



Notice of Administrative Decision

Date: February 14, 2020

To: Christopher & Oanh Benham, chris.benham@gmail.com
Kurt Russell, acsitemanagement@gmail.com
Interested Parties and Parties of Record

RE: **Permit Number:** 19-04213
Project Name: BENHAM
Type of Application: ZVAR-ADMIN

The Kitsap County Department of Community Development has **APPROVED** the land use application for **19-04213 BENHAM ZVAR-ADMIN** subject to the conditions outlined in this Notice and included Staff Report.

THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.

The written appeal shall be made on, or attached to, an appeal form found on DCD's website: <https://www.cognitofirms.com/KitsapCounty1/RequiredPermitQuestionnaireAppealObjectionOfAnAdministrativeDecision>.

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

The complete case file is available for review at the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777. Please note DCD is open Monday to Thursday from 8:00am to 4:00pm and on Friday from 9:00am to 1:00pm except holidays.

CC: Interested Parties:
None
Kitsap County Health District
Kitsap County Public Works Dept.
DCD Staff Planner: Tasha Santos, Isantos@co.kitsap.wa.us
DCD File # 19-04213



Administrative Staff Report

Report Date: February 11, 2020

Application Submittal Date: 9/11/2019

Application Complete Date: 9/23/2019

Project Name: BENHAM - Zoning Variance (Setbacks)

Type of Application: ZVAR-ADMIN - Administrative Zoning Variance

Permit Number: 19-04213

Project Location

8828 NE POINT NO POINT RD
HANSVILLE, WA 98340
COMMISSIONER DISTRICT 1

Assessor's Account

222802-2-016-2004

Applicant/Owner of Record

CHRISTOPHER J & OANH D BENHAM
12700 WOLFF ST
BROOMFIELD CO, 80020

Decision Summary

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

VICINITY MAP



1. Background

The applicant is proposing to develop the subject site with a single-family residence, reviewed under building permit #19-03492. There is an existing 18-foot private access easement along the northern (front) property line. This easement serves a total of five lots; therefore, setbacks are measured from the edge of said easement instead of the property line. Half of the easement area extends onto the site, effectively increasing the required front setback by 9 feet.

2. Project Request

The applicant is requesting a 3.5-foot (or 17.5%) variance to the required 20-foot front yard setback. The proposed single-family residence will be setback 16.5 feet at the closest point to the access easement along the north property line. Per KCC 21.04.100, this constitutes a Type II Administrative Zoning variance, which allows from a 10% to 25% reduction to zoning requirements.

3. SEPA (State Environmental Policy Act)

The project is SEPA Exempt under KCC 18.04 and WAC 197-11-800(6)(e) State Environmental Policy Act.

4. Physical Characteristics

The subject site is 0.18 acres (approximately 7,841 square feet). The site is vacant and largely undeveloped except for the portion of private road along the northern property line. There is a private easement along the northern (front) property line that serves as access to this parcel and four additional parcels addressed as 8836, 8844, 8850 and 8856 NE Point No Point Road. The eastern (2nd front) property line abuts Kitsap County Right of Way (NE Point No Point Rd). The northern and eastern properties abut streets and are both defined as front property lines; therefore, the southern and western property lines are side property lines. The southern (side) and western (side) property lines abut parcels developed with single family residences. The site topography is relatively level. The site is within a FEMA Flood Hazard Area and Moderate Seismic Hazard Area; explained further in the Environmental Analysis of this report (Section 10).

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	NA	1 dwelling unit/0.18 acres
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	0.18 acres
Maximum Lot Size	NA	
Minimum Lot Width	140 feet	133 feet
Minimum Lot Depth	140 feet	60 feet
Maximum Height	35 feet	2 stories, <35 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (North)	20-foot minimum	16.5 feet
2 nd Front (East)	10-foot minimum	10 feet
Side (South)	5-foot minimum	6 feet
Side (West)	5-foot minimum	>60 feet

Applicable footnotes:

17.120.060.A.42.b: Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension

or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

Staff Comment: The lot is less than one acre; therefore, this footnote applies. The parcel is subject to Urban Residential (UR) setback standards, as identified on the table above.

17.120.060.A.41.d: On lots with multiple front yards, the front yard setback(s) in which the lot does not receive access may be modified by the director. Based upon topography, critical areas or other site constraints, the director may reduce these front yard setbacks to a minimum of twenty feet for properties requiring fifty feet and ten feet for properties requiring twenty feet. The director may not modify front yard setbacks from county arterials or collectors. Such reductions shall not have an adverse impact to surrounding properties.

Staff Comment: The northern and eastern property are both considered fronts. The property does not receive access from the eastern property line and NE Point No Point Rd is not a county arterial or collector; therefore, the setback may be reduced to 10 feet. There is no adverse impact to surrounding properties, as this property line abuts a right of way, and beyond the right of way is public park land.

Table 3 - Surrounding Land Use and Zoning

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

Table 4 - Public Utilities and Services

	Provider
Water	North Peninsula
Power	Puget Sound Energy
Sewer	None
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Access

The property gains access from a shared private access easement that connects to Kitsap County Public Right of Way (NE Point No Point Rd). The roadway was previously developed, and no modification is proposed.

6. Site Design

The proposed site design includes a 2-bedroom single-family residence, three parking spaces, and a septic system with primary and reserve drain fields.

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 Goal 13. Protect Kitsap County's unique rural character.

Land Use Policy 50. 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. Land Use Policy 51. Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.

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Land Use Policy 55. Encourage development practices and design standards for the rural area, such as minimizing changes in grade from pre-development site conditions in order to maximize native vegetation retention.

Land Use Goal 3. Support more dense residential areas with access to transportation, urban amenities, goods and services, physical activity and healthy

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 15	Flood Hazard Areas
Title 17	Zoning
Title 19	Critical Areas Ordinance
Title 21	Land Use and Development Procedures

8. Documents Consulted in the Analysis

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
Administrative Zoning Variance Application	September 11, 2019
Authorization Form	September 11, 2019
Construction Plans	September 11, 2019
FEMA Elevation Certificate	September 11, 2019
Floodplain Habitat Assessment	September 11, 2019
Geotechnical Report	September 11, 2019
Site Plan	September 11, 2019
Survey	September 11, 2019
Revised Site Plan	November 12, 2019
Revised Construction Plans	November 12, 2019
<u>Staff Communication</u>	<u>Dated</u>
None	N/A

9. Public Outreach and Comments

The department sent a Notice of Application on November 20, 2019 and the public comment period remained open for 14 days, as required in the land use permit procedures outlined in Title 21 of the Kitsap County Code. No comments were received.

10. Analysis

a. Planning/Zoning

The proposal meets all Title 17 density, dimension, and design standards except for the required minimum front setback from the northern property line (See Tables 1 and 2). The requested 3.5 setback variance can be approved through the Type II variance process if the criteria outlined in KCC 17.560.010 are met. The applicant has demonstrated that the proposal meets these criteria, as follows:

1. There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, that were not created by the applicant and do not apply generally to other property in the same vicinity or zone.

Staff Analysis: The lot is an existing, legal lot that does not meet minimum lot width, depth, or area standards. The lot has an average depth of approximately 60 feet versus the standard 140 feet. The lot is further constrained by an existing easement along the northern property line. These special circumstances were not created by applicant.

2. Such variance is necessary for the preservation and enjoyment of a substantial property right or use of the applicant possessed by the owners of other properties in the same vicinity or zone.

Staff Analysis: The application is to support the development of a single-family residence, which is an allowed use in the RR zoning district. All properties abutting the site are also developed with single-family residences. An approved setback variance does not constitute a special privilege not possessed by owners of other properties in the vicinity; the adjacent properties are subject to the same variance criteria.

3. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which property is located.

Staff Analysis: All development activity will be contained on site. The accessway to the site does extend to adjacent properties but is already developed and will not be modified or expanded as part of this proposal. The known critical areas on site have been adequately addressed by the special reports provided as part of the application. (See Section 10.i of this report).

4. The variance is the minimum necessary to grant relief to the applicant.

Staff Analysis: The request to address the impact of the access easement, which extends 9 feet into the property. The request is for a 3.5-foot setback variance, or 17% reduction, which is less than the 25% reduction authorized under this permit type (KCC 21.04.100).

b. Lighting

Single-family developments are exempt from lighting design standards (17.420.030.A).

c. Off-Street Parking

Single-family developments require three (3) off-street parking spaces (KCC 17.490.030), measuring at least 9 feet by 20 feet. The submitted site plan shows that the proposal meets this requirement.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family	3 per unit	3	3
Total	3	3	3

d. Signage

No signage is proposed.

e. Landscaping

Single-family developments are exempt from landscaping design standards (17.420.030.A).

Table 6 - Landscaping Table

Not Applicable

f. Frontage Improvements

No frontage improvements are proposed or required.

g. Design Districts/Requirements

Single-family developments are exempt from general design standards (17.420.030.A).
The site is not located within any district or sub-area that requires further design review.

h. Development Engineering/Stormwater

A geotechnical report prepared by Resolve Environmental and Geotechnical Inc, dated May 24, 2019, has been submitted. The report makes various recommendations which will be verified at the time of building permit review and a condition has been placed on the approval to address this (See Section 13, Condition 2 of this report).

i. Environmental

The site is within a Flood Hazard Area. A Flood Certification and FEMA Habitat Assessment/Wetland Report prepared by BGE Environmental LLC, dated February 4, 2019, have been submitted. The report concluded that the project is not likely to have adverse environmental effects. Compliance with FEMA Floodplain standards will be verified at the time of building permit review and a condition has been placed on the approval to address this (See Section 13, Condition 3 of this report).

The site is within a Geological Hazard Area (Moderate Seismic Hazard). A geotechnical report prepared by Resolve Environmental and Geotechnical Inc, dated May 24, 2019, has been submitted. The report concluded that the project is feasible provided that the recommendations provided in said report are followed. These recommendations will be verified at the time of building permit review and a condition has been placed on the approval to address this (See Section 13, Condition 2 of this report).

j. Access, Traffic and Roads

No adverse impacts to traffic or roads are likely. Access to the parcel is by way of a shared private access easement which has been developed with an existing roadway. No new access off NE Point No Point Road is allowed (See Section 13, Condition 1).

k. Fire Safety

Review was completed and approved with the associated building permit (19-03492).

l. Solid Waste

No comments.

m. Water/Sewer

The site will be served by North Peninsula Water. The site is outside of the service area for Kitsap County Public Works Sewer Utility Division.

n. Kitsap Public Health District

The proposed septic design has been approved by Kitsap Public Health, as shown in the submitted building site application (BSA), dated April 11, 2019 (revised February 5, 2020). Any changes to approved site plan must be approved by Kitsap Public Health District and may require a modification to the approved ACUP (See Section 13, Condition 4 of this report).

11. Review Authority

The Director has review authority for this Administrative Zoning Variance Application under KCC, Section 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 Zoning Variance.

12. Findings

- a. There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, that were not created by the applicant and do not apply generally to other property in the same vicinity or zone.**
- b. Such variance is necessary for the preservation and enjoyment of a substantial property right or use of the applicant possessed by the owners of other properties in the same vicinity or zone.**
- c. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which property is located.**
- d. The variance is the minimum necessary to grant relief to the applicant.**

13. Decision


Based upon the analysis above and the decision criteria found in KCC 17.560.010, the Department of Community Development recommends that the Zoning Variance request for BENHAM - Zoning Variance (Setbacks) be approved, subject to the following seven (7) conditions:

a. Planning/Zoning

- 1. The site shall be accessed from the existing private access easement along the northern property line. No additional access shall be allowed off NE Point No Point Road.
- 2. The decision set forth herein is based upon representations made and exhibits contained in the project application #19-04213 Benham Administrative Zoning

- Variance. 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.
3. 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.
 4. This Administrative Zoning Variance 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.
 5. Any violation of the conditions of approval shall be grounds to initiate revocation of this Administrative Zoning Variance.
- b. Development Engineering & Environmental**
6. The project shall follow the recommendations of the submitted Geotechnical Engineering report prepared by Resolve Environmental and Geotechnical Inc, dated May 24, 2019.
 7. This project is located within a flood hazard area as determined by Kitsap County Code (KCC) Section 15.04.040. All construction shall be in accordance with the flood resistant requirements of KCC Title 15. Upon completion of the project, the owner shall provide to the Department of Community Development (DCD) a flood elevation certificate completed by a Washington State licensed land surveyor, identifying the elevation of the lowest floor in relation to the base flood elevation as determined by the Flood Insurance Rate Map (FIRM) for the subject parcel. The flood elevation certificate shall be submitted to DCD prior to requesting a final inspection. A certificate of occupancy will not be issued until the flood elevation certificate is received and approved by DCD.


Report prepared by:



Tasha Santos, Staff Planner / Project Lead

February 11, 2020
Date

Report approved by:



Shawn Alire, Department Supervisor

February 11, 2020
Date

Attachments:

Attachment A – Zoning Map

CC: Christopher and Oanh Benham, chris.benham@gmail.com
 Kurt Russell, acsitemanagement@gmail.com
 Interested Parties: None
 Kitsap County Health District
 Kitsap Public Works Dept.
 DCD Staff Planner: Tasha Santos
 DSE Supervisor: Shawn Alire
 DSE Manager: Scott Diener

Site Plan

