



## Hearing Examiner Staff Report and Recommendation

**Report Date:** 1/4/2023  
**Hearing Date:** 01/12/2023

**Application Submittal Date:** 04/13/2022  
**Application Complete Date:** 05/12/2022

**Project Name:** LA DEAUX- Conditional Use Permit for an Accessory Dwelling Unit  
**Type of Application:** Conditional Use Permit (CUP-ADU)  
**Permit Number:** 22-01784

### Project Location

9685 Orchard Ave SE  
Olalla, WA  
Commissioner District 2

### Assessor's Account #

282302-1-010-2001

### Applicant/Owner of Record

Emma Louise and Leon Lawrence La Deaux  
9685 Orchard Ave SE  
Olalla, WA 98359

### VICINITY MAP



### Recommendation Summary

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

#### 1. Background

Emma and Lee La Deaux (hereafter, “the Applicant”) propose to construct an 840-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 is located outside of an UGA; therefore, a CUP approval is required.

#### 2. Project Request

The Applicant requests approval of a CUP to construct an 840-square-foot ADU. The ADU will use the same driveway as the proposed SFR, and access the parcel from the west of the parcel which connects to Orchard Ave SE. The ADU will have similar materials as the primary dwelling. The 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 proposed 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.

**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 08/10/2022 (Exhibit 10). A Determination of Nonsignificance (DNS) was issued on 12/05/2022 (Exhibit 13). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions at the end of this report:

The SEPA appeal period expired 12/19/2022. No appeals were filed; therefore, the SEPA determination is final.

**4. Physical Characteristics**

According to the Kitsap County Assessor, the subject site is 2.75 acres. The Western portion of the site is to be developed with primary dwelling, attached garage, driveway and detached ADU. The septic, primary and reserve, will be to the East of the proposed development. Potable water is proposed to be provided by a private well; sanitary sewage disposal is proposed to be provided by an individual on-site septic system. Adequate vehicular access is proposed via private driveway intersecting Orchard Ave SE. There is a high erosion hazard on the east side of the parcel, but it is more than 200 feet from development. The proposed stormwater mitigation methods include a rain garden for rooftop run-off, and sheet flow dispersion for driveway run-off; the project is conditioned that required building permits meet the provisions of Kitsap County Code Title 12. The parcel is zoned Rural Residential.

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

Comprehensive Plan: Rural Residential Zone: RR	Standard	Proposed
Minimum Density	NA	1 dwelling unit and 1 ADU
Maximum Density	1 DU/5 acres	

Minimum Lot Size	5	2.75, existing
Maximum Lot Size	NA	2.75, existing
Minimum Lot Width	140	189, existing
Minimum Lot Depth	140	643, existing
Maximum Height	35 feet	1 story
Maximum Impervious Surface Coverage	NA	~6,929sf, ~0.06%
Maximum Lot Coverage	NA	NA

Applicable footnotes: NA

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (West)	50 feet	160 feet
Side (North)	20 feet; 5 feet for accessory structures	74 feet 6 inches
Side (South)	20 feet; 5 feet for accessory structures	40 feet
Rear (East)	20 feet; 5 feet for accessory structures	405 feet

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

Surrounding Property	Land Use	Zoning
North	3 parcels; 2 are single-family residence (E and W) and 1 (middle) is PSE utilities.	Rural Residential (RR)
South	Single-family residence	RR
East	Undeveloped and partial forested land.	RR
West	Single-family residence, sheds and garages	RR

**Table 4 - Public Utilities and Services**

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

School	South Kitsap School District #402
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## 5. Access

The subject site gains access via a driveway off Orchard Ave SE.

## 6. Site Design

The ADU will be located approximately 10 feet to the SE of the primary residence. The ADU is connected to the garage, and the garage (an unconditioned space) is between the ADU and 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, and 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 17 Exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
1	STAFF REPORT	01/05/2023	
2	Submission Form	04/13/2022	05/11/2022
3	Health District Building Site Application	06/01/2022	05/11/2022
4	SEPA Checklist	03/25/2022	05/11/2022
5	ADU & SFR Floor Plans	03/23/2022	05/11/2022
6	Engineered Calculations	11/23/2021	05/11/2022
7	Water Availability Letter	12/01/2021	05/11/2022
8	Stormwater Worksheet		05/11/2022
9	Stormwater Pollution Prevention Plan (SWPP)	05/31/2022	05/11/2022
10	Notice of Application	08/12/2022	
11	Stormwater Conditions Memo	08/26/2022	
12	Site Plan	10/22/2022	12/01/2022
13	SEPA Determination	12/05/2022	
14	Notice of Public Hearing	12/28/2022	
15	Certification of Public Notice	01/03/2023	
16	Staff Presentation		
17	Hearing Sign In		

## 9. Public Outreach and Comments

A Notice of Application was distributed pursuant to 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 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 840 square feet. The residence is 1,836 square feet. Fifty percent of 1,836 square feet is 918 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 10 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 parcel does not meet the minimum lot size for the Rural Residential zone; however, it does not meet the historic lot requirements, per footnote KCC 17.420.060.A.42.b. 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.

*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. The driveway will provide an additional off-street parking space.

- l. *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 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)	For historical lots or lots with no standing requirement, 3 per unit. 1 additional space for ADUs	1	3 SFR 1 ADU
Total	4	4	4

**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	NA	NA



(Sq. Ft.) 15% of Site		
Required Buffer(s) 17.500.025		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

**f. Frontage Improvements**

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 has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. The comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans accepted for review May 11, 2022 to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires the conditions in this report as an element of the land use approval.

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.

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.

The design of the infiltration facilities shall be in accordance with Vol. II, Ch. 5.4 of the Kitsap County Stormwater Design Manual.

If the project proposal is modified from that shown on the submitted site plan approved for this permit, Development Services and Engineering will require additional review and potentially new conditions. The need for and scope of bonding will be determined at that time

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 build an 840-square-foot ADU. There are no environmental concerns or conditions for this proposal as the nearest critical area is ~364 feet from proposed ADU site.

**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.

**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 a private well; 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 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 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 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 840 square feet (Exhibit 2). 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. Environmental**

NA

**c. Traffic and Roads**

1. At the time of building permit application, submit an Application for Concurrency Test (KCPW Form 1601) as required by KCC 20.04.030 Transportation Concurrency. The KCPW 1601 form reserves road capacity for the project.

2. 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).

**d. Fire Safety**

NA


**e. Solid Waste**

NA

**f. Kitsap Public Health District**

NA

Report prepared by:

  
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Jo, Staff Planner / Project Lead

1/4/2023  
Date

**Report approved by:**



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Scott Diener, DSE Manager, DCD

1/4/2023

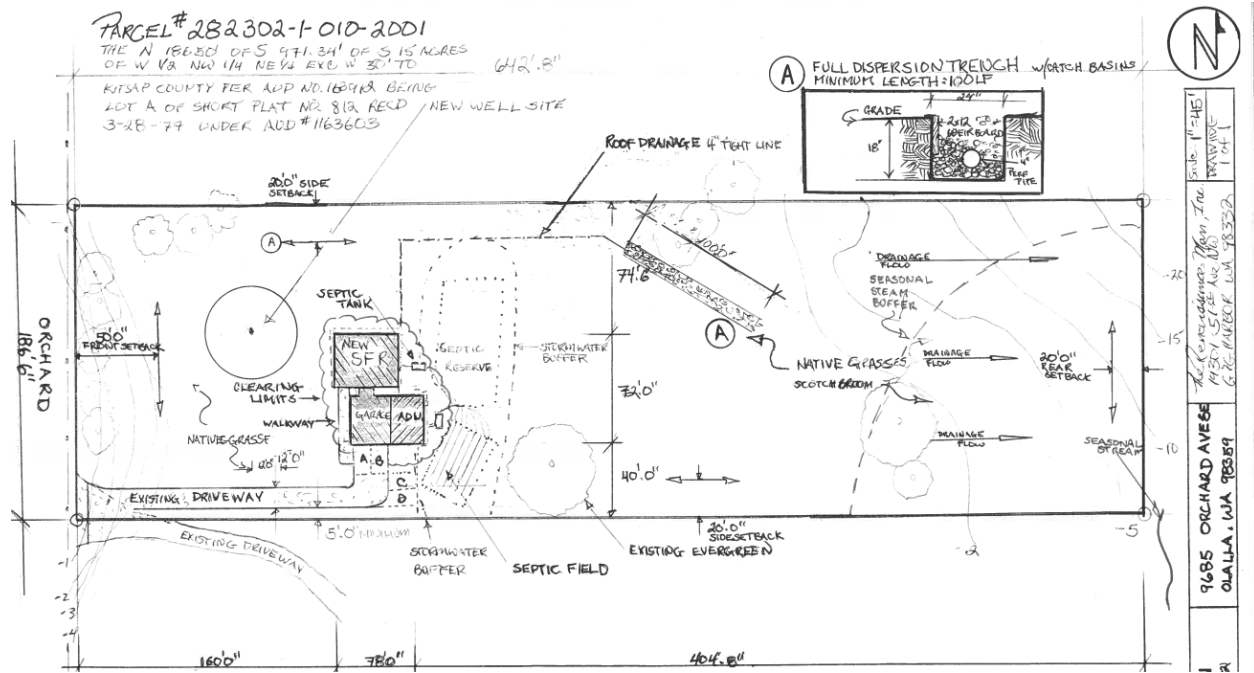
Date

**Attachments:**

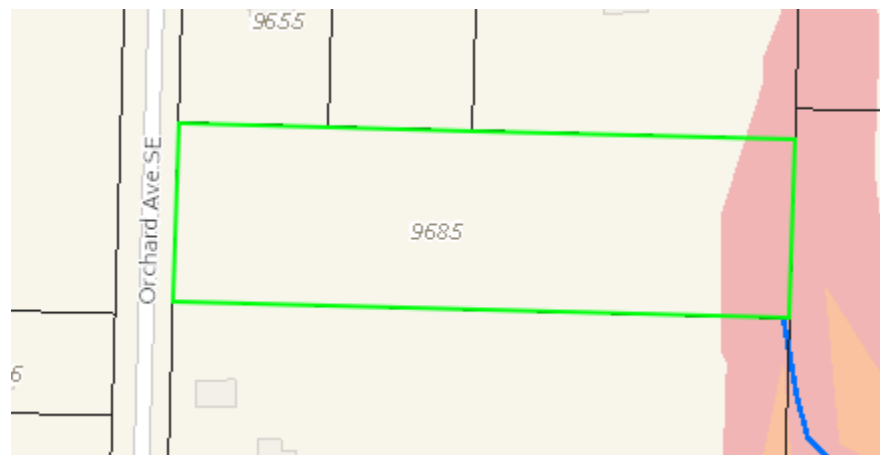
- Attachment A – Site Plan
- Attachment B – Critical Area Map
- Attachment C – Zoning Map, etc.

CC: Applicant/Owner: Leon & Emma La Deaux, [ladeaux@gmail.com](mailto:ladeaux@gmail.com)  
Engineer: CWA Consultants, P.S., [chuck@cwaconsultants.net](mailto:chuck@cwaconsultants.net)  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Joshua Bennett  
Interested Parties: None

### Attachment A Site Plan



### Attachment B – Critical Area Map



**Attachment C – Zoning Map**

