



Notice of Hearing Examiner Decision

08/29/2023

To: Interested Parties and Parties of Record

RE: Project Name: Mriglot-Schebel Rezone
 Applicant: Colleen Mriglot and Christoph Andreas Schebel
 18493 Harris Ave NE
 Suquamish, WA 98392
 Application Type: Rezone
 Permit Number: 22-05581

The Kitsap County Hearing Examiner has recommended that the Kitsap County Board of County Commissioners **APPROVE** the land use application for **Permit #22-05581 Mriglot-Schebel Rezone, subject to the conditions outlined in this Notice and included Decision.**

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

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

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

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

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC: Applicant/Owner: Colleen Mriglot & Christoph Andreas Schebel,
colleenmriglot@gmail.com
Health District
Public Works
Parks
Navy
DSE / PEP
Kitsap Transit
North Kitsap Fire District
North Kitsap School District

Puget Sound Energy
Water Purveyor
Sewer Purveyor
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
WA Dept of Fish & Wildlife
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Transportation
Interested Parties: Eric Martin & Jeremy Cole, emartin3713@gmail.com,
colecsw@gmail.com

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 22-05581
)	
Colleen Mriglot and)	Mriglot-Schebel Rezone
Christoph Andreas Schebel)	
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Rezone</u>)	AND RECOMMENDATION

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the Kitsap County Board of County Commissioners **APPROVE**, with conditions, the request to rezone a 0.09-acre parcel, located at 18499 Harris Avenue NE, from the “Suquamish Village Commercial” zoning designation to the “Suquamish Village Residential” zoning designation.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on August 10, 2023. The record was left open until the end of the day on August 11, 2023, to allow for the conclusion of the SEPA appeal period for the application. No appeals were filed. On August 15, 2023, County planning staff submitted a memorandum noting this and, in addition, providing clarification concerning a proposed condition of approval. Following receipt of this memorandum, the record closed.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Darren Gurnee, County Senior Planner
Colleen Mriglot, Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated October 3, 2023
2. Project Narrative, received December 22, 2022
3. SEPA Environmental Checklist, dated October 3, 2022
4. Permit Application/Submission Form, dated November 14, 2022
5. Notice of Application, dated June 30, 2023
6. Public Comments:
 - a. Comment from Jeremy Cole and Eric Martin, dated July 9, 2023

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7. Revised Notice of Public Hearing, dated July 27, 2023, with Notice of Public Hearing, dated July 26, 2023; Notice of Cancellation of Public Hearing, dated July 7, 2023; Notice of Public Hearing, dated July 3, 2023
8. Determination of Nonsignificance, dated July 28, 2023
9. Certification of Public Notice, dated August 3, 2023
10. Staff Presentation
11. Hearing Sign-In Sheet
12. Memorandum from Darren Gurnee, dated August 15, 2023

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Colleen Mriglot and Christoph Andreas Schebel (Applicant) request approval of a site-specific rezone to change the zoning designation of a 0.09-acre property from the “Suquamish Village Commercial” (SVC) zoning designation, which allows single-family residential development with a conditional use permit, to the “Suquamish Village Residential” (SVR) designation, which allows single-family residential development outright. *Kitsap County Code (KCC) 17.410.046*. The property previously was developed with a single-family residence that burned down approximately two years ago. The Applicant has expressed a desire to merge the subject property with a parcel¹ immediately south to expand an existing residence on that property. Neither the merging of the properties nor the expansion of the single-family residence on the property to the south are specifically addressed through the subject rezone application but, instead, would be reviewed by Kitsap County (County) staff should a project-specific application later be submitted. The subject property is located at 18499 Harris Avenue NE.² *Exhibit 1, Staff Report, pages 1 through 3; Exhibit 2; Exhibit 4; Testimony of Darren Gurnee.*
2. Kitsap County (County) determined that the application was complete on December 27, 2022. On June 30, 2023, the County provided notice of the application consistent with the requirements of KCC 21.04.210 by publishing notice in the County’s publishing newspaper of record and by mailing notice to property owners within 800 feet of the site and to reviewing departments and agencies. The County’s notice materials stated that written comments on the proposal should be submitted at least seven days before the scheduled hearing. On July 27, 2023, the County published notice of the associated open record hearing in the County’s publishing newspaper of record, posted notice on-site, and

¹ The property south of the subject property is identified by Kitsap County Assessor’s Tax Account No. 4390-003-023-0007. *Exhibit 1, Staff Report, page 1.*

² The subject property is identified by Kitsap County Assessor’s Tax Account No. 4390-003-024-0105. *Exhibit 1, Staff Report, page 1.*

mailed notice to property owners within 800 feet of the site and to interested parties.³ *Exhibit 1, Staff Report, pages 1, 2, 7 and 8; Exhibits 4 through 7; Exhibit 9.*

3. The County did not receive any comments on the proposed rezone from reviewing agencies in response to its notice materials. The County did receive comments on the proposal from members of the public in response to its notice materials. Jeremy Cole and Eric Martin expressed support for the proposal, stating that residential development on the property would be consistent with the surrounding neighborhood. *Exhibit 1, Staff Report, page 8; Exhibit 6.*

State Environmental Policy Act

4. The County acted as lead agency and analyzed the environmental impacts of the project as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The County consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355. The County’s notice materials indicated that the County anticipated to issue a Determination of Nonsignificance for the proposal. The County did not receive any comments specific to SEPA review. After reviewing the Applicant’s environmental checklist and other information on file, the County determined that the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a Determination of Nonsignificance (DNS) on July 28, 2023, with an appeal deadline of August 11, 2023. Following the open record hearing on this matter that occurred on August 10, 2023, the County provided a memorandum (Exhibit 12) on August 15, 2023, confirming that the DNS was not appealed. *Exhibit 1, Staff Report, pages 2 and 3; Exhibit 3; Exhibit 5; Exhibit 8; Exhibit 12.*

Comprehensive Plan and Zoning

5. The property is designated “Type 1 Limited Area of More Intense Rural Development” by the County Comprehensive Plan. The Type 1 Limited Area of More Intense Rural Development designations allows for
limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:
Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity

³ The County initially provided notice of an open record hearing scheduled for July 18, 2023. The County later provided notice, however, that the open record hearing on July 18, 2023, had been cancelled. On July 26, 2023, the County provided notice of the rescheduled hearing for August 10, 2023. This notice incorrectly stated that the subject application was exempt from SEPA environmental review. Accordingly, the County issued a revised notice of the open record hearing on July 27, 2023, which correctly stated that the County had issued a Determination of Nonsignificance for the proposal. *Exhibit 7.*

centers, or crossroads development and in accordance with Growth Management Act Requirements.

County Comprehensive Plan, page 1-21.

The Comprehensive Plan's Type 1 Limited Area of More Intense Rural Development designation is implemented by both the SVC and SVR zoning designations. *See KCC 17.360D.010.*⁴ Accordingly, the proposed rezone of the parcels from SVC to SVR would not require a Comprehensive Plan amendment. County staff identified the following Comprehensive Plan goals and policy as relevant to the proposal:

- Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, [that] cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service. [Land Use Policy 50]
- Permit residential uses in rural areas consistent with the planned rural character of the surrounding area. [Land Use Policy 51]
- Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not draw population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designations, zoning designations, and zoning code provisions. [Land Use Policy 53]
- Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing. [Housing and Human Services Policy 5]
- Adopt regulatory changes to allow non-traditional housing types. [Housing and Human Services Policy 7]
- Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class. . [Housing and Human Services Policy 11]
- Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply. [Housing and Human Services Policy 12]
- Identify and remove impediments to creating housing for harder to house populations. [Housing and Human Services Policy 13]

⁴ KCC 17.360D.010 provides that “[i]n 2000, the Suquamish limited area of more intense rural development, or LAMIRD, was established in the Kitsap County Comprehensive Plan and includes Suquamish village commercial (SVC), Suquamish village low residential (SVLR), and Suquamish village residential (SVR). These amendments within the [Limited Area of More Intense Rural Development (LAMIRD)] designation provided an opportunity to help reconcile the county’s historical land use pattern within the parameters of the Growth Management Act (GMA). The purpose of this section is to reflect the rural character of the Suquamish areas as prescribed by the Suquamish Rural Village Subarea Plan.”

- Disperse affordable housing opportunities throughout the County.
[Housing and Human Services Policy 14]

Exhibit 1, Staff Report, pages 3, 6, and 7.

6. The property is currently zoned SVC, which may allow development of a single-family residence with a conditional use permit. *KCC 17.410.046*. The SVC zoning district, however, is “not intended to accommodate population growth and therefore do not have allowed density.” *KCC 17.420.056; KCC 17.420.060.19*. As noted above, the Applicant requests a rezone of the property from SVC to SVR, which would permit development of a single-family residence outright. *KCC 17.410.046; KCC 17.420.056*. *Exhibit 1, Staff Report, pages 1 through 5; Exhibit 2; Exhibit 4.*

Existing Site and Surrounding Property

7. County staff provided materials assessing the proposal which note that the property has been zoned SVC since adoption of the 2000 Kitsap County Comprehensive Plan and the Suquamish Village Limited Area of More Intense Rural Development (LAMIRD) but that the property was developed with a single-family residence around the time of adoption of the zoning designation. During the open record hearing associated with the application, County Senior Planner Darren Gurnee testified that the single-family residence on the subject property burned down approximately two years ago. The 0.09-acre parcel is approximately 40 feet wide and 100 feet deep. The property is relatively flat and is vegetated with grasses and shrubs. The property does not contain any critical areas. Access to the site is provided by Harris Avenue, a County-maintained right-of-way. As noted above, the Applicant plans to merge the subject property with a lot immediately to the south, which is zoned SVR, to expand their existing home onto the subject property, although any such proposal would be further evaluated by the County when a specific project application to that effect is provided. *Exhibit 1, Staff Report, pages 1, 3, and 6; Exhibit 2; Testimony of Mr. Gurnee.*
8. Properties to the north, south, and east of the subject property are zoned SVR and are developed with single-family residences. Properties to west east are zoned SVC and are developed with an auto repair shop and a warehouse. *Exhibit 1, Staff Report, pages 3, 13, and 14.*

Proposed Rezone

9. KCC 21.04.230.A provides that a zoning designation may be amended by application for a rezone, which may be proposed by a property owner or authorized agent “only where the rezone request is consistent with the Comprehensive Plan and does not require a Comprehensive Plan amendment.” KCC 21.04.230.B provides that the Hearing Examiner may recommend approval of a rezone application by the Kitsap County Board of Commissioners if the Hearing Examiner finds that the proposed rezone would be consistent with the Comprehensive Plan; would not adversely affect the surrounding community; bears a substantial relationship to the public health, safety, or welfare of the

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community; and responds to a substantial change in conditions applicable to the subject area, better implements applicable Comprehensive Plan policies, or corrects an obvious mapping error.

The Applicant provided a project narrative addressing the requirements for approval of a rezone, which notes:

- The proposed rezone to SVR would maintain the welfare of the community because the property has been used as a residence in the neighborhood for many decades. The property would continue to be used for residential purposes, which adds affordable housing to the community. Affordable housing is consistent with the public health, safety, and welfare of the community.
- The proposed rezone would not adversely affect the surrounding community because it would be consistent with the residential uses in the surrounding. The prior use of this property was residential under a conditional use permit. With rezoning, the property would be consistent with the surrounding community.
- The proposed rezone matches the surrounding properties, which are residential in nature. The property has been developed with a residence for many years. There does not appear to be any commercial use of the property in recent decades. A rental home existed on the lot, which burned down a year ago. Now the lot is empty. There is no parking or other business infrastructure to support a commercial use of this property. Residential use in the Suquamish Village is consistent with the Comprehensive Plan for the Suquamish Community. All of the other parcels in the Harris Ave/Angeline neighborhood located within SVR are residential in nature. Changing the zone to SVR would be consistent with the surrounding neighborhood, while establishing a commercial use would be inconsistent with the neighborhood. The property does not have frontage on the main road but is located across the street from a park and within a neighborhood.

Exhibit 1, Staff Report, pages 8 and 9; Exhibit 4.

10. County staff analyzed the proposal and determined that, with conditions, it would meet the specific criteria for a rezone under KCC 21.04.230.B, noting:
 - The general vision within the Suquamish Sub Area plan is for commercial activity on the main thoroughfare, not on Harris Avenue.
 - The proposal would increase compatibility with the surrounding residential land uses by removing the equivalent of a commercial spot zone in a residentially zoned area.
 - The existing SVC zoning designation incentivizes commercial development in a residential neighborhood with inadequate infrastructure. Incremental commercial development is not likely to occur in this neighborhood such that public or private investment can develop the infrastructure necessary to maintain public health, safety, or welfare. Changing the zoning designation to a residentially prominent zone reduces the potential of commercial development on this parcel.

Exhibit 1, Staff Report, pages 8 and 9.

Testimony

11. County Senior Planner Darren Gurnee testified generally about the proposal and how it would be consistent with the Comprehensive Plan and meet the requirements for a rezone. He explained that, although the property is currently zoned for commercial development, the property was developed with a single-family residence since at least 2000, until it burned down approximately two years ago. He stated that the property would not be appropriate for commercial development due to the property's location on a narrow road, the size of the property, and the lack of sufficient infrastructure to support a commercial use on the property. Mr. Gurnee explained that the general vision of the Suquamish subarea plan is for commercial activity to be located on the main thoroughfare one street to the west of the subject property, rather than on Harris Avenue, where the subject property is located.

Mr. Gurnee stated that the appeal period for SEPA concluded the next day and that no SEPA appeals had been submitted up to that point. Mr. Gurnee clarified that the parcel would meet the minimum lot width, length, and size requirements so that contiguous ownership of the subject parcel and the parcel to the south would not require consolidation and that any proposal involving lot consolidation or any type of project-specific development (i.e., any proposal beyond the actual site-specific rezone itself) would be independently reviewed by the County in the future. *Testimony of Mr. Gurnee.*

12. Applicant Colleen Mriglot testified that, if not necessary, the Applicant would refrain from merging the subject property and the property to the south as part of the current rezone application. *Testimony of Ms. Mriglot.*
13. The Hearing Examiner left the record open for the conclusion of the SEPA appeal on August 11, 2023. *Oral Ruling of the Hearing Examiner.*

Staff Recommendation

14. County staff recommends approval of the rezone request, with a condition. *Exhibit 11, Staff Report, page 10.*

CONCLUSIONS

Jurisdiction

The Kitsap County Hearing Examiner is authorized to hear and make recommendations to the Board of County Commissioners for approval of a rezone. *KCC 2.10.070; KCC 21.04.100; KCC 21.04.230.*

Criteria for Review

An application for a rezone may be recommended for approval by the Hearing Examiner, and

may be approved by the Board of County Commissioners, if all the following criteria are met:

1. The proposed rezone is consistent with the purpose and intent of the Comprehensive Plan, respective community or sub-area plan or other applicable regulations;
2. The proposed rezone will not adversely affect the surrounding community;
3. The rezone bears a substantial relationship to the public health, safety, or welfare of the community; and
4. The proposed rezone:
 - a. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
 - b. Better implements applicable Comprehensive Plan policies than the current map designation; or
 - c. Corrects an obvious mapping error.

KCC 21.04.230.B

The criteria for review adopted by the Kitsap County Board of Commissioners are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusion Based on Findings

With conditions, the proposed rezone would meet the criteria for a rezone under KCC 21.04.230.B. The County provided reasonable notice and opportunity to comment on the proposal. The County received comments on the proposed rezone from two members of the public, who voiced support for the request and noted that residential development on the property would be consistent with surrounding development. The County issued a DNS for the proposal, which was not appealed.

The Comprehensive Plan designates the subject site as “Type 1 Limited Area of More Intense Rural Development” in the Suquamish area. This Comprehensive Plan designation is implemented by both the SVC and SVR zoning designations, and, therefore, the proposed rezone would not require any amendment to the Comprehensive Plan. The proposed rezone would be consistent with several Comprehensive Plan goals and policies that seek to permit residential uses in rural areas consistent with the planned rural character of the surrounding area; limit development outside of the Type III LAMIRD only to that which serves rural residential or resource needs and does not draw population from Urban Growth Areas; identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply; and disperse affordable housing opportunities throughout the County.

The proposed rezone would not adversely affect the surrounding community. The proposed rezone would be consistent with historical use of the property and would be served by existing

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infrastructure. The property was previously developed with a single-family residence before it burned down approximately two years ago. County staff determined that the general vision within the Suquamish Sub Area plan is for commercial activity to be located on the main thoroughfare west of the subject property, not on Harris Avenue where the property is located. County staff have also determined that the subject property would not be suitable for commercial development because of its location on a narrow street and the limited infrastructure supporting the property. The Hearing Examiner concurs with this assessment. The proposed rezone would be consistent with surrounding development. Properties to the north, south, and east of the subject property are zoned SVR and developed with single-family residences. Conditions, as detailed below, are necessary to ensure that the proposal complies with the requirements for a rezone. *Findings 1 – 14.*

RECOMMENDATION

Based upon the preceding findings and conclusions, the Hearing Examiner recommends that the Kitsap County Board of County Commissioners **APPROVE** the request to rezone a 0.09-acre parcel, located at 18499 Harris Avenue NE, from the “Suquamish Village Commercial” zoning designation to the “Suquamish Village Residential” zoning designation, subject to following conditions:

1. Any future development proposal that requires setback reductions (particularly in relation to the south parcel line), or that would require a single-lot determination and merging of the subject property (No. 4390-003-024-0105) and the property immediately to the south (No. 4390-003-023-0007), will require additional review and approval by County staff and may require recorded notice to title of a single-lot determination or merging of the properties, along with other approval conditions.
2. The approval of the rezone application does not vest the property to current development regulations. Future land use applications will vest to applicable development regulations at the time the County issues a Notice of Complete Application for any such proposals.

RECOMMENDED this 29th day of August 2023.



ANDREW M. REEVES
Hearing Examiner
Kitsap County