



Hearing Examiner Staff Report and Recommendation

Report Date: November 10, 2022
Hearing Date: November 17, 2022

Application Submittal Date: June 09, 2022
Application Complete Date: July 15, 2022

Project Name: Brandes – Construct a 569-square-foot Accessory Dwelling Unit

Type of Application: Conditional Use Permit
Permit Number: 22-02874

Project Location
2676 NW Birkenfeld Way
Poulsbo, WA
Commissioner District 1

Assessor's Account #
212601-1-060-2005

Applicant/Owner of Record
Karin & Stacy Brandes
2676 NW Birkenfeld Way
Poulsbo, WA

VICINITY MAP



Recommendation Summary

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

1. Background

Karin and Stacy Brandes (hereafter, “the Applicant”) propose to construct a 569-square-foot Accessory Dwelling Unit (ADU). Per Kitsap County Code (KCC) section 17.410.060.B.3.b, an ADU proposed outside of an Urban Growth Area (UGA) boundary requires a Conditional Use Permit (CUP). The project site is located outside of an UGA; therefore, CUP approval is required.

The site is developed with a 2,102-square-foot home with a 705-square foot attached garage, a 952-square-foot detached garage with 760-square feet of recreation space above, paved driveway, and septic system. The recreation space above the detached garage does not have a kitchen or bathroom and is not considered an accessory dwelling unit or accessory living quarters.

2. Project Request

The Applicant requests approval of a CUP to construct a 569-square-foot ADU. The ADU will use an existing driveway on the parcel and access from the west of the parcel which connects to NW

Birkenfeld Way. The ADU will have similar materials as the primary dwelling. The existing onsite septic system will serve the ADU and primary unit. A new Kitsap Public Utility District and new Puget Sound Energy meter will provide water and power to the new accessory dwelling unit. The ADU meets all applicable provisions applying to special uses per KCC section 17.410.060 as well as criteria for CUP approval per KCC section 17.550.030.A. This project is vested to code in effect at time of Notice of Complete Application, August 24, 2022.

3. SEPA (State Environmental Policy Act)

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project the SEPA Comment period previously occurred concurrent with the Notice of Application dated August 24, 2022 (Exhibit 11). A Determination of Nonsignificance (DNS) was issued on October 06, 2022 (Exhibit 14).

The SEPA appeal period expired October 20, 2022. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

According to the Kitsap County Assessor, the subject site is 5.33 acres. The west portion of the site is developed with the existing primary dwelling, attached garage, and driveway. The parcel is an odd flag shaped parcel, mostly wooded, bordered on the west by NW Birkenfeld Way, and to the east is Highway 3. The northwestern portion contains the existing primary drain field and existing reserve drain field. The east and south properties bordering the site are developed single-family residential parcels. The parcel to the north is designated as a Kitsap County Park. The east portion of the site has a fish bearing stream, moderate seismic hazards, high erosion hazards, and high to moderate landslide hazards. The east portion of the property also contains a 100-foot electrical transmission easement. The parcel is zoned Rural Residential and meets the minimum lots size requirements.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	1 dwelling unit/5.53 acres, existing
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	5.53 acres, existing
Maximum Lot Size	N/A	5.53 acres, existing
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	1 floor, <35 feet
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (South)	50 feet	65 feet
Side (West)	20 feet	331 feet
Side (East)	20 feet	1,160 feet
Rear (North)	20 feet	102 feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Undeveloped Land	Kitsap County Park (P)
South	Single-family residence	Rural Residential (RR)
East	Single-family residence	RR
West	Single-family residence	RR

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Septic
Police	Kitsap County Sheriff
Fire	Kitsap County Fire District No. 18
School	North Kitsap School District #400

5. Access

The subject site gains access via the existing driveway off NW Birkenfeld Way.

6. Site Design

The ADU will be located approximately 130 feet south of the primary residence.

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 (amended in 2018 and 2020).

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

Land Use Goals and Policies

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.

Housing, Human Services Goals and Policies

Housing, Human Services Policy 5

Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing.

Housing, Human Services Policy 7

Adopt regulatory changes to allow non-traditional housing types.

Housing, Human Services Policy 11

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, Human Services Policy 12

Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply.

Housing, Human Services Policy 13

Identify and remove impediments to creating housing for harder to house populations.

Housing, Human Services Policy 14

Disperse affordable housing opportunities throughout the County.

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
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

A complete index of exhibits is located in the project file. To date, the index to the record consists of nineteen exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
1	STAFF REPORT	11/10/2022	
2	Submission Form	10/12/2022	07/15/2022
3	SEPA Checklist	5/22/2022	07/15/2022
4	ADU Construction Plans	May 2022	07/15/2022
5	SFR Floor Plan	07/16/2013	07/15/2022
6	Building Site Application	05/09/2022	07/15/2022
7	Water Availability Letter	4/26/2022	07/15/2022

8	Stormwater Worksheet		07/15/2022
9	Structural Analysis & Calculations	05/06/2022	07/15/2022
10	SFR Photos		07/15/2022
11	Notice of Application	08/24/2022	
12	Site Plan (Rev 04)		10/06/2022
13	Project Narrative		10/06/2022
14	SEPA Determination	10/06/2022	
15	Stormwater Conditions Memo	10/31/2022	
16	Notice of Public Hearing	11/02/2022	
17	Certification of Public Notice	11/04/2022	
18	Staff Presentation		
19	Hearing Sign In		

9. Public Outreach and Comments

A Notice of Application was distributed pursuant to KCC Title 21 Land Use and Development Procedures, which provided recipients with project information and an opportunity for public comment. No comments were received by the department.

10. Analysis

a. Planning/Zoning

Per KCC section 17.410.060.B.3, to encourage the provision of affordable and independent housing for a variety of households, an ADU may be located in residential zones, subject to the following criteria (*italicized*). Staff comments are provided below:

- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary;

Staff Comment: The subject property is not located within the UGA.

- b. An ADU shall be subject to a CUP in those areas outside an urban growth boundary;

Staff Comment: The subject property is located outside of an UGA. This application is a CUP for an ADU.

- c. Only one ADU shall be allowed per lot;

Staff Comment: This application proposes only one ADU. There are no other ADUs present or proposed.

- d. Owner of the property must reside in either the primary residence or the ADU.

Staff Comment: The owner currently resides in the existing single-family residence.

- e. The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by exterior measurements.

Staff Comment: The proposed ADU is 569 square feet. The existing residence is 2,102 square feet. Fifty percent of the primary residence is 1,051 square feet. The ADU is limited to 900 square feet (the smaller value).

- f. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (i.e., garage).

Staff Comment: The proposed single-family residence and the proposed ADU are approximately 130 feet apart, satisfying this requirement.

- g. The ADU shall be designed to maintain the appearance of the primary residence.

Staff Comment: The single-family residence and the ADU are similar in appearance. The structure and siding match the aesthetic of the existing house.

- h. All setback requirements for the zone in which the ADU is located shall apply;

Staff Comment: The proposal meets all required setback for the Rural Residential (RR) zone.

- i. The ADU shall meet the applicable health district standards for water and sewage disposal;

Staff Comment: The Kitsap County Health District reviewed and approved the ADU.

- j. No mobile homes or recreational vehicles shall be allowed as an ADU;

Staff Comment: There are no mobile homes or recreational vehicles present on the subject property or proposed in this application.

- k. An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking; and

Staff Comment: The submitted site plan shows the proposed ADU will use the existing driveway utilized by the single-family residence. This additional parking required for the ADU will be located south of the primary residence.

- I. An ADU is not permitted on the same lot where an accessory living quarter exists.

Staff Comment: There are no present nor proposed accessory living quarters.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

The proposal includes on additional parking space for the ADU.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	1 additional space for accessory dwelling units.	1	2 SFR—existing 1 ADU—proposed
Total	1	1	3

d. Signage

No signage is proposed or required.

e. Landscaping

Per KCC 17.500.010, single-family lots are exempt from landscaping requirements.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	N/A	N/A
Required Buffer(s) 17.500.025		
North	N/A	N/A
South	N/A	N/A
East	N/A	N/A
West	N/A	N/A
Street Trees	N/A	N/A

f. Frontage Improvements

Not applicable; there are no frontage improvement requirements for an ADU.

However, there are access requirements that limit access to one road approach off a County road. This is addressed under the access heading.

g. Design Districts/Requirements

Not applicable; the subject property is not located within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering reviewed the land use proposal and finds the concept supportable in its approach to civil site development. Development Services and Engineering accepts the concepts contained in this preliminary submittal, with conditions (Section 13 of this report).

i. Environmental

The request is for approval of a CUP to build a 569-square-foot ADU. The parcel has many critical areas covering the east portion of the property. The proposed ADU will be located over 388 feet away from the nearest critical area.

j. Access, Traffic and Roads

Development Services and Engineering reviewed the proposal for compliance with traffic and road standards and recommended approval, with conditions (Section 13 of this report).

k. Fire Safety

The Kitsap County Fire Marshall's Office reviewed and approved the proposal.

l. Solid Waste

The proposed ADU will use the same solid waste services as the existing single-family residence.

m. Water/Sewer

The application included an approved Building Site Application that shows approval for water and sewer from Kitsap County's Health Department. Potable water will be provided by municipal water; sanitary sewage disposal is proposed to be provided by an on-site septic system.

n. Kitsap Public Health District

Kitsap County Health District as reviewed and approved the proposal with no conditions.

11. Review Authority

The Hearing Examiner has review authority for this CUP application under KCC 17.550.020 and 21.04.100. The Hearing Examiner may approve, approve with conditions, or deny a CUP. The Hearing Examiner may also continue the hearing to allow for additional

information necessary to make the proper decision. The powers of the Hearing Examiner are in KCC 2.10.

12. Findings

1. The proposal is consistent with the Comprehensive Plan.

Staff comment: The proposal supports the intent to increase affordable housing options in Kitsap County while limiting the density in the rural areas to ensure the preservation of those areas.

2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply with all of the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.

Staff comment: This proposal meets all the required regulations applicable per KCC.

3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.

Staff comment: The proposal is consistent with the existing residential use of the property and the surrounding properties.

4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

Staff comment: The design, size, and placement of the proposed ADU effectively utilizes the existing features of the property while complementing the surrounding neighborhood characteristics.

13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 17.550.030.A, the Department of Community Development recommends that the request be **approved**, subject to the following conditions:

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The ADU is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection.

- No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the ADU building, regardless of whether a building permit is required, shall be reviewed by the DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
 4. Only one ADU shall be permitted on the subject property.
 5. The owner of the property must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time.
 6. The ADU's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 569 square feet (Exhibit 4). Any future expansion of the ADU will require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.
 7. The ADU shall be located within 150 feet of the primary residence.
 8. The ADU shall be designed to maintain the appearance of the primary residence.
 9. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
 10. No mobile home or recreational vehicle shall be allowed as an ADU.
 11. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
 12. An Accessory Living Quarters (ALQ) or Guest House (GH) is not permitted on the same lot unless the ADU is removed and the ALQ or GH complies with all requirements imposed by the KCC.
 13. A property with a primary residence and an ADU cannot be segregated to create two separate legal lots unless it complies with all subdivision, zoning and density requirements in place at the time of a complete subdivision application.
 14. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
 15. The recipient of any CUP shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of, and agreement to, abide by the terms and conditions of the CUP and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the DCD at the applicant's expense.
 16. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be

construed as approval for more extensive or other utilization of the subject property.

17. 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.
18. The decision set forth herein is based upon representations made and exhibits contained in the project application. 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.
19. This CUP approval shall automatically become void if no development permit application is accepted as complete by the DCD within four years of the Notice of Decision date or the resolution of any appeals.
20. Any violation of the conditions of approval shall be grounds to initiate revocation of this CUP.

b. Development Engineering

21. Required building permits shall include construction plans and profiles for all new or revised roads, driveways, storm drainage facilities and appurtenances. No construction shall be started prior to said plan acceptance.
22. New and/or replaced hard surfaces do not exceed the 2,000 square-foot threshold; nor does the project exceed 7,000 square feet of disturbed area. While a formal plan is not required, the applicant must consider all elements required of a stormwater pollution prevention plan and make allowances for managing erosion and sediment discharge on site. Per KCC Title 12, if the project exceeds either of the thresholds noted above, then additional review for stormwater management will be required via subsequent permit application.
23. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time this permit application was deemed fully complete. If development meets the thresholds for engineered drainage design, 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 Building Permit Application.
24. If the project proposal is modified from that shown on the submitted site plan accepted for review September 20, 2022, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

25. None

d. Traffic and Roads

26. 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 if no SDAP is required). The need for and scope of bonding will be determined at that time.

27. 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.

e. Fire Safety

28. A fire sprinkler permit is required for the approval of this project. The sprinkler system is to be submitted under a separate permit. The installation/approval of the fire suppression system will meet the exceptions for access.

f. Solid Waste

29. None

g. Kitsap Public Health District

30. None

Report prepared by:

Carla Lundgren
Carla Lundgren, Staff Planner / Project Lead

10/31/2022
Date

Report approved by:



Scott Diener, DSE Manager

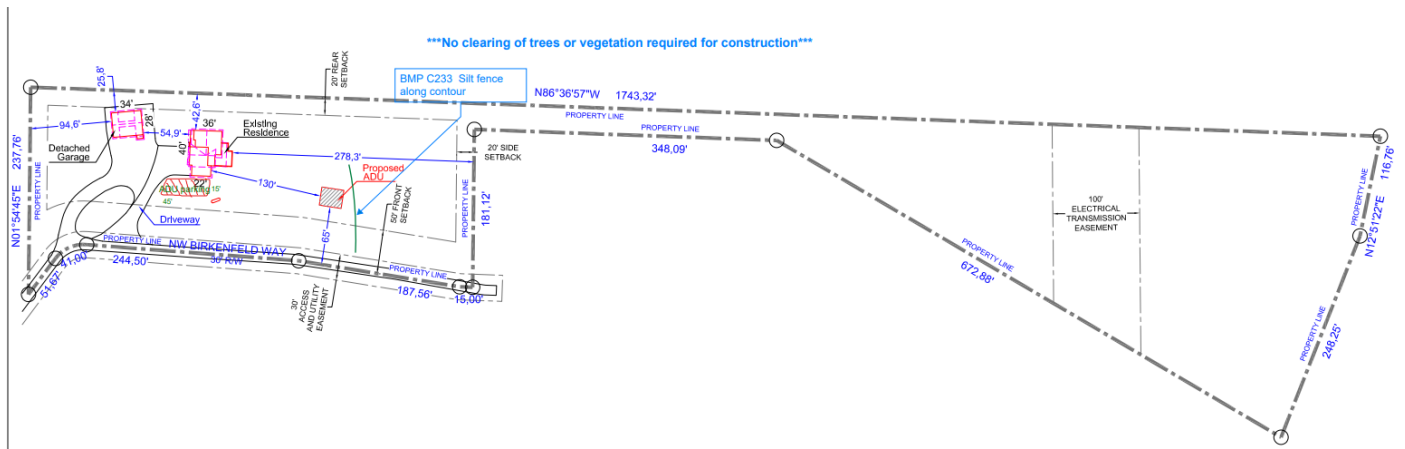
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Date

Attachments:

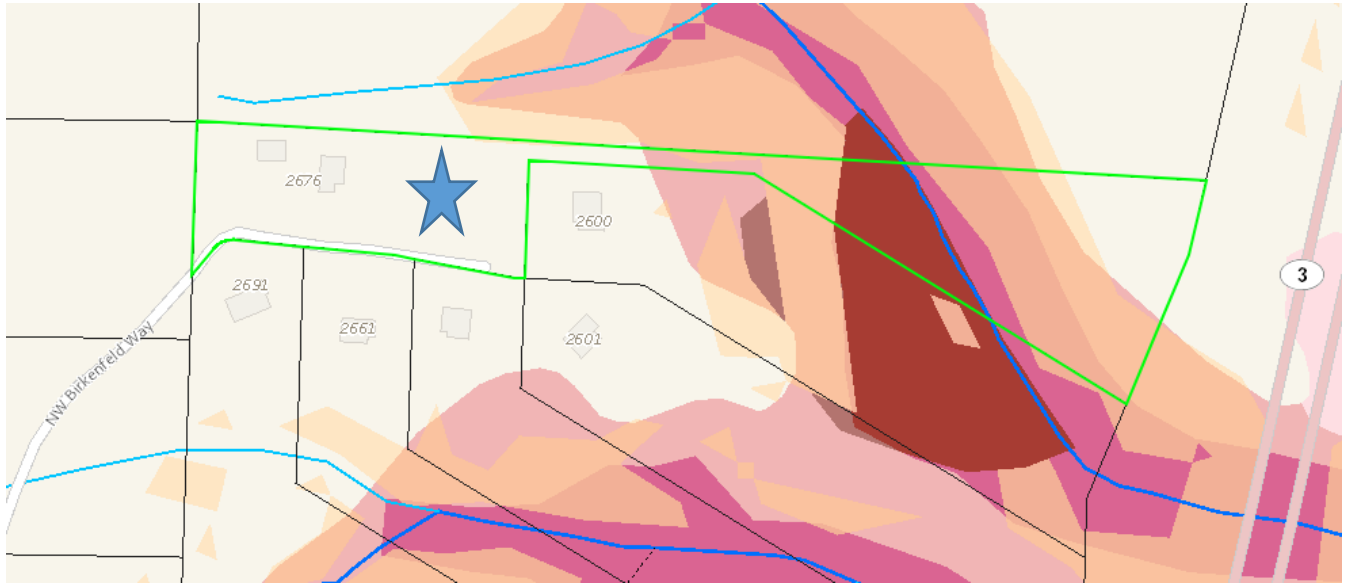
- Attachment A – Site Plan
- Attachment B – Critical Areas Map
- Attachment C – Zoning Map

CC: Applicant/Owner: Karin & Stacy Brandes – stacybrandes@gmail.com
Interested Parties: none
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Carla Lundgren
DCD Land Use File
DCD Building Permit File

Attachment A - Site Plan



Attachment B – Critical Areas Map



Attachment C – Zoning Map

