



Hearing Examiner Staff Report and Recommendation

Report Date: January 5, 2023
Hearing Date: January 12, 2023

Application Submittal Date: June 10, 2021
Application Complete Date: June 28, 2021

Project Name: Bogue – Conditional Use Permit (CUP) for an Accessory Dwelling Unit (ADU)
Type of Application: CUP - ADU
Permit Number: 21-03285

Project Location

23926 Port Gamble Rd NE
Poulsbo, WA 98370
Commissioner District #1

Assessor's Account

052602-2-002-2003 (5.02 acres)
052602-2-074-2006 (0.08 acres)

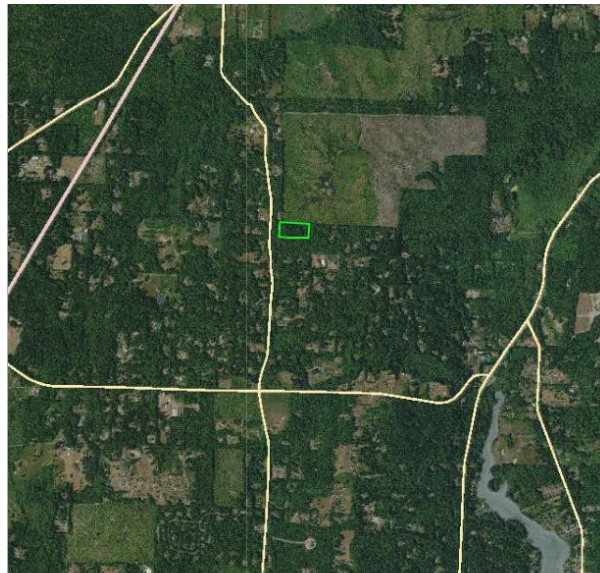
Applicant/Owner of Record

Larry and Cindy Bogue
1301 NW Slate Ln, Unit 103
Silverdale, WA 98383-7978

Recommendation Summary

Approval, subject to conditions listed under Section 13 of this report.

VICINITY MAP



*** This map is not a substitute for field survey ***

1. Background

The applicant proposes to construct a 2,289-square-foot single family residence and 884-square-foot Accessory Dwelling Unit (ADU) on a vacant lot.

According to the Kitsap County Assessor, the two parcels associated with the proposal total 5.10 acres. The eastern half of the property is encumbered by a Category III wetland with the associated 110-foot vegetative buffer and a 15-foot building setback. The site then slopes gently down to the west (Exhibit 15).

2. Project Request

The applicant requests approval of a CUP to construct an 884-square-foot Accessory Dwelling Unit into an ADU. The primary residence and ADU will be served by a private well and septic system. The ADU meets all applicable provisions applying to special uses per Kitsap County Code (KCC) 17.410.060 B.3. as well as criteria for CUP approval per KCC 17.550.030.A.

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 a substantial environmental impact. 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 Non-Significance (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 Department of Community Development (DCD) used an optional DNS process for this project. The SEPA comment period previously occurred concurrent with the Notice of Application July 2, 2021 (see Exhibit 12). The Department of Community Development issued a Determination of Non-Significance (DNS) on July 21, 2021 (see Exhibit 11).

The SEPA appeal period expired August 4, 2021. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

According to the Kitsap County Assessor, the two parcels associated with the proposal total 5.10 acres. The eastern half of the property is encumbered by a Category III wetland with the associated 110-foot vegetative buffer and a 15-foot building setback. The site then slopes gently down to the west (see Exhibit 15).

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	1 dwelling unit/5.10 acres
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	5.10 acres
Maximum Lot Size	N/A	5.10 acres
Minimum Lot Width	140 feet	302.32 feet
Minimum Lot Depth	140 feet	426.29 feet
Maximum Height	35 feet	< 35 feet

Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes:

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50 feet	50 feet
Side (North)	20 feet; 5 feet for accessory structures FN 29 requires a 100 foot setback (see applicable footnotes below)	100 feet
Side (South)	20 feet; 5 feet for accessory structures	20 feet; 5 feet for accessory structures
Rear (East)	20 feet; 5 feet for accessory structures	Deferred to environmental (wetland 110-foot vegetative buffer and 15 foot building setback)

Applicable footnotes:

17.420.060 A.29. One-hundred-foot setback required for single-family buildings abutting FRL or RW zones.

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Forest Land	Rural Wooded (RW)
South	Single-family residence and undeveloped land	Rural Residential (RR)
East	Single-family residence	RR
West	Single-family residence	RR

Table 4 - Public Utilities and Services

	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	Private Septic System
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District No. 400

5. Access

Port Gamble Road, a county-maintained Right-Of-Way (ROW), provides direct access to the project site.

6. Site Design

See attached site plan. The front setback is established based on legal access to the parcel from Port Gamble Road NE to the east. The ADU meets the zoning district setback criteria shown in Table 2 - Setback for zoning district. The proposed residence, ADU, driveway, septic system, and stormwater dispersion systems are located on the west half of the project site.

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 amended in 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 KCC. 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 Exhibits 1-20.

Exhibit #	Document	Dated	Date Received
1	STAFF REPORT		
2	ADU Plans	02/26/2021	6/18/2021

3	ADU Elevation	02/11/2021	6/18/2021
4	SFR Floor Plan	03/01/2021	6/18/2021
5	SFR Elevations	10/07/2020	6/18/2021
6	Permit Questionnaire		6/18/2021
7	SEPA Environmental Checklist	06/08/2021	6/18/2021
8	Single-Family Wetland Certification	06/04/2021	6/18/2021
9	Health District Building Site Application (BSA)	03/30/2021	6/18/2021
10	Drainage Report	05/19/2021	6/18/2021
11	SEPA Determination of Non-Significance (DNS)	07/22/2021	
12	Notice of Application	07/26/2021	
13	Site Plan	11/09/2022	11/15/2022
14	Stormwater Operation and Maintenance Plan	11/2022	11/15/2022
15	Stormwater Site Plan	11/2022	11/15/2022
16	Information Request Response		11/15/2022
17	Notice of Public Hearing	12/28/2022	
18	Certification of Public Notice	01/03/2023	
	Staff Presentation		
	Hearing Sign In		

9. Public Outreach and Comments

A Notice of Application (Exhibit 12) was distributed pursuant to KCC Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. The Department did not receive comments.

10. Analysis

a. Planning/Zoning

Per KCC section 17.410.060.B.3, in order 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. Staff comments are provided below (*italicized*):

- 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 an 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 will reside in the proposed 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 884 square feet. The proposed residence is 2,289 square feet. Fifty percent of 2,289 square feet is 1,144 square feet; therefore, 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 less than 53 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 (Exhibit 9, Exhibit 13). The structure, and siding match the aesthetic of the proposed house and garage.
- h. All setback requirements for the zone in which the ADU is located shall apply;
Staff Comment: All setbacks required by the Rural Residential zone are met for the proposed ADU. Please see Table 2 – Setback for Zoning District.
- 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 (Exhibit 9).
- 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 site plan (Exhibit 13) shows the same driveway serving the proposed ADU and single-family residence. The required parking spaces are provided in front of the single-family residence, in front of the ADU, and the driveway.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

The proposal includes one 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	1
Total	1	1	1

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	NA	NA
Required Buffer(s)	NA	NA
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

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 below 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).

i. Environmental

The request is for approval of a CUP to construct a single-family residence and an 884-square-foot ADU. The eastern half of the property is encumbered by a Category III wetland with the associated 110-foot vegetative buffer and a 15 foot building setback.

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).

k. Fire Safety

The Kitsap County Fire Marshall's Office reviewed and approved the proposal with conditions (Section 13).

l. Solid Waste

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

m. Water/Sewer

The application includes an approved Building Site Application that shows approval for water and sewer from Kitsap County's Health Department (Exhibit 9). Potable water will be provided by a private well; sanitary sewage disposal shall 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 Conditional Use Permit application under KCC, Sections 17.550.020 and 21.04.100. 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 KCC 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, DCD recommends **approval**, subject to the following conditions:

Review the linked Hearing Examiner decision for conditions of approval. The Staff Report conditions below are only recommended conditions to the Hearing Examiner.

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. Review the linked Hearing Examiner decision for conditions of approval. The Staff Report conditions below are only recommended conditions to the Hearing Examiner and may not be valid.
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. Only one accessory dwelling unit (ADU) shall be permitted on the subject property.
6. The ADU habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 884 square feet.
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 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 and 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.
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 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.
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 (21-03285). 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 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.

20. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

b. Development Engineering

21. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before (requesting final building inspection/recording the final plat/binding site plan) for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.
22. At building permit application, submit KCPW Form 1601 for issuance of a concurrency certificate, as required by KCC Section 20.04.030, Transportation Concurrency.
23. Private driveway approaches to existing County roads shall be reviewed and approved by Development Engineering.
24. Work within the county right-of-way requires a permit to perform work in the right-of-way from the Kitsap County Department of Public Works.
25. The approach to (Port Gamble) Road shall be designed in accordance with Kitsap County Road Standards and WSDOT Design Manual Figure 920-5, with a minimum return radii of 35 feet. The approach grade shall not exceed 5% from the flow line to twenty feet beyond the right-of-way line. Note the design vehicle on the final plans.
26. Where slopes are steeper than 15% and flatter than 30%, infiltration facilities (excluding individual lot systems) shall be placed no closer to the top of slope than the distance equal to the total vertical height of the slope area. All retention facilities shall be a minimum of 200 feet from any slope steeper than 30%. This distance may be reduced based on a geotechnical engineering report. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.
27. 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 (CUP-ADU) application was deemed fully complete, (June 28, 2021). 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.

28. Where slopes are steeper than 15% and flatter than 30%, infiltration facilities (excluding individual lot systems) shall be placed no closer to the top of slope than the distance equal to the total vertical height of the slope area. All retention facilities shall be a minimum of 200 feet from any slope steeper than 30%. This distance may be reduced based on a geotechnical engineering report. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.

c. Fire Safety

29. Prior to final permit approval the applicant shall:

- 1) Submit documentation of road construction meeting access requirements per code;
- 2) Improve access to meet current code; or
- 3) Equip the residence and Accessory Dwelling Unit (ADU) with an automatic fire sprinkler system. Automatic sprinkler system will require a separate permit.
- 4) Access roads shall comply with the following:
 - Unobstructed width of 20 feet and height of 13 feet 6 inches.
 - Access shall be designed and maintained to support a 60,000 pound fire apparatus and be provided with an all weather driving surface.
 - Inside turning radii shall be a minimum of 25 feet
 - Dead end access roads exceeding 150 feet in length shall be provided with an approved turnaround.
 - Roads shall not be more than 12% grade.

d. Solid Waste

N/A.

e. Kitsap Public Health District

N/A.

Report prepared by:



Darren Gurnee, Staff Planner / Project Lead

1/4/2023

Date

Report approved by:



Scott Diener, DSE Manager

1/4/2023

Date

Attachments:

Attachment A – Site Plan

Attachment B – Kitsap County Zoning Map

Attachment C – Kitsap County Critical Areas Map

CC: Applicant/Owner: Larry & Cindy Bogue, cbogue@frontiernet.net

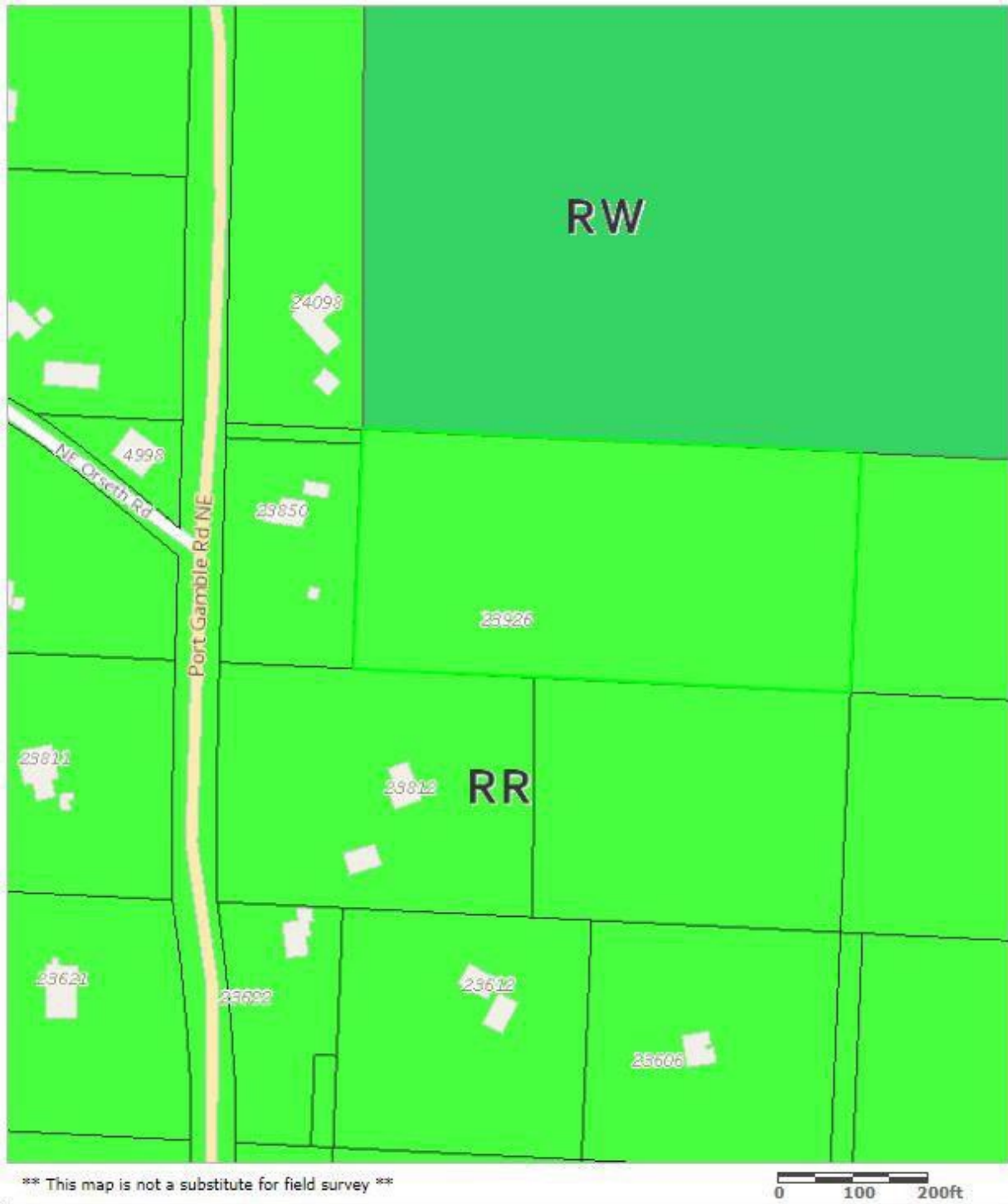
Interested Parties: None

Kitsap County Health District, MS-30

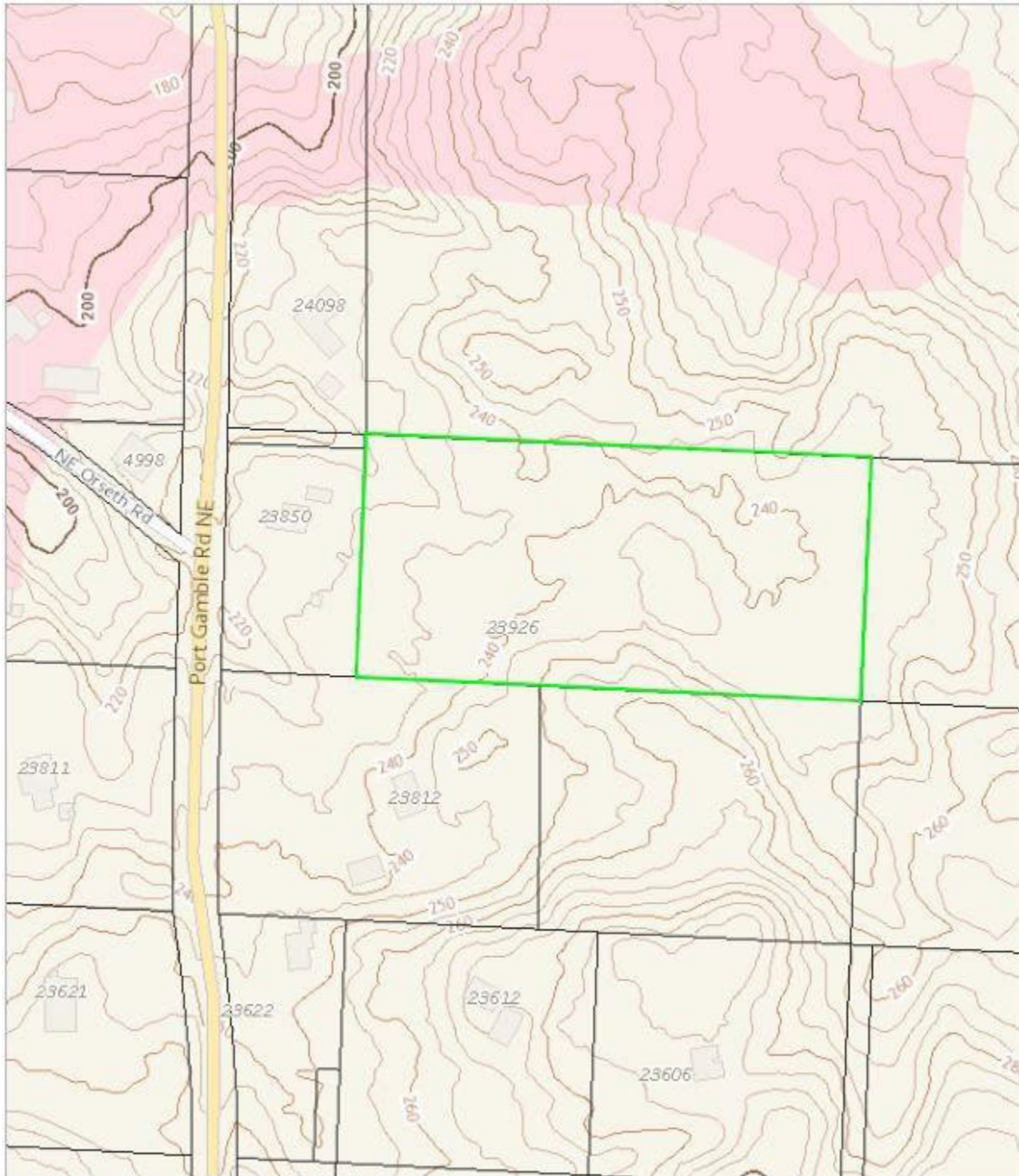
Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Darren Gurnee

Attachment B – Kitsap County Zoning Map



Attachment C – Kitsap County Critical Areas Map



** This map is not a substitute for field survey **

