.020, 21.04.030 and 19.100.135 B. 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 Conditional Use Permit and Critical Area variance. 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.
3. The proposal complies with or will comply with requirements of Titles KCC 17, 19 and 22, 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.
4. The proposal will not be materially detrimental to 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 Conditional Use permit and Critical Area Variance request for the Kurpgeweit Short Plat subdivision be approved, subject to the following conditions:

Planning

1. 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 KCC. Unless in conflict with the conditions stated below 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 use of the subject property.
2. Any violation of the conditions of approval shall be grounds to initiate revocation of this Shoreline Conditional Use Permit.

Environmental

3. The applicant shall follow all conditions of the Habitat Management plan and Mitigation plan prepared by Wiltermood and Associates.
4. The applicant shall follow all recommendations from the cultural resources report prepared by Cultural Resources, Inc. The applicant is responsible for archaeological monitoring of ground disturbing construction activities, if determined necessary by the professional archaeologist.

Development Engineering Preliminary Conditions

Development Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. A site evaluation was conducted on October 7, 2010. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans stamped received August 18, 2010 to Kitsap County Development Engineering and the revised Preliminary Drainage Report and Preliminary Engineering Plans received November 19, 2010 to Kitsap County Development Engineering.

Development Engineering accepts the concepts contained in this preliminary submittal and requires the following conditions as an element of the land use approval:

GENERAL

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 short subdivision 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.

STORMWATER

3. 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.
4. 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 Preliminary Short Subdivision application was

- deemed complete (August 18, 2010). 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.
5. Any project that includes off site improvements that create additional impervious surface such as lane widening, sidewalk or shoulder installation or intersection channelization shall provide stormwater mitigation in accordance with **Kitsap County Code Title 12** effective at the time the Preliminary Short Subdivision application was deemed complete (August 18, 2010).
 6. The site plan indicates that greater than 1 acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Josh Klimek at 360-407-7451, email jokl461@ecy.wa.gov. This permit is required prior to issuance of the SDAP.
 7. During the construction of the proposed rain garden bioretention areas, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Engineering.
 8. All lots shall use individual on-site infiltration systems. Before the issuance of building permits and/or occupancy permits, the property owner shall submit to the Department of Community Development for review, a sketch showing the design and location of a stormwater infiltration facility for the distribution of surface water runoff. Maintenance of these systems will be the responsibility of the homeowner.
 9. The design of the infiltration facilities for the proposed single family residences will be according to Chapter 5, Section 5.1.1 of the Kitsap County Stormwater Design Manual.
 10. The infiltration facilities shall remain off line until the drainage areas are stabilized.
 11. 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.

12. 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.
13. The impervious area per lot accounted for in the overall drainage facilities installed shall be indicated on the face of the final short 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.

TRAFFIC AND ROADS

14. At Building Permit application, submit (KCPW Form 1601) for issuance of a Concurrency Certificate, as required by KCC Section 20.04.030 Transportation Concurrency.
15. The following note shall appear on the face of the final short plat map. "All interior roads shall remain private."
16. Sidewalk ramps shall conform to the current requirements of the Americans with Disabilities Act per WSDOT standard plans at the time of construction.
17. The property owners (within the short 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 short 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.
18. Provide surveyed cross-sections at 50-foot intervals on NE W Kingston Road along the property frontage. The cross-sections should show existing and proposed pavement, shoulders, ditches and slopes. The cross-sections should also depict centerline of pavement and right-of-way, the right-of-way lines, and easements.
19. 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.
20. Any required sidewalk shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.
21. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of the site access and NE W Kingston Road.

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.

22. 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. The need for and scope of bonding will be determined at that time.

SURVEY

23. At the time of submittal of the Final Short Subdivision, a title certificate, current to within 30 days, is required. Please note or delineate all pertinent special exception items in schedule "B" of the title certificate.
24. Easements shall be provided and delineated on the Final Short Plat, to encompass all stormwater facilities lying outside the access tract.
25. All easements within and leading to this Short Subdivision shall be labeled for purpose, lots affected by the granting, and all lands which will derive a beneficial use.
26. A Covenant, Conditions & Restrictions (CC&Rs) document shall be submitted with the Final Short Subdivision submittal materials. The CC&Rs shall address, at a minimum, ownership of and maintenance responsibilities for the access tract, the stormwater facilities and the Open Space tract.
27. The names of the roads in this short subdivision shall be approved by the County prior to final short plat approval.
28. Non-binding sewer and water availability letters shall be submitted with the final short plat submittal materials.

WASTEWATER

29. 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.
30. Applicant needs to submit an "Application to Construct Sanitary Sewer Extension" to Kitsap County Public Works Wastewater Division.

SOLID WASTE

31. 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 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.

OTHER

32. Construction of rock walls or other retaining facilities that exceed four feet in height shall require a building permit.
33. Rock and retaining walls shall meet all applicable setback requirements of KCSDM 4.7.5.
34. A Hydraulic Project Approval (HPA) may be required for the proposed outfalls. Prior to SDAP approval, the applicant shall submit an approved HPA from the Washington State Department of Fish and Wildlife (WDFW) or documentation from WDFW specifying that an HPA is not required.

Cc: Applicant, Owen Kurpgeweit
Representative: Mark Kuhlman, Team 4 Engineering
Interested Parties:
Merry and Patrick Crawford
Suzanne Arness
Sandy Francis
Kitsap County Health District, MS-30
DCD Staff Planner: Steve Heacock
DCD SEPA Environmental Official: David Greetham
Chris Waldbillig, WDFW Habitat Biologist
Allison O'Sullivan, Suquamish Tribe
DCD File (10 93030)
DCD Short Plat File (10 93028)
DCD Development Engineering
DCD Fire Marshal
Hearing Examiner
Clerk of Hearing Examiner