



## Administrative Staff Report

**Report Date:** May 2, 2023

**Application Submittal Date:** September 28, 2022

**Application Complete Date:** January 19, 2022

**Project Name:** Stepper - Critical Area Buffer Reduction (CABR)

**Type of Application:** CABR Type II

**Permit Number:** 22-04798

### Project Location

12673 Eastbrook Drive SW  
Port Orchard, WA 98367  
Commissioner District 2

### Assessor's Account #

332301-4-018-2001

### Applicant/Owner of Record

Jessica Stepper  
1037 Olney Ave. E.  
Port Orchard, WA 98367

### Decision Summary

Approved subject to conditions listed under section 13 of this report.

### VICINITY MAP



### 1. Background

Jessica Stepper (hereafter, “the Applicant”) proposes to reduce a Type F (fish bearing) stream buffer by up to 50% to allow for the construction of one single-family home on the existing lot that is constrained by critical areas. For the proposed single-family dwellings, the department may reduce a buffer by up to 50% percent of the area required under the standard buffer requirement under a Type II process.

An associated Building Permit (22-01381) is in review pending this approval.

### 2. Project Request

The applicant requests approval for a Type II Critical Area Buffer Reduction (CABR) for a stream setback to construct a new 2,452 square foot single-family residence (SFR). Minter Creek is a Type F (fish bearing) stream requiring a 150’ buffer. The property is encumbered by the stream buffers and wetlands on the eastern portion of the property. The project seeks to reduce the stream buffer up to 50 percent (75 feet) to accommodate the proposed

development and is the minimum necessary to allow onsite development. Included in the application is Critical Areas Report and Habitat Management Plan.

**3. SEPA (State Environmental Policy Act)**

The project is SEPA Exempt under KCC 18.04 State Environmental Policy Act.

**4. Physical Characteristics**

This property is undeveloped and composed of mixed coniferous and deciduous forest. A permanently flowing Type F stream, Minter Creek, runs from northeast to southwest through the western third of the property and a large Category IV slope wetland is present east of Minter Creek. Minter Creek exits at the southwest property corner and flows underneath a concrete bridge, which is a part of Eastbrook Drive. The entire property is forested, and the channel of Minter Creek is well shaded by Western red cedar, red alder, salmonberry, sword fern, red huckleberry, and beaked hazelnut. Logs and woody debris are also present along the channel, providing resting and hiding places for fish and other wildlife. The forest on this property has minimal invasive vegetation. The wetland east of the stream also appeared to be well forested with little invasive cover. The proposed home location at the northwest corner of the property is within a less mature area of forest dominated by small diameter red alder trees, some shrubs, and herbaceous cover. The areas with larger trees are within the inner stream buffer and will not be affected by the proposal.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Residential (RR) Zone: RR	Standard	Proposed
Minimum Density	NA	NA
Maximum Density	NA	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140'	NA
Minimum Lot Depth	140'	NA
Maximum Height	35 feet	17 feet <35 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

\*Standards for lot size apply to newly created lots. The subject property is an already existing property.

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (West)	50 feet from edge of access/utility easement	86 feet
Side (North)	20-feet	20-feet

Side (South)	20-feet	270-feet
Rear (East)	150-foot stream buffer and 15-foot building setback  20-foot zoning setback	75-foot stream buffer and 15-foot building setback  494-foot zoning setback

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Single-family residence (SFR)	Rural Residential (RR)
South	SFR	RR
East	Undeveloped	RR
West	Undeveloped	RR

**Table 4 - Public Utilities and Services**

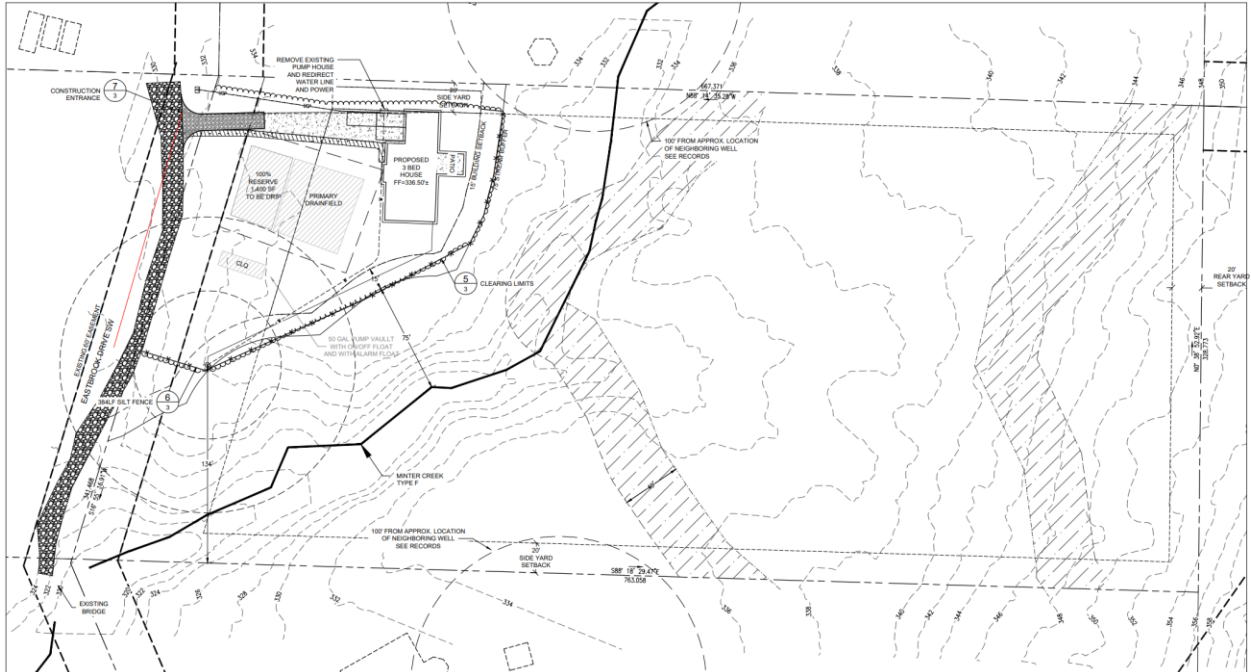
	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #400

**5. Access**

The SFR will access from Eastbrook Dr. S.W. by a private driveway. Eastbrook Dr. S.W. is classified as a county maintained, local access road.

**6. Site Design**

The image below shows the proposed footprint of the home, the existing driveway, associated parking, onsite septic (OSS), including drainfields and drinking well. The site plan also shows the location of the onsite wetland, stream and those buffers.



## 7. Policies and Regulations 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 June 30, 2016, and amended April 27, 2020.

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

### Land Use Policy 50

Limit the designed 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.

### Land Use Policy 51

Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.

Land Use Policy 53

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 designation, zoning designation, and zoning code provisions.

Environment Policy 18. Compensatory mitigation shall be the last option of resort in mitigation sequencing, following documentation of avoidance and minimization of any impact to the natural environment that triggers compensatory mitigation. Replacement of altered or displaced natural environments (including critical areas and buffers) must be mitigated either onsite, within the watershed, or service area as defined through an approved mitigation bank or in-lieu fee program.

The County’s development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Title 19	Critical Areas
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

**8. Documents Consulted in the Analysis**

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
CABR Application	November 4, 2022
SWPPP	December 15, 2022
Critical Areas Report/Habitat Management Plan	September 28, 2022
Project Narrative	September 28, 2022
Customer Response Letter	December 15, 2022
Site Plan w/Planting Retention & Restoration	September 28, 2022
Final Health District Approval	December 15, 2022
SFR Construction Plans	December 15, 2022

**9. Public Outreach and Comments**

The Notice of Application was mailed to adjacent property owners within 800 lineal feet on February 6, 2023. No public comments have been received by the drafting of this staff report.

**10. Analysis**

**a. Planning/Zoning**

The proposal meets all zoning standards of the Rural Residential (RR) Zoning designation, Kitsap County Code Title 17.

**b. Lighting**

Lighting was not analyzed as part of this proposal.

**c. Off-Street Parking**

Per KCC 17.490.030, a single-family dwelling requires 3 parking spaces. The proposal provides adequate parking.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	For lots with no standing requirement, 3 per unit. Garages not calculated towards parking requirement.	3	3
Total			3

**d. Signage**

No signage was proposed in the application.

**e. Landscaping**

Per KCC 17.500.010, single-family lots are exempt from landscaping requirements. A site plan, dated September 28, 2022, was submitted to show vegetation retention and planting restoration. Approximately 89 native species are proposed to mitigate impacts to the stream.

**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site		
Required Buffer(s) 17.500.025		
North	NA	NA

South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

**f. Frontage Improvements**

No frontage improvements are required or proposed as part of this application.

**g. Design Districts/Requirements**

The subject property is not within a design district.

**h. Development Engineering/Stormwater**

Development Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans accepted for review 01/18/2023 to Kitsap County Development Engineering.

Development Engineering accepts the concepts contained in this preliminary submittal and requires 8 conditions.

**i. Environmental**

**Wetlands and Streams:**

A Critical Areas Report & Habitat Management Plan was provided by Ecological Land Services, September 28, 2022, that identified the following critical areas on site:

CRITICAL AREA	CATEGORY	REQUIRED BUFFER	PROPOSED IMPACT
Wetland A	IV	40 feet	<ul style="list-style-type: none"> <li>• A 40-foot buffer will be maintained; therefore, no new impacts are proposed.</li> </ul>
F-type stream	Fish bearing	150 feet	<ul style="list-style-type: none"> <li>• Reduced stream buffer by up to 50% to 75 feet, plus an additional 15' structure.</li> <li>• The proposed SFR, a portion of the septic system and the well house encroaches as minimally as possible into the 150-foot buffer, with the septic components further landward of the SFR.</li> </ul>

**Critical Area Variance Criteria**

Per KCC 19.200.220.B.2 and KCC 19.300.315.A.3, the department may administratively reduce the buffer pursuant to the variance criteria listed in KCC section 19.100.135. Evaluation of these variance criteria is included below:

1. 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.

Applicant Comment: This property is within Rural Residential zoning, which is zoned for residential development. The size, shape, and topography of this property, combined with the position of the stream and front and side yard setbacks, deny the subject property of rights and privileges enjoyed by other properties in the vicinity. For example, the home on the property to the north of the subject property appears to be approximately 60-70 feet from the OHWM of Minter Creek. The development to the south is also around 70-80 feet from the OHWM of Minter Creek. This proposal places the home 90 feet away from the stream, at the closest point.

Staff Comment: The proposed home is similar to the size and location of neighboring homes. Lots in this area are heavily constrained by wetlands, Minter Creek and their buffers, providing limited area to locate a home. The characteristics of this property require a buffer reduction to accommodate a home similar in size to neighboring properties.

2. The special circumstances referred to in subsection (A)(1) of this section are not the result of the actions of the current or previous owner.

Applicant Comment: The circumstances of this property are not a result of the current or previous owner.

Staff Comment: The site conditions were not created by the applicant or previous owner. The environmental constraints requiring a buffer reduction were not the result of the applicant's actions.

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



Applicant Comment: The project proposes a modest single-family home, much like the adjacent properties, and will not detrimentally affect the stream, public welfare, or be injurious to the property or improvements in the vicinity. The project adheres to the goals, policies and purposes of the Kasey Rauch – Eastbrook Drive Property Ecological Land Services, Inc. Critical Areas Report and Habitat Management Plan dated March 18, 2021. The project is conditioned to follow the recommendations and mitigation proposed in the report.

Staff Comment: Staff finds no evidence that granting of the variance will result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity.

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

Applicant Comment: The project has been designed to avoid, minimize, and rectify impacts to the stream buffer to the extent possible by placing impacts as far from the stream as is possible while also considering other constraints such as topography, property shape, and side and front yard setbacks.

Staff Comment: The rural residential zoning requires a minimum 50-foot front setback which is being met. Given site constraints, there is no better alternative placement of the home that would result in a lesser buffer reduction. The design places the septic system as far from the stream buffer as is possible, only a small portion intrudes into the 150-foot buffer, and instead places “cleaner” impacts such as the home, patio, and water lines closer to the stream. The project avoids direct impacts to the stream and does not propose any development on the east side of the property, where all the native vegetation will also be retained outside of the stream and wetland buffers. The proposal minimizes impacts by placing the home in an area that consists of less mature forest dominated by small diameter red alder trees.

The home will require a 50% reduction to the stream buffer width and a 15-foot building setback totaling more than 90 feet from the edge of the buffer. A critical area report and habitat management and mitigation report (CAR HMP) was prepared that includes native vegetation retention, 89 native new plantings as well as installation of four bird nesting boxes to create more habitat features for wildlife.

5. No other practicable or reasonable alternative exists. (See Definitions,

Chapter 19.150.)

Applicant Comment: There is no alternative to this site design that could place impacts on another area of the property outside of wetland or stream buffers. The only buildable area is on the northwest corner of the property due to the location of the streams, wetlands, and their buffers which occupy approximately 4.5 acres of this 5.4-acre property (excluding other setbacks).

Staff Comment: The site is constrained with critical areas and those buffers. There is only one feasible area to build the single-family home. The applicant has addressed avoidance and minimization in the proper sequencing. All other locations for the septic drain field have been examined by both a licensed septic designer and also an inspector from Kitsap County Health.

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

Applicant Comment: The HMP addresses impacts to the stream buffer and fulfills this requirement to ensure there are no detrimental impacts to the stream or its buffer because of the project. A small restoration is proposed where temporary impacts occurred to install the well and nesting boxes are proposed to enhance habitat in the reduced buffer. The following sections in this report serve to fulfill the requirements of the HMP as outlined in KCC 19.700.720.

Staff Comment: The submitted CAR and HMP characterizes the stream buffer functions as well as upland areas outside of the buffer. The report states that avoidance is not possible and discusses minimization and mitigation.

**j. Access, Traffic and Roads**

The proposed driveway will extend from the northwest property corner via Eastbrook Dr. N.W. Conditions of approval are included at the end of this report.

**k. Fire Safety**

No comments at this time.

**l. Solid Waste**

No comments at this time.

**m. Water/Sewer**

Potable water is proposed to be provided by an on-site well; sanitary sewage disposal is proposed to be provided by an existing on-site septic system. Prior to site development

activity the applicant must provide approval for water and sewer from Kitsap County Health Department.

**n. Kitsap Public Health District**

No comments at this time.

**11. Review Authority**

The Director has review authority for this Administrative Conditional Use Permit application under KCC, Sections 17.540.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Director. The Director may approve, approve with conditions, or deny an Administrative Conditional Use Permit.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan and the zoning standards for the Rural Residential (RR) zone in Title 17.
2. The proposal meets the criteria for a critical area variance in KCC 19.100.135, as analyzed in section 10.i of this report. immediate vicinity.

**13. Decision**

Based upon the analysis above and the decision criteria found in KCC 17.540.040.A, the Department of Community Development recommends that the CABR Type II request for Stepper be **approved**, subject to the following 20 conditions:

**a. Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
3. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #22-01381. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
4. This Critical Area Buffer Reduction/Variance approval shall automatically become void if no building permit application is accepted as complete by the Department

of Community Development within four years of the Notice of Decision date or the resolution of any appeals.

**b. Development Engineering**

5. 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.
6. 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 SDAP (or Building Permit if no SDAP required) application is deemed fully complete. 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 Code in effect at the time of SDAP application, or Building Permit if an SDAP is not required.
7. The design of the infiltration facilities shall be accordance with Vol. II, Chapter 5 of the Kitsap County Stormwater Design Manual.
8. The infiltration facilities shall remain offline until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities. In addition, retention ponds shall not be utilized as temporary erosion and sedimentation control ponds.
9. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection(s) to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report(s), properly stamped and sealed to Development Services and Engineering.
10. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.

**c. Environmental**

11. Construction techniques shall implement best management practices to ensure protection of the stream and wetland, associated buffers, and local water quality. Such best management practices shall include protective silt fencing would define work areas, protective orange construction fencing along defined work areas, work during periods of limited rainfall or potential for adverse erosion, and seeding of exposed soils as needed to prevent adverse erosion.
12. Prior to occupancy, the common boundary between the stream and wetland buffer and the adjacent land shall be permanently identified with critical area buffer signs. Critical Area Ordinance (CAO) signs shall be placed along the designated boundary spaced approximately 50-feet apart, visual from sign to sign. Signs must be attached to existing trees with diameter breast height greater than

- 4 inches. Alternative methods include 4x4 posts, metal posts or split rail fencing. We recommend the placement of stream buffer signs.
13. Equipment shall be staged in the previously cleared area at the west of the site. Avoid staging further within the critical area buffer.
  14. Permit application approval is subject to chapter 19.200.215 and 19.300.315 of the Kitsap County Code, which states that buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.
  15. Clearing and tree removal within the established stream buffers shall be the minimum necessary to support the proposed improvements. Clearing limits must be clearly shown on the site plan with the associated building permit and clearing outside of the approved limits will require prior County approval.
  16. Due to area constraints from on-site streams and wetlands and their associated buffers, averaging was applied. The total area contained within the buffer after averaging shall be no less than that contained within the standard buffer prior to averaging. The decrease in buffer widths is the minimum size required for the regulated activity and is no less than 50% of the required width. The minimum applied width is 75 feet as shown on the approved site. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the wetland buffer.
  17. The project shall adhere to the mitigation measures and recommendations within the approved CAR and HMP prepared by Ecological Land Services dated March 18, 2021. Per the report, 89 native trees and shrubs would be planted within the restored buffer.
  18. Vegetation planting shall occur as specified in the approved restoration planting plan produced in support of this permit. Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant must contact Development Service and Engineering Staff at (360)337-5777 for a site inspection and as-built approval. Monitoring and maintenance of the planted area shall be conducted for the five years after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division by December 31 of each monitoring year. If more than 15 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival.

**d. Traffic and Roads**

19. At building permit application, submit Kitsap County Public Works Form 1601 for issuance of a concurrency certificate, as required by Kitsap County Code 20.04.030, Transportation Concurrency.

20. Any work within the County right-of-way shall require a Public Works permit 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 process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

**e. Fire Safety**

None at this time

**f. Solid Waste**

None at this time

**g. Kitsap Public Health District**

None at this time

**Report prepared by:**



Jenny Kreifels, Staff Planner / Project Lead

April 26, 2023

Date

**Report approved by:**



Katharine Shaffer, Department Supervisor

April 28, 2023

Date

**Attachments:**

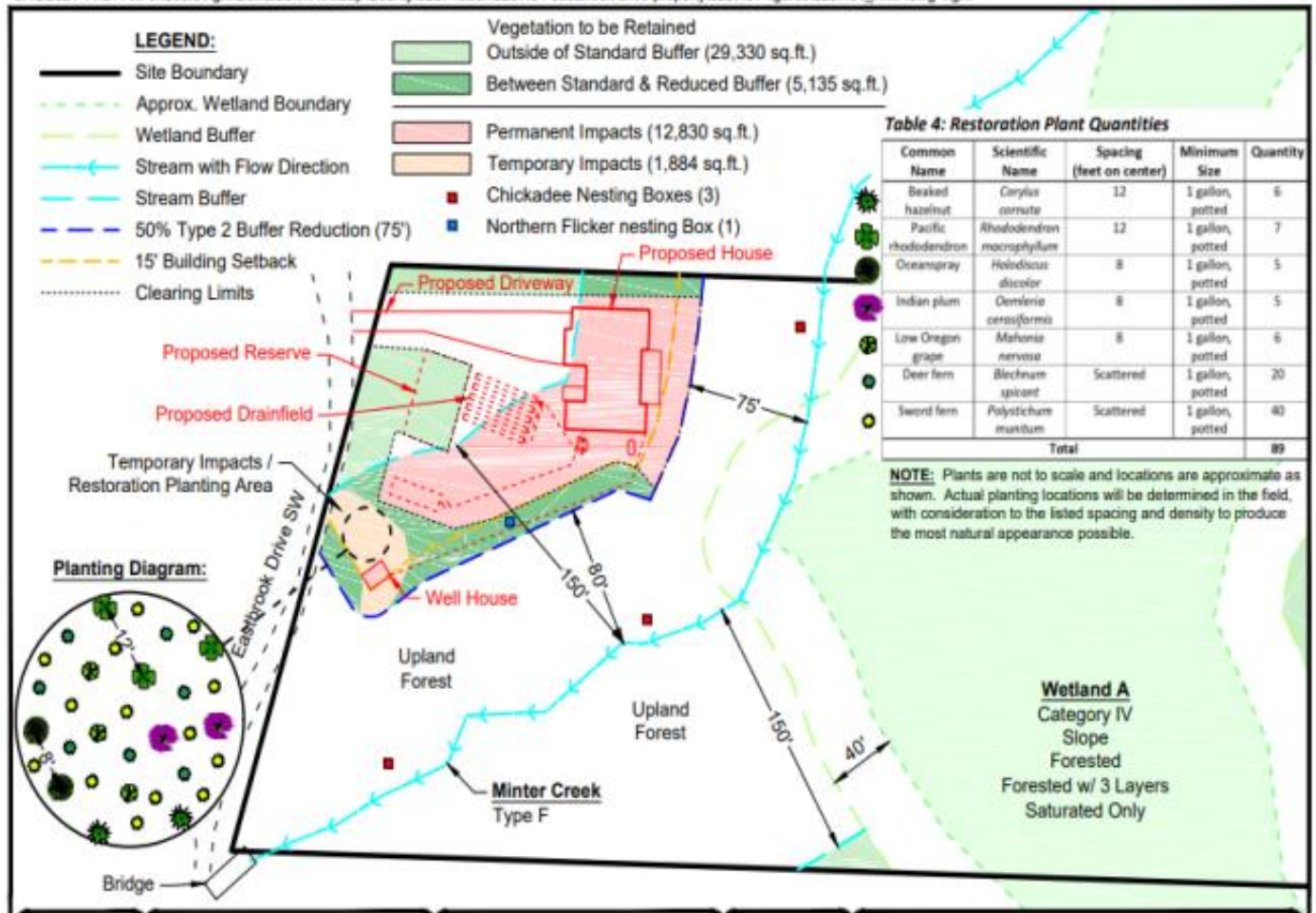
Attachment A – Site Plan

Attachment B – Critical Areas Map

Attachment C – Zoning Map

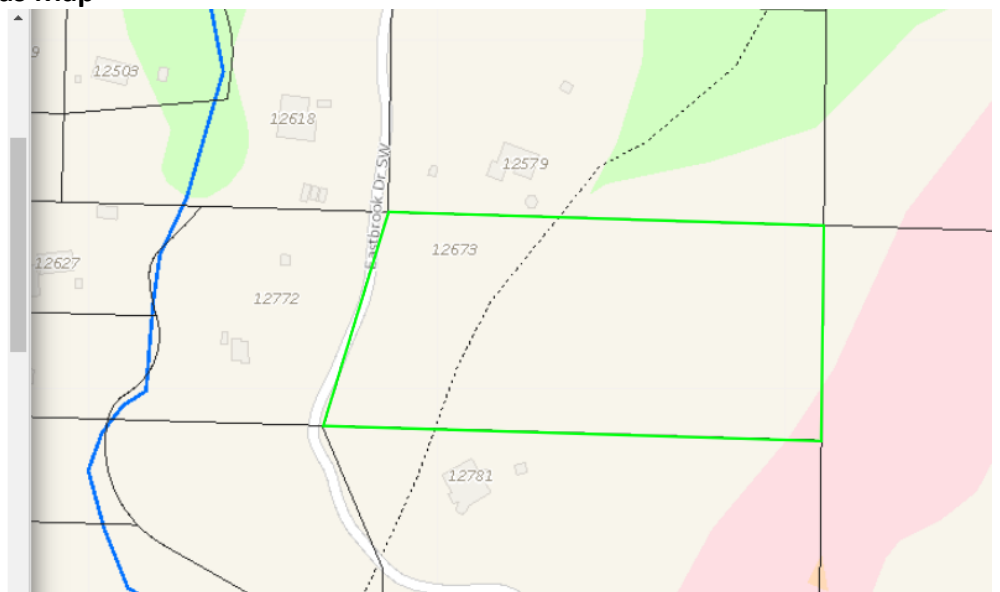
CC: Jessica Stepper, owner, [jstepper23@gmail.com](mailto:jstepper23@gmail.com)  
Eco-Land/Joanne Bartlett, Biologist, [joanne@eco-land.com](mailto:joanne@eco-land.com)  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Jenny Kreifels

**Site Plan**

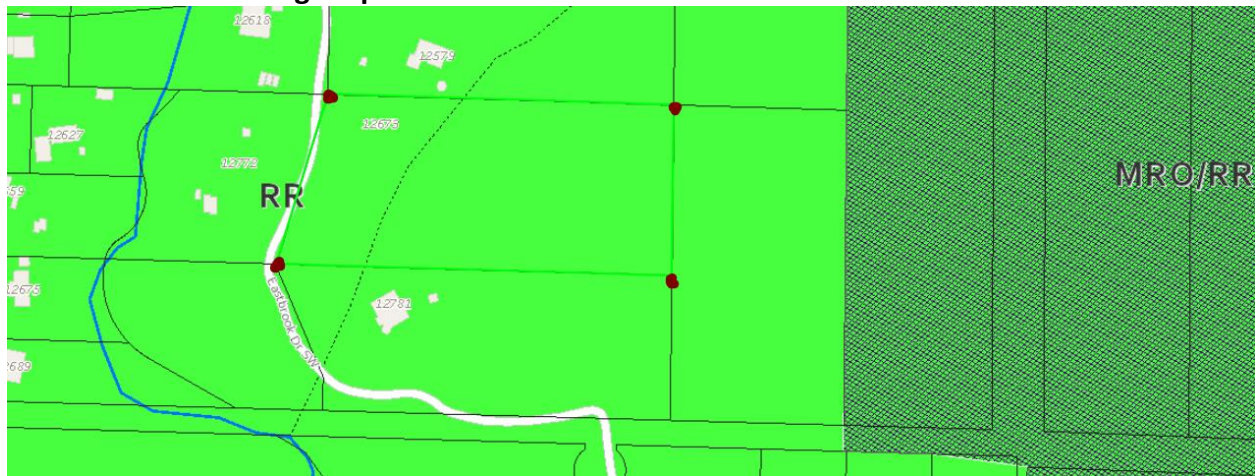


**Attachment B – Critical Areas Map**

- Critical Areas**
- Waterbodies**
    - Includes DNR NWI and Surveyed Wetlands
  - Wetlands**
    - DNR NWI Surveyed Wetlands
  - FEMA Flood Hazard Areas**
    - 100 Year Floodplain
    - Storm Induced Velocity Wave Hazard
  - Hydric Soils**
    - Potential Wetlands
  - Geologic Critical Areas**
    - Seismic High Hazard Area
      - High
    - Landslide Hazard areas
      - High
      - Moderate
    - Erosion Hazard Area
      - High
      - Moderate



**Attachment C – Zoning Map**



Rural residential (RR) zoning. Red circles are marking the four corners of the subject site.