



## **KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT**

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Larry Keeton, Director

# **STAFF REPORT**

## **RECOMMENDATION TO THE HEARING EXAMINER**

**Date:** September 18, 2008

**Application Date:** August 17, 2007

### **Project: Shen Short Subdivision/ Performance Based Development**

**Type of Application:** Conditional Use Permit      **Project #:** 07 47866

#### **Project Description:**

The request is to subdivide a 20 acre parcel zoned Rural Residential (1 dwelling unit per 5 acres) into four 2.5 acre parcels to be reviewed as a Performance Based Development (PBD). The proposal creates a separate 10-acre tract for critical areas to be dedicated as open space, pursuant to the requirements in KCC Chapter 17.425.Performance Based Development.

**Project Location:** The property is located adjacent to Madrona Road SW, one half mile north of the Pine Road intersection in South Kitsap County.

**Assessor's Account #:** 022201-3-005-2006

#### **Applicant and Owner:**

John Shen, Dorothy Pao  
2035 Lacamas Drive  
Camas, WA 98607

#### **Engineer and Representative:**

Frederick A. Kegel, PE, PLS  
835 Kegel Lane SE  
Port Orchard, WA 98367

#### **State Environmental Policy Act (SEPA) Status:**

Pursuant to WAC 197-11-340, the Responsible Official signed a Determination of Nonsignificance on September 8, 2008 with the following information.

Comments: The SEPA comment period previously occurred concurrent with the Notice of Application dated January 28, 2008. The proposed open space tract contains Little Bear Creek, a fish-bearing stream, and associated wetlands. A wetland delineation report and mitigation plan has been completed for the proposed access road.

**Physical Characteristics:**

The subject property is 20 acres in size, rectangle shaped, and zoned Rural Residential (1-dwelling unit per 5 acres). The topography is gently rolling, and the parcel includes Bear Creek (Category F stream) and an unmanned tributary both of which are tributary to Burley Creek.

The delineated wetlands are located on the west half of the property abutting Madrona Road SW and the east side was used for a pasture and an old farmstead. Four (4) Category III wetlands (2.87 acres) and one (1) Category IV wetland (0.32 of an acre) are identified. The east side of Bear Creek the parcel was previously contained a single-family residence and a garage, which was later abandoned. The project includes driveway access Madrona Road SW access that crosses Bear Creek, which will provide access to the four lots. There is strip of land which is undeveloped County right-of-way abutting the east side of the parcel.

**Comprehensive Plan Designation and Existing Zoning:**

The development site has a comprehensive plan designation and zoning classification of Rural Residential (one dwelling unit per 5 -acres).

Minimum Lot Area = 5-acres  
Minimum Lot Width = 140-feet  
Minimum Lot Depth = 140-feet

Maximum Density = N/A

Minimum Setbacks = 50-feet front yard  
= 20-feet side yard  
= 20-feet rear yard

**Surrounding Land Use and Zoning:**

The surrounding parcels are zoned Rural Residential. The abutting parcels to the north and east appear to be undeveloped and range approximately 10 to 20 acres in size. Properties to the west and south of the site are approximately 5 acres in size and include single-family homes.

**Public Utilities and Services:**

Water: Well on individual lots  
Power: Puget Sound Energy  
Sewer: On-site Sewage Disposal  
Police: Kitsap County Sheriff  
Fire: South Kitsap Fire and Rescue  
Schools: South Kitsap School District #402

**Transportation Review:**

The properties will receive access via private driveway on Madrona Road SW, which is classified as a north and south county local access road. The applicant proposes to construct a road and a rail car bridge over Bear Creek to access the four lots. The addition of four new homes is not expected to impact the local road network. Development Engineering has reviewed the project proposal and has issued conditions of preliminary approval consistent with KCC Title 11, Road Standards, dated May 14, 2008 [Exhibit- 47].

**Stormwater Facilities:**

Stormwater will be mitigated by collection and conveyance to 4 detention ponds located on the northern side of the access road. Water quality will be provided in accordance with the Kitsap County Code Title 12. Development Engineering has reviewed the project proposal and has issued conditions of preliminary approval consistent with Kitsap County Code (KCC) Title 12, Storm Drainage, dated May 14, 2008 [Exhibit-47].

**Off-Street Parking:**

For new single-family homes two off-street parking spaces are required, pursuant to KCC 17.435.030 Off-street Parking and Loading. Due to parcel size of 2.5 acres, the individual lots should comply with this standard and provide overflow parking.

**Policies and Regulations Applicable to the Subject Proposal:**

*Road Standards, Title 11*

*Stormwater Drainage, Title 12*

*Zoning, Title 17, (February 15, 1999/ as amended)*

- Chapter 110 Definitions
- Chapter 310 Rural Residential Zone
- Chapter 382 Density, Dimensions and Design
- Chapter 385 Landscaping
- Chapter 400 Land Use Review
- Chapter 425 Performance Based Development
- Chapter 435 Off-Street Parking and Loading
- Chapter 520 Appeals
- Chapter 525 Revocations of Permits or Variances

KCC, State Environmental Policy Act, Chapter 18.04

*Kitsap County Critical Areas Ordinance, Title 19, (Adopted May 7, 1998 and as amended December 2005)*

*Kitsap County Land Use and Development Procedures Title 21, (May 18, 1998 and as amended)*

*Kitsap County Comprehensive Plan (May 7, 1998 and as amended)*

The following provisions are Goals of the Comprehensive Plan addressing the utility element:

Policy RL-1 Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.

Policy RL-3 Permit residential uses in rural area consistent with the existing and planned rural character of the surrounding area.

### **Public Comments:**

The County, pursuant to KCC Title 21, Land Use, and Development Procedures, gave proper public notice. The Department received telephone calls from neighbors with concerns about the intensity of the development and questions on how rural character will be maintained and screened.

### **Analysis:**

The applicant's proposal is reviewed for consistency with the zoning requirements in KCC, Title 17, and development regulations pursuant to KCC Sections 16.04 General Provisions, 16.08 Definitions, and 16.48 Short Subdivisions. The applicant has submitted a revised preliminary short plat drawing, consistent with the short subdivision regulations, dated April 3, 2008 [Exhibit- 51].

### Performance Based Development

The purpose the Performance Based Development is to allow flexibility in design and creative site planning to allow for lot clustering in order to preserve open space, encourage the creation of suitable buffers. The request is to cluster four 2.5 acre parcels on the east side of the subject property and create a separate 10-acre undisturbed forested tract for critical areas to be dedicated as open space, pursuant to the requirements in KCC Chapter 17.425. Performance Based Development.

PBD Findings: The following findings are listed in Section 17.425.050 of the KCC and must be met for the Hearing Examiner to approve the PBD. Staff comments are in italics:

- A. The Shen Short Subdivision/PBD site is adequate in size and shape to accommodate said use and all applicable regulations, including prescribed development/performance standards required by this title.

*Staff has reviewed the proposed PBD and found the site plan to be adequate in addressing above elements such as buffers, and open space. The site plan includes buffers for the delineated wetlands and Bear Creek and provides 50 percent of required open space. Consistent with the requirements for open space, the buffers will be in common ownership and maintained by the property owners.*

- B. The design of the proposed PBD would be harmonious and compatible with existing and future developments within the land use designation and general area.

*The clustering of the homes along the east side of the property should be generally compatible with the rural areas in South Kitsap. However, the department has received comments from a neighboring property owner with concerns how the project will change the character of the area.*

*There are provisions for rural lots for perimeter buffers in KCC Chapters 16.48 and 16.52. To maintain rural character with the adjacent property, a 25-foot rural character buffer may help consisting of existing natural vegetation along the south property line. Staff supports approval of the project based on the compatibility with the neighborhood and recommends a buffer to maintain rural character if agreed upon by the applicant.*

- C. Subdivision is physically suitable for the type and density of the use being proposed including road width and road surface to carry the quantity and kind of traffic being generated.

*The short plat/PBD avoids and minimizes impacts to the Bear Creek, the forested wetlands and associated buffers. The Deputy Fire Marshal supports preliminary approval for project access and subject to conditions consistent with Kitsap County Fire Code. Staff believes that the road network in the area can support the additional vehicle trips.*

- D. The proposed and/or existing public facilities and utilities are adequate to serve the short subdivision.

*Appropriate provisions have been made for public welfare, safety, and general welfare for open spaces, drainage ways, roads and other public right-of-way, potable water supply, on-site sewage disposal and all other relevant facts.*

- E. The location, size, design, and proposed development will not be detrimental to the public health, safety, or welfare of persons residing or working in a neighborhood of such use and will not be detrimental to the public welfare.

*Staff has reviewed the proposed Short Subdivision/PBD against the requirements of KCC Section 17.425.040. The applicant has submitted a preliminary plat drawing, which meets the subdivision regulations, revised site plan received on August February 4, 2006 [Exhibit- 51].*

County Health District: A letter dated July 31, 2008 recommends approval with conditions.

County Development Engineering: A memorandum dated May 14, 2008 recommends approval, subject to conditions.

County Fire Prevention Bureau: A memorandum dated January 29, 2008 recommends approval, subject to conditions.

Public Input: Barbara Bellany, 13450 Madrona Road SW, Port Orchard, WA 98367, John Stacy, 13875 Madrona Road SW, Port Orchard, WA 98367.

**Findings:**

Staff has reviewed the Shen Short Subdivision/PBD application against the requirements in KCC 17.425 and satisfies the criteria set forth in KCC Section 17.421.030(A) Findings on each criteria are hereby made as follows:

1. As found above the proposal is consistent with the Rural Residential designation of the comprehensive plan.
2. The proposal complies with applicable requirements of Title 17 KCC, assuming compliance with conditions of approval.
3. The short subdivision will not be materially detrimentally impact uses or property in the immediate vicinity which includes other significant commercial uses.
4. The proposal is compatible with and incorporated 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 above findings, it is recommended that the short subdivision request for Shen Short Subdivision/PBD be **approved**, subject to the following conditions:

1. Site Plan/Civil Construction Plan Review.
2. All Building permits on these lots will be subject to impact fees pursuant to Kitsap County Code.
3. A 25-foot natural vegetative buffer shall be retained along the southeast property line if agreed upon by the applicant.
4. Land use approval is limited to the uses proposed by the City of Port Orchard on the recommended site plan and the SEPA Environmental Checklist dated August 16, 2007. Any modifications or expansion of the project will be subject to further environmental review pursuant to the requirements of the appropriate sections of the KCC.
5. The following SEPA mitigation measures are required as specified in the MDNS,

dated March 7, 2008:

- a. A final mitigation planting plan shall be required with the Site Development Activity Permit (SDAP) for road construction. Planting timing will be conditioned concurrent with SDAP review.
  - b. Hydraulic Project Approval shall be obtained from the Washington Department of Fish and Wildlife prior to road construction.
6. The project will be conditioned pursuant to KCC Title 12 (Stormwater), KCC Chapter 19.200 (Wetlands), and KCC Chapter 19.300 (Fish and Wildlife Habitat Conservation Areas). Pursuant to 21.04 KCC, land use approval is valid for a period of up to three (3) years from the decision date.
  7. The applicant shall adhere to all applicable requirements of the Kitsap County Health District.

The applicant shall adhere to all applicable requirements of the Kitsap County Fire Marshal's Office for fire, life, and safety, including the following:

8. Width of access road appears adequate per submitted plan. Access roads that include bridges shall be designed and maintained to support a 60,000 pound apparatus and be provided with an all weather driving surface. Written verification from a registered professional engineer shall be sent to the Kitsap County Fire Marshal's office stating that the access road meets these imposed weight requirements. Submitted plan shows a hammerhead of 80' in length. The hammerhead must be a minimum of 90 feet in length. Further information is needed on the grade of the access road. Grades 12% or greater must be co-approved by the local fire district and the Kitsap County Fire Marshal.
9. Engineered calculation to verify the water system design will meet the required fire flow is required to be submitted to the Fire Marshal's office prior to any permits being approved.
10. Automatic fire sprinkler protection may be required if grade of road exceeds 12%.
11. Development Engineering accepts the concepts contained in this preliminary submittal and requires the following conditions as an element of the land use approval:

**GENERAL**

12. 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.

13. Approval of the preliminary plat shall not be construed to mean approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be revised for the final design to meet all requirements of Kitsap County Code Titles 11 and 12.

STORMWATER

14. This project is located within a Critical Drainage area as defined in Title 12.28.020 of the Kitsap County Code. Therefore, Development Engineering will require a Site Development Activity Permit (SDAP) prior to construction activities. SDAPs shall be prepared by a Civil Engineer licensed in the State of Washington. The guidelines for submitting a SDAP can be found in Chapter 2 of the Kitsap County Stormwater Design Manual.
15. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with **Kitsap County Code Title 12** or as amended at the time of SDAP application. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.
16. The water quality BMP shall be sized to provide treatment of the post-developed peak flow rate from the 6-month, 24-hour storm event per the KCSDM Section 6.2.
17. 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.
18. 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.
19. The total amount of new impervious area created with the construction of the road and other associated improvements shall be indicated on the face of the Performance Base Development Subdivision. The remaining impervious area available to each lot shall be indicated on the face of the Performance Base Development Subdivision. The available impervious area for each lot shall be determined by subtracting the total impervious area created by the impervious surfaces from the total impervious area allowed for the project. Please indicate the remaining allowable

impervious area to each lot. Information shall be provided in a table as shown here. At time of Building Permit, if a lot exceeds the amount of impervious area listed below, then an Engineered Site Development Activity Permit will be required for that lot.

Total Site Area	20 Acres (outside census urbanized area)
Allowable Impervious Area	43560 sq ft
Impervious area for new access road	
Remaining Allowed Impervious Area	
Available Impervious Area Lot 1	
Available Impervious Area Lot 2	
Available Impervious Area Lot 3	
Available Impervious Area Lot 4	

20. At the time of Building Permit Application and/or any additional road construction or site work, the property owner shall comply with Kitsap County Code Title 12-Storm Water Drainage or as amended. Fees and submittal requirements shall be in accordance with Kitsap County codes in effect at the time of Building Permit Application.

**TRAFFIC AND ROADS**

21. At Building Permit application, submit KCPW Form 1601 for issuance of a Concurrency Certificate, as required by KCC Section 20.04.030 Transportation Concurrency.

22. The following note shall appear on the face of the final plat map. “All interior roads shall remain private as proposed by the applicant. Should the applicant or his successors or assigns choose to dedicate these roads to Kitsap County, it shall be subject to a further review by Kitsap County Development Engineering and Public Works. For roads to be dedicated to Kitsap County, they must meet all the requirements of the Kitsap County Code as adopted at the time of dedication. All improvements necessary to bring said roads to the then current Kitsap County standards shall be done at no expense to the County prior to being accepted into the Kitsap County road system for maintenance.”

23. The hammerhead shall be designed to accommodate a WB-40 design vehicle. The wheel path of the design vehicle shall remain within the paved area for all required movements.

24. All lots shall access from interior roads only. This note shall appear on the face of the final plat map.

25. The property owners (within the plat) shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall

include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the final plat map and the accepted construction plans. In addition, Development Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.

26. Submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Please denote the design vehicle on the plan set if different than the Kitsap County design vehicle. Existing approaches may need to be improved to meet current standards.
27. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of the site access and Madrona Road SW. 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.
28. Any work within the County right-of-way shall require a permit to perform work on County right-of-way and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process (or building permit if no SDAP is required). The need for and scope of bonding will be determined at that time.

**SURVEY**

29. 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.
30. Per Ordinance 345-2005, Short Subdivisions are required to have an Owners' Declaration on the face of the Short Plat map. Provide the Declaration statement, along with space for the signatures of all owners and a Notary Public acknowledgment.
31. Lots within a Short Subdivision shall be labeled with an alpha designation, rather than numerical.

**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 bridge construction. Prior to issuance of the SDAP, 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: John Shen, Dorothy Pao, 2035 Lacamas Drive, Camas, WA 98607  
Frederick A. Kegel, PE, PLS, 835 Kegel Lane SE, Port Orchard, WA 98367  
Interested Parties: **None**  
Kitsap County Health District, MS-30  
Kitsap County Parks & Recreation Dept., MS-6  
Kitsap County Development Engineering / Public Works  
DCD Staff Planner Jeff Smith  
DCD Code Enforcement  
Hearing Examiner  
Clerk of Hearing Examiner  
DCD File  
DCD Building Permit File