



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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Larry Keeton, DIRECTOR

STAFF REPORT

RECOMMENDATION TO THE HEARING EXAMINER BAHBAB AND BROWER RESIDENCES - SHORELINE SUBSTANTIAL DEVELOPMENT and SHORELINE CONDITIONAL USE PERMITS

Date: February 19, 2008

Application Date: February 23, 2007

Project: Bahbah and Brower Single Family Residences (#07 45216)

Project Description: Imah Bahbah and Allen Brower have applied for Shoreline Substantial Development (SDP) and Shoreline Conditional Use Permits (SCUP) to construct two adjacent single-family residences on adjoining 0.29 and 0.31 acre lots in the Conservancy shoreline environment. The residences would be constructed approximately 110 feet from the ordinary high water mark of Colvos Passage, approximately 30 feet from the top of the steep slope. Proposed building footprints for each residence include 2200 square feet of main floor and garage area, and 808 square feet of deck and porch area. The proposal also includes construction of a stormwater outfall at the shoreline edge.

Project Location: The subject lots are located on the Colvos Passage shoreline, adjacent to 11731 Banner Road SE and 11967 Banner Road SE, Olalla, south Kitsap County, Commissioner District 2.

Assessor's Account #s: 342302-2-019-2002 (Lot 19) and 342302-2-020-2009 (Lot 20)

Applicant and Project Representative:

Imah Bahbah
12522 28th Ave E.
Tacoma, WA 98445

Owners of Record: Imah Bahbah and Allen Brower

SEPA Status: A Determination of Nonsignificance (DNS) was issued by Kitsap County Department of Community Development on February 11, 2008. The optional DNS process was utilized pursuant to WAC 197-11-355. The appeal period ends on February 25, 2008. No SEPA comments or appeals have been received as of this writing.

Physical Characteristics:

The lots occur in a Geologically Hazardous Area per County resource maps, and are subject to the regulations found in KCC Chapter 19.400 (Critical Areas – Geologically Hazardous Areas). The proposed building sites occur on a narrow, moderately sloping bench adjacent to a 70 -100 foot high shoreline slope. Slopes across the sites are generally steep, exceeding 50% in grade on the steeper portions of the shoreline bluff. The slope continues to rise steeply off-site to the west an additional 150 feet in elevation from the proposed building sites.

The shoreline bluff area is primarily forested with maple, alder and Douglas fir, and occurs within 0.5 miles of an identified bald eagle nest area, resulting in the requirement for a WDFW approved Bald Eagle Management Plan prior to construction. A small shoreline access trail has been constructed on the slope below the building sites.

Access is via a “switchback” easement road that traverses the hillside from a larger easement road that serves the upper plateau adjacent to Banner Road. The easement road currently serves at least two other residences in the project vicinity.

The access drive and a portion of the building sites have been recently graded and the building sites have been seeded with grass. There has been recent slope stability work in the immediate vicinity of the building sites, possibly as a result of landslide activity on the ascending westerly slope area near the northerly building site.

Existing Zoning: Rural Residential (1 dwelling unit per five acres).
Minimum building setbacks (for historic lots less than one acre in size): 20 foot front yard; 5 foot side yard

Comprehensive Plan Designation: Rural Residential

Shoreline Environment Designation: Conservancy

Shoreline of Statewide Significance: As defined at KCC Section 22.24.010 (G) (1) (b), this project does not include Shorelines of Statewide Significance.

Surrounding Land Use and Zoning: The surrounding area is also designated Rural Residential. The area consists of low-density rural development, primarily located on the upper plateau west of the building sites. However, two of the shoreline lots located between the subject sites and Anderson Point County Park to the south have been developed, one of which obtained a Shoreline SDP and CUP within the past 6 years.

Analysis:

Staff has reviewed the proposal and offers the following analysis of the project. Kitsap County Code citations are followed by staff comments.

Documents Consulted in the Analysis:

Geotechnical Report with associated building permit applications (Exhibits 3, 4)
Joint Aquatic Resource Permit Applications, February 22, 2007 (Exhibits 6, 7)
Environmental (SEPA) Checklist, February 22, 2007 (Exhibit 8)
Letter from Washington Department of Fish and Wildlife, February 28, 2007 (Exhibit 14)
Memo from South Kitsap Fire and Rescue, March 29, 2007
Memo from Kitsap County Health District (April 5, 2007)
Memo from Kitsap County Development Engineering, June 18, 2007 (Exhibit 30)

Policies and Regulations Applicable to the Subject Proposal:

The proposed project has been reviewed for compliance with the following policies and regulations from Kitsap County Code (KCC).

KCC Title 12 *Stormwater Management*
KCC Title 19 *Critical Areas Ordinance*
KCC Title 21 *Land Use Procedures Ordinance*
KCC Title 22 *Shoreline Management Master Program*

KCC 22.16.060 The Conservancy environment designation

- a. *Conservancy Environment.*
 - (1) *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.*
 - (2) *Designation Criteria. A conservancy environment is an area intended to protect, conserve, and maintain its existing character. Nonconsumptive 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.

(3) *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) *Nonconsumptive uses should be encouraged.*

(c) *Development should be limited to those proposals which demonstrate preservation of environmentally sensitive features.*

Staff comment:

Single family residential development is allowed in the Conservancy environment subject to a Shoreline SDP and CUP. At the same time, a stated purpose of the Conservancy shoreline designation is "...to protect fish and wildlife habitat and environmentally sensitive areas." The subject parcels contain environmentally sensitive areas, including steep slopes, a relatively undisturbed saltwater shoreline, and bald eagle habitat. Management policy 3.c above requires that development be limited to those proposals which demonstrate preservation of such features. Staff finds the application to be in compliance with the applicable CUP requirements, as follows:

In order to address critical area protection requirements pursuant to KCC 19.300 (Fish and Wildlife Habitat Conservation Areas), the applicant will be required to maintain a non-clearing shoreline buffer in excess of 50 feet, and sign a Bald Eagle Management Plan.

Pursuant to KCC 19.400, the applicant has submitted a geotechnical report which analyzes the site geology and provides recommendations for development on and adjacent to steep slope areas (Exhibits 3, 4).

The applicant will be required to submit a Site Development Activity Permit pursuant to KCC Title 12 in order to control drainage over the steep slope area (Development Engineering memo, Exhibit 30).

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 applicants have proposed construction of two single family residences with associated garages. Consistent with the existing forested character of the Colvos Passage shoreline environment, site clearing is generally limited to the area surrounding the proposed residence. Clearing is further restricted by Bald Eagle Habitat Plan requirements for tree retention. The proposed 2200 square foot building

footprints are not out of character for residential development in this particular 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.

Staff Comment: Development will comply with the minimum 50 foot Conservancy Shoreline buffer as specified at KCC 19.300.315, and the minimum setbacks specified in the geotechnical report. Installation of shore protection structures is not proposed, or recommended in the geotechnical report.

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

Staff Comment: Please refer to staff comments under KCC 22.16.060 above (Conservancy Environment).

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

Staff Comment: The applicant has submitted several septic drainfield designs to the Kitsap Health District for sewage disposal and water supply (Exhibits 24, 28, 29, 31, 32). The applicant will also be required to obtain an SDAP for the engineered stormwater system. Stormwater will be collected and tightlined to the shoreline at the base of the bluff. The associated building permit applications (#07-45215 and #07-45216) will not be issued until applicable Health District and Kitsap County stormwater approvals are received.

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

Staff Comment: With the exception of the existing access trail and the storm drainage pipe, clearing will be prohibited on the steep slope, pursuant to KCC 19.400.415 and the applicant's geotechnical report.

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

Staff Comment: The site currently provides shoreline access via a small trail on the shoreline slope. Both applicants will be encouraged to utilize a single trail. No facilities are currently proposed on the shoreline.

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. No subdivision of land is proposed.

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

Staff comment: Single family residential use is consistent with the “Rural Residential” Comprehensive Plan designation for the surrounding vicinity.

3. Environments and Permit Requirements.

c. Single-family residential developments may be permitted subject to a SDP and CUP in the conservancy.

Staff Comment: The subject lots occur within the conservancy environment. The applicants have properly applied for an SDP and CUP.

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: Please refer to response under policy 2.a, above.

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

Staff Comment: Please refer to response under KCC 22.16.060 (Conservancy Environment), above.

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: The proposal is in compliance with this regulation. 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 proposed building sites will exceed this setback. As depicted on the site plans (Exhibit 1, and associated septic designs), the residence would be approximately 110 horizontal feet from ordinary high water. As permitted in KCC Chapter 19.400, the minimum 30 foot slope setback has been determined through a site-specific geotechnical report.

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 applicants' geotechnical report did not recommend construction of a shoreline protection structure in order to justify the recommended building setback. It is anticipated that retention of native vegetation on the steep slope slow long term shoreline erosion.

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

Staff Comment: The applicant must obtain Kitsap Health District approval for sewage disposal and water supply (Exhibit 27).

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

Staff Comment: The application complies with this regulation.

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 is currently required to obtain an SDAP for stormwaer management on site. The SDAP will be conditioned pursuant to KCC Title 12.

h. *Where applicable, the following shall be submitted with permit applications.*

(1) *All applications shall provide for a silt and erosion control plan during construction;*

(2) *When applicable, all applications shall include a plan for permanent drainage and erosion control;*

(3) *When applicable, all applications shall include a geological or geotechnical report pursuant to the Critical Areas Ordinance (Section [19.700.010](#), Special Reports).*

Staff Comment: The applicant will be required to submit a plan for drainage and erosion control through the SDAP process (Exhibit 30). Silt and erosion control measures will be a condition of Kitsap County SDAP approval, and conveyed to the applicant during the standard "pre-construction meeting" required for all SDAPs. The subject application includes a geotechnical report prepared pursuant to KCC 19.700.010 (Exhibit 2).

22.08.40 Shoreline Permit Procedure, Application Procedure for permits

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 one of the property owners, has properly filed a Joint Aquatic Resource Permit Application (JARPA) for the proposed development.

22.28.20 Conditional Use Permit

Shoreline 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;

Staff Comment: RCW 90.58.020 enunciates the State's policy "...to provide for management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses....". Shoreline management is implemented through the local master program (KCC Title 22), which was updated and adopted by the Board of County Commissioners in February 1999. Based on the preceding analysis, staff finds that the proposal is consistent with applicable policies and the Shoreline Master Program.

(2) That the proposed use will not interfere with the normal public use of public shorelines;

Staff Comment: The applicant has not proposed any activity that will interfere with normal use of public shorelines. The proposed residences would be located approximately 110 feet landward of ordinary high water.

(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;

Staff Comment: Based on the analysis above, the proposed use of the lots for single-family development is compatible with the Rural Residential zoning and Comprehensive plan designations, and the Residential Use activities allowed in the 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

Staff Comment: The proposal will result in some adverse effects to the shoreline environment via permanent removal of tree cover which aids in slope stability. However, the project will be conditioned for compliance with KCC Title 12 (Stormwater) and Title 19 (Critical Areas) in order to prevent significant adverse effects to the

shoreline environment. The applicants SDAP and the WDFW Hydraulic Project Approval process will ensure that drainage impacts are appropriately mitigated.

(5) *That the public interest suffers no substantial detrimental effect.*

Staff Comment: It is staff's opinion that the development will have no substantial detrimental effect on the public interest if compliant with the recommended conditions of approval.

Conclusion:

The proposal has been reviewed for consistency with Kitsap County Code Title 22 (The Shoreline Management Master Program), including policies and regulations relating to the Conservancy shoreline environment, single-family residential development, and the Shoreline Conditional Use Permit criteria. Staff finds the proposal to be in conformance with the referenced policies and regulations.

Recommendation:

Based upon the above findings and conclusions, it is recommended that the Bahbah and Brower shoreline substantial development and shoreline conditional use permits for lots 19 and 20 be **APPROVED** subject to the following conditions:

1. A Site Development Activity Permit (SDAP) will be required prior to construction activities. Refer to Chapter 2 of the Kitsap County Stormwater Design Manual for SDAP submittal guidelines.
2. Site development shall comply with the recommendations of the February 1, 2007 geotechnical report by GeoResources, LLC. Sufficient monitoring, testing and consultation shall be required in order to confirm that the conditions encountered are consistent with those indicated by the geotechnical explorations, to provide recommendations for design changes should the conditions revealed during the work differ from those anticipated, and to evaluate whether earthwork and foundation installation activities comply with contract plans and specifications.
3. Prior to building permit approval for each lot, an addendum to the geotechnical report shall be provided for DCD review and approval. At a minimum, the addendum shall address upslope stability, address impacts from the proposed upslope septic drainfield installation, and assess any changes in site conditions since the February 2007 report.
4. A non-clearing native vegetation buffer shall be retained within 50 feet of ordinary high water of Colvos Passage, or to the top of steep slopes as identified in the geotechnical report, whichever is greater. A shoreline access trail access is permitted in the buffer.

5. Approval is subject to obtaining Building Site Application approval for each lot from the Kitsap County Health District.
6. Site development shall comply with applicable Washington Department of Fish and Wildlife Bald Eagle Habitat Plan requirements.
7. Shoreline bulkhead construction is prohibited. Structures shall be sited such that a hard shoreline bulkhead structure is not required to protect the residences.
8. Hydraulic Project Approval shall be obtained from Washington Department of Fish and Wildlife prior to installation of the proposed stormwater outfall at the shoreline.
9. Upon final permit issuance by the Department of Ecology, 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.

cc: Hearing Examiner
Clerk of the Hearing Examiner, Karen Ashcraft
Applicants
Interested Parties
Bremerton-Kitsap County Health District, MS-30
Kitsap County Development Engineering
DCD Staff Planner, David Greetham
DCD File