



Hearing Examiner Staff Report and Recommendation

Report Date: 02/20/2020
Hearing Date: 02/27/2020

Application Submittal Date: 08/09/2019
Application Complete Date: 09/23/2019

Project Name: Barth Accessory Dwelling Unit
Type of Application: Conditional Use Permit
Permit Number: 19-03645

Project Location

1326 SW Duckhaven Ln
Port Orchard, WA 98367
Commissioner District #2 (South)

Assessor's Account

032201-3-059-2000

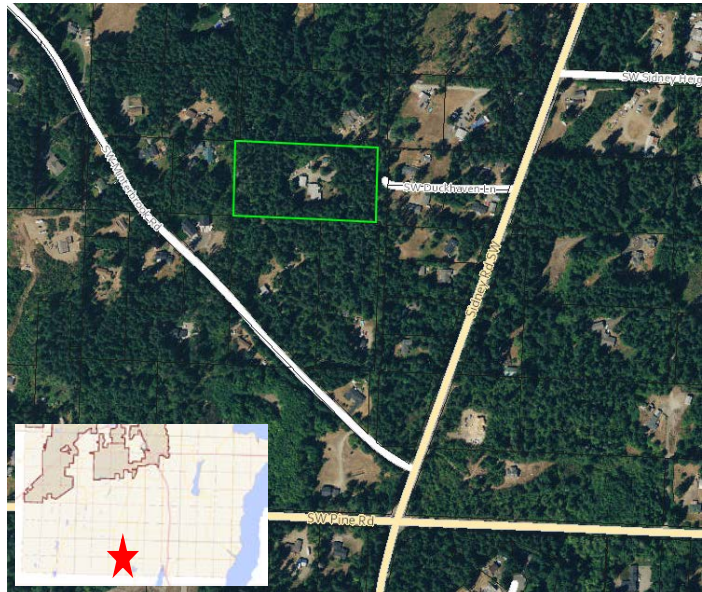
Applicant/Owner of Record

Edward Barth
1326 SW Duckhaven Ln
Port Orchard, WA 98367

Recommendation Summary

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

VICINITY MAP



1. Background

Edward Barth has applied for a Conditional Use Permit to allow for a 600-square foot accessory dwelling unit at 1326 SW Duckhaven Ln. in Port Orchard.

The property is currently developed with an existing 1,782 square foot single-family residence that will serve as the primary residence. In addition to the existing single-family residence, this is a 1,240 square foot detached garage and 304 square foot carport. All existing development is centrally located on the parcel, with the remainder forested. A Category III wetland is located in the northwest corner, with associated 110-foot vegetated buffer and 15-foot building setback. The proposed ADU will be in the same approximate footprint of a previously permitted, and since removed, Special Care Unit (08-528890).

The subject 4.88-acre parcel is zoned Rural Residential and outside of the urban growth boundary. Kitsap County Code 17.410.060.B.3.b requires a conditional use permit for accessory dwelling units outside of the urban growth boundary.

2. Project Request

The project proposal is for a 600 square-foot Accessory Dwelling Unit (ADU) located on the subject parcel in a previously cleared area. The owner will remain in the primary residence. All buffers and setbacks will be met or exceeded. The ADU will be approximately 80-feet from the primary residence and conditioned for similar color and appearance.

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 09/26/2019 (Exhibit 14). No comments were received. A Determination of Nonsignificance (DNS) was issued on 01/31/2020 (Exhibit 20).

The SEPA appeal period expired 02/14/2020. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The subject property is flat, with a slightly lower area to the north and west in the location of the Category III Wetland. The wetland described is a depressional, forested/scrub-shrub feature that is occasionally flooded. There is low interspersion of habitat, snags, and logs present. The central portion of the property is developed with the residence, multiple sheds, detached garage and driveway/parking areas. A small lawn area exists in front of the residence. The remaining portions of the property are wooded with primarily mature conifer species.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	NA per 17.420.052	

Maximum Density	NA per 17.420.052	Two dwelling units: One Single-Family Residence and one Accessory Dwelling Unit
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA per 17.420.052	NA
Minimum Lot Width	140	NA
Minimum Lot Depth	140	NA
Maximum Height	35 feet	<35 feet
Maximum Impervious Surface Coverage	NA per 17.420.052	NA
Maximum Lot Coverage	NA per 17.420.052	NA

Applicable footnotes: None.

Staff Comment: There are no changes proposed to the lot size or configuration. Changes to impervious surface is not applicable since there is no maximum impervious surface coverage for the Rural Residential zone.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (East)	50-feet	300-feet to ADU
Side (North)	20-feet; 5-feet for accessory structures	70-feet to ADU
Side (South)	20-feet; 5-feet for accessory structures	230-feet to ADU
Rear (West)	20-feet; 5-feet for accessory structures	220-feet to ADU

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence; Undeveloped (tax-title, publicly owned)	Rural Residential (RR)
South	Single-family residence; Manufactured Home-Real Property	Rural Residential (RR)
East	Single-family residence	Rural Residential (RR)
West	Single-family residence	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Private 2-party well
Power	Puget Sound Energy
Sewer	On-Site Septic
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue District
School	South Kitsap School District (402)

5. Access

Access for the ADU is via an existing private easement, SW Duckhaven Ln. and is the same access and driveway used for the existing residence.

6. Site Design

Site design will be analyzed further in this staff report.

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

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.

House, 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)
Title 19	Critical Areas Ordinance
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 24 Exhibits.

Exhibit #	Document	Dated	Date Received
1	Application	09/18/19	09/24/19
2	Concurrency Test		09/24/19
3	Elevations- ADU		09/24/19
4	Elevations- SFR		09/24/19
5	Floor Plan- ADU		09/24/19
6	Floor Plan- SFR		09/24/19
7	Health District Building Clearance	07/01/19	09/24/19
8	Project Narrative	08/20/19	09/24/19
9	SEPA Checklist	09/17/19	09/24/19
10	Site and SWPPP Plan		09/24/19
11	Stormwater Worksheet		09/24/19
12	SWPPP Narrative		09/24/19
13	Submittal Waiver	08/20/19	09/24/19
14	Notice of Application	10/01/19	
15	DSE Preliminary Conditions Memo	10/31/19	
16	Response Letter	11/01/19	01/17/20
17	Site Plan Revised		01/17/20
18	Wetland Certification	01/16/20	01/17/20
19	Photos-Impervious Layer		01/17/20
20	SEPA Determination of Non-Significance (DNS)	01/31/20	
21	Notice of Public Hearing	02/12/20	
22	Staff Report	02/20/20	
23	Staff Presentation	02/27/20	
24	Hearing Sign-In Sheet	02/27/20	

9. Public Outreach and Comments

No public comments were received.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.

Issue Ref. No.	Issue	Staff Response

10. Analysis

a. Planning/Zoning

17.410.060.B.3. Accessory Dwelling Unit (ADU). In order to encourage the provision of affordable and independent housing for a variety of households, an accessory dwelling unit may be located in residential zones, subject to the following criteria:

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 urban growth boundary.

b. An ADU shall be subject to a conditional use permit in those areas outside on urban growth boundary;

Staff Comment: The subject property is located outside of the urban growth boundary. This application is a Conditional Use Permit for an Accessory Dwelling Unit.

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. The subject property does have an existing detached garage which was permitted in 2007. This structure does not have plumbing and does not meet the definition of a guest house or an accessory dwelling unit under Kitsap County Code 17.110.

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. The owner's granddaughter will reside in the ADU.

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 existing single-family residence has a habitable area of 1,782 square feet (Exhibit 6). 50% of the habitable area of the single-family residence is 891 square

feet. Hence the accessory dwelling unit is limited to 891 square feet. The proposed ADU has a habitable area of 599 square feet, which meets this requirement (Exhibit 5).

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 single-family residence and proposed ADU are approximately 80-feet apart, satisfying this requirement.

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

Staff Comment: The ADU and house will share a similar pitched-gable roof with composition shingles, vertical wood siding, white vinyl framed windows (double-hung slides vertically; glider slides horizontally). The single-family residence is light green with dark green trim. The ADU color was yet to be determined at the time of application but is conditioned to be of similar color.

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

Staff Comment: All zoning setbacks are met or exceeded.

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

Staff Comment: The ADU has been approved by Kitsap Public Health. A new septic tank is to be installed for the ADU, with connection to the existing drainfield. A Notice to Title is required at time of building permit, limiting the primary dwelling unit to 2 bedrooms. Kitsap Public Health has also approved connection to the existing well.

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

Staff Comment: The ADU is a 2019 manufactured home and is not a mobile home or recreational vehicle.

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 ADU is using the same entrance driveway as the primary residence and providing two additional parking spaces.

l. An ADU is not permitted on the same lot where an accessory living quarters exists.

Staff Comment: On review of the primary and ADU floor plans, there are no accessory living quarters on this lot.

b. Lighting

Lighting standards do not apply to this project.

c. Off-Street Parking

Parking requirements are satisfied. See Table 5 below.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 per unit and 1 additional space for accessory dwelling units or accessory living quarters.	3 +1 =4	5 existing parking spaces (3 for the SFR + 2 for ADU)
Total		4	5

d. Signage

No signage is proposed with this project.

e. Landscaping

Landscaping requirements are not applicable to this project.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	Not Applicable	Not Applicable
Required Buffer(s) 17.500.025	Not Applicable	Not Applicable
North	Not Applicable	Not Applicable
South	Not Applicable	Not Applicable
East	Not Applicable	Not Applicable
West	Not Applicable	Not Applicable
Street Trees	Not Applicable	Not Applicable

f. Frontage Improvements

Frontage improvements are not required for this project.

g. Design Districts/Requirements

Subject property is not located within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. Conditions are applied as found in section 13 of this staff report and the DSE Preliminary Conditions Memo, dated 10/31/19 (Exhibit 15).

i. Environmental

A wetland report was requested since the previous care unit had been removed in 2010, longer than the one-year grandfathering for buffers and setbacks. A Single-Family Wetland Certification (Exhibit 18) determined an on-site Category III wetland and 110-foot vegetated buffer and additional 15-foot building setback in the northwest corner of the parcel. All buffers and setbacks are met, and this permit is conditioned for buffer signs around the outer buffer perimeter. No additional clearing is required or proposed.

j. Access, Traffic and Roads

Reviewed and conditioned in section 13 below.

k. Fire Safety

This proposal has been reviewed and approved by the Kitsap County Fire Marshal's office.

l. Solid Waste

No review needed. Typical Waste Management services are provided with primary dwelling service.

m. Water/Sewer

The proposal will be serviced by on-site septic and private well, both approved by Kitsap Public Health.

n. Kitsap Public Health District

The proposal has been reviewed and approved by Kitsap Public Health through a Residential Building Clearance for On-Site Sewage Disposal and Water Supply.

11. Review Authority

The Hearing Examiner has review authority for this Conditional Use Permit application under KCC, Sections 17.550.020 and 21.04.100. The Kitsap County

Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, or deny a Conditional Use Permit. 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 at KCC, Chapter 2.10.

12. Findings

1. The proposal is consistent with the Comprehensive Plan.
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.
3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
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.

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 Conditional Use Permit request for the Barth ADU be **approved**, subject to the following 27 conditions:

a. Planning/Zoning

1. The staff report conditions below are only recommended conditions to the Hearing Examiner and may not be valid until determined in the Notice of Decision.
2. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy. A Kitsap County Building Permit will be required for the ADU.
3. The accessory dwelling unit (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.

4. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the accessory dwelling unit (ADU) building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
5. 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.
6. Only one accessory dwelling unit (ADU) shall be permitted on the subject property.
7. The owner of the property must reside in either the primary residence or the accessory dwelling unit (ADU) and only one of the structures may be rented at any one time.
8. The accessory dwelling unit (ADU) shall be designed to maintain the appearance of the primary residence. At time of building permit for the ADU, the applicant shall demonstrate that the paint colors are similar to the primary residence.
9. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
10. The accessory dwelling unit (ADU) shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
11. An accessory living quarters (ALQ) or guest house (GH) is not permitted on the same lot unless the accessory dwelling unit (ADU) is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code (KCC).
12. A property with a primary residence and an accessory dwelling unit (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.
13. The accessory dwelling unit (ADU) cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
14. The recipient of any conditional use permit 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 an agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the Department at the applicant's expense.

15. 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 Kitsap County Code (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.
 16. 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.
 17. The decision set forth herein is based upon representations made and exhibits contained in the project application 19-03645. 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.
 18. This Conditional Use Permit approval shall automatically become void if no development 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.
 19. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
- b. Development Engineering**
20. 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.
 21. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require the building permit application include information demonstrating compliance with Minimum Requirement #2, Construction Stormwater Pollution Prevention.
 22. Erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, September 24, 2019.

23. If the project proposal is modified from that shown on the submitted site plan received August 26, 2019, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

24. A 110-foot wetland buffer and 15-foot building setback are met per the approved site plan and Single-Family Wetland Certification by Soundview Consultants (1/13/20) and must be maintained. Wetland Buffer signs shall be placed along the outer buffer edge by the wetland specialist prior to final inspection of the building permit.

d. Traffic and Roads

25. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project.

e. Fire Safety

None.

f. Solid Waste

None.

g. Kitsap Public Health District

26. The permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

27. A notice to title limiting the Primary Dwelling Unit to 2 bedrooms will be required prior to building permit final.

Report prepared by:



Kathlene Barnhart, Staff Planner / Project Lead

2/19/2020
Date

Report approved by:



Shawn Alire, DSE Supervisor

2/19/2020
Date

Attachments:

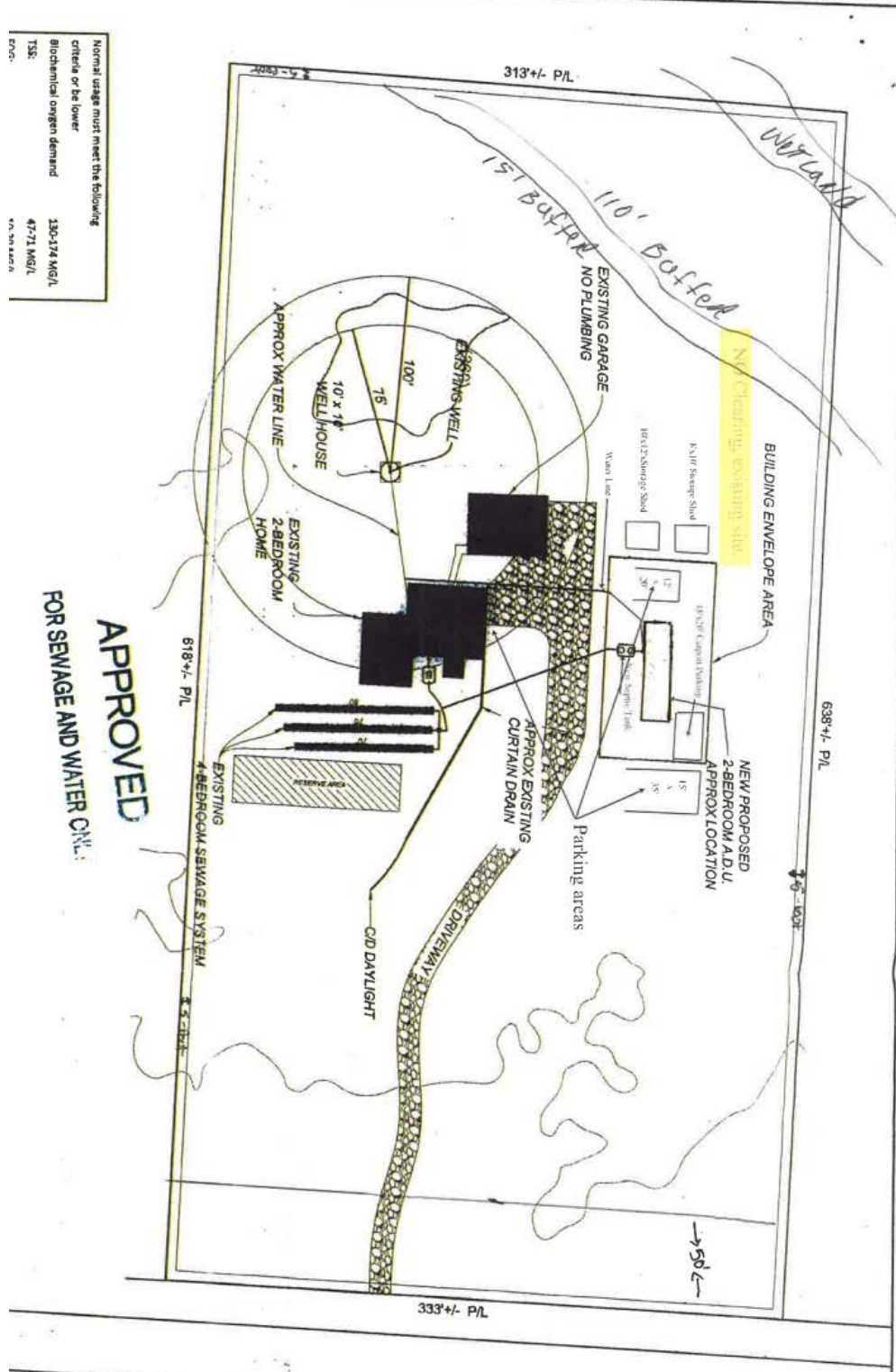
Attachment A – Wetland Delineation Map (excerpt, Exhibit 18)

Attachment B – Zoning Map

CC: Applicant/Owner: Edward Barth; ARL38@aol.com
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Candace Vickery

Site Plan

(Final site plan, Health Approved BSA, Exhibit 17)



Attachment A- Wetland Delineation Map (Excerpt, Exhibit 18)



Attachment B- Zoning Map

