



Hearing Examiner Staff Report and Recommendation

Report Date: January 19, 2023
Hearing Date: January 26, 2023

Application Submittal Date: June 02, 2021
Application Complete Date: June 16, 2021

Project Name: Klinker Variance for construction of detached garage/shop/home office
Type of Application: Critical Area Variance
Permit Number: 21-03118

Project Location

9077 NE Shore Dr
Indianola, WA
Commissioner District 1

Assessor's Account

4360-001-024-0006

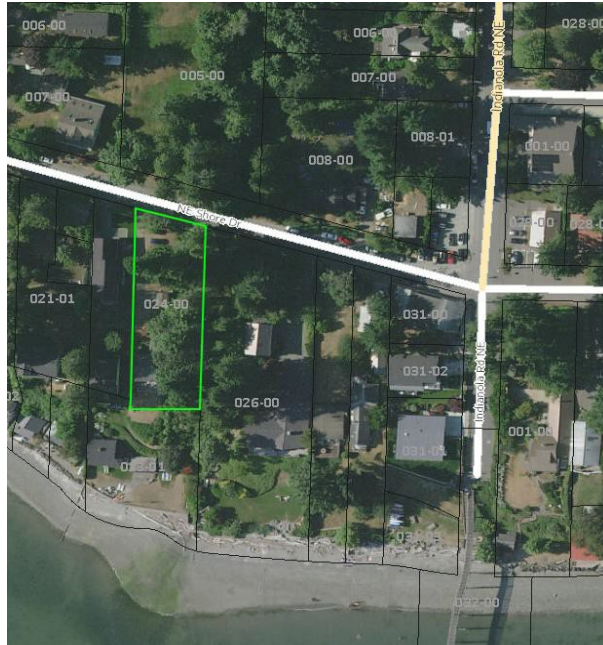
Applicant/Owner of Record

Klinker Family Legacy LLC
13205 8th Ave NW
Seattle, WA

Recommendation Summary

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

VICINITY MAP



1. Background

The Klinker Family Legacy, LLC. (hereafter, “the Applicant”) proposes to construct a detached garage with a “main work room” and “home office” (hereafter, “proposed uses”) on an approximate 0.37 acre parcel in the Rural Residential (RR) zoning district. The site currently is occupied by a single-family dwelling and shed. The shed is proposed to be demolished and replaced with 800-SF, two-story detached garage/proposed uses. Due to the size of the property and the bounding critical area buffer (See Section 10.i of this report), the Applicant requests approval of a Critical Area Variance to reduce the standard buffer of a partially on-site Type-F stream and on-site top of slope buffer.

2. Project Request

Applicant requests a reduction to the required critical area and top of slope buffers and setbacks for construction of a detached garage with second floor propose uses on an approximate 0.37-acre parcel. The standard buffer for a Type F stream is 150 feet ([KCC 19.300.315](#)). The proposed buffer ranges from 36 feet to 65 feet. The reduction request

equates to approximately fifty-six percent to seventy-six percent. Per [KCC 19.300.315\(A\)\(3\)\(b\)](#), buffer reductions for single-family dwellings greater than fifty percent shall be pursuant to a variance under section 19.100.135. The standard top-of-slope setback as stated in [KCC 19.400.435\(2\)](#) is 25 feet from the top of slope with an additional 15-foot building setback. The proposed setback is 6 feet from top of slope.

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 July 6, 2021 (Exhibit 12). A Determination of Nonsignificance (DNS) was issued on December 8, 2022 (Exhibit 19).

The SEPA appeal period expired December 22, 2022. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

According to the Kitsap County Assessor’s data, the subject site is approximately 0.37 acres. The parcel is rectangular in shape and partially developed with an existing single-family residence in the southern portion of the site and a centrally located shed. The site generally slopes down from the north to the south. A steep slope is located along the eastern portion of the site that leads to Indianola Creek with 40 percent slopes and an overall height of approximately 15 feet. The site generally consists of typical residential landscaping throughout the central and western portions of the site while the eastern portion of the site is well vegetated with ivy and scattered large conifers. The parcel contains the following mapped critical areas: High Erosion Hazard, Moderate Seismic Hazard, Steep slopes at or above 30%. The parcel is in near proximity to the following mapped critical areas: 100 Year flood plain and Shoreline jurisdiction on Puget sound to the south as well as a fish bearing stream (Indianola Creek) to the east. The surrounding parcels are all developed with single family homes. The property is accessed from NE Shore Drive.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	NA	1 dwelling unit (existing) 1 accessory structure (proposed)
Maximum Density	1du/5 acres	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140 feet	75 feet
Minimum Lot Depth	140 feet	214 feet
Maximum Height	35 feet	2 stories, <35 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes:

[17.420.060\(42\)\(b\)](#) 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 size is listed as [0.37 acres](#). The lot width is 75 feet and does not meet the minimum lot width standards. Therefore, the Urban Low (UL) zone setbacks are applied to establish setbacks from the property lines.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (North)	20 feet	65 feet
Side (East)	5 feet	36 feet
Side (West)	5 feet	18 feet
Rear (South)	10 feet	111 feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Rural Residential	Rural Residential
South	Rural Residential	Rural Residential
East	Rural Residential	Rural Residential

West	Rural Residential	Rural Residential
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Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Septic
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Access

Access to the site is off of NE Shore Drive, a county-maintained right-of-way.

6. Site Design

See Site Plan, included as an Attachment A at the end of this report.

It should be noted that the review of this proposal is strictly limited to compliance with the variance criteria per [KCC 19.100.135](#), as required per [KCC 19.300.315\(A\)\(3\)](#) for stream buffer reductions. Approval of the final site design is dependent on the submittal of a building permit.

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 April 2020.

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

Land Use Goal 2

Promote health in the built environment.

Land Use Policy 13

Examine health and equity impacts of land use decisions to all populations.

Land Use Goal 6

Direct development to designated Urban Growth Areas consistent with projected population growth, Growth Management Act and Countywide Planning Policies while considering development patterns that reduce sprawl, use urban land more efficiently, and that incorporate feasible, innovative and sustainable practices.

Land Use Policy 29

Through application of Growth Management Act goals, increase density in urban areas and limit sprawl in rural lands.

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.

Land Use Policy 53

Outside of the Type II 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 designations, zoning designations, and zoning code provisions.

Land Use Policy 54. In accordance with RCW 36.704A.070(5c):

- *To preserve rural character of the County, emphasize controlling rural development; assuring visual compatibility of rural development with the surrounding rural area,*
- *Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area,*
- *Protect critical areas, as provided in RCW 36.70A.060. surface water and groundwater resource, and,*
- *Protect against conflicts with the use of agricultural, forest, and mineral resource lands designated in RCW 360.70A.170.*

This policy is implemented through Comprehensive Plan Land Use designations, zoning designations, and zoning code provisions.

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.

Environment Goal 3

Reduce the risk of damage to life, property and the natural environment through appropriate regulatory and incentive-based approaches in land use, transportation and development engineering programs.

Environment Policy 13

Use the best scientific information to direct how functions and values of critical areas are preserved or enhances.

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 19	Critical Area 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 twenty-seven exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
1	STAFF REPORT	01/19/2023	
2	1916 Plat Map	05/01/1916	
3	Project Narrative	06/02/2021	06/04/2021
4	Limited Geotechnical Report	09/07/2020	06/04/2021
5	Stormwater Site Plan		06/04/2021
6	Simplified Drainage Review	03/30/2021	06/04/2021
7	Required Permit Questionnaire		06/04/2021

8	Septic Site Plan	05/20/2021	06/04/2021
9	Habitat Management Plan	03/22/2021	06/04/2021
10	Agent Authorization Form		
11	SEPA Checklist	06/10/2021	06/14/2021
12	Notice of Application	07/06/2021	
13	Public Comments – Combined (2021)	2021	
14	Garage Plans	10/28/2021	02/28/2022
15	Response Letter to DCD from Architect	10/28/2021	02/28/2022
16	Response Letter to K. Dickerson from Architect	10/28/2021	02/28/2022
17	Public Comment Response from Agent	04/12/2022	05/06/2022
18	Health BSA Approval	10/28/2022	
19	SEPA Determination	12/08/2022	
20	Surrounding Properties Map w/Detached Structures	12/14/2022	
21	Geotechnical Report Addendum	01/04/2023	
22	Notice of Public Hearing	01/11/2023	
23	Certification of Public Notice	01/16/2023	
24	Critical Areas Map	01/17/2023	
25	Public Comments – Combined (2022 – 1/19/23)	2022 - 01/19/2023	
26	Staff Presentation		
27	Hearing Sign In		

9. Public Outreach and Comments

Public comments were received from property owners in the vicinity of the public notice, one agency comment from the Suquamish Tribe and one agency comment from the Department of Ecology. The general concerns are related to building proximity to Indianola Creek, and a concern for water quality regarding stormwater drainage being dispersed into the creek, as well as the well-being of the habitat within the ravine and creek.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1&2	Environmental concern in the preservation and protection of habitat to the Indianola Creek ravine and confluence to Port Madison Bay. Comments generally note functional loss or impact associated with erosion and sedimentation to the ravine, creek, and the bay. Many note the need to protect heritage trees for habitat and species use.	13 & 25

Issue Ref. No.	Issue	Staff Response
1	Environmental impacts to Indianola Creek, ravine, & Port Madison Bay	<p>Applicants response: The proposed development includes protection measures to the creek. Although sedimentation from surrounding development(s) is a valid concern, stormwater from impervious surfaces with the project are mitigated under the guidance of KCC Title 12 Stormwater. Construction efforts are regulated using Best Management Practice (BMPs) for sediment and erosion control. No trees will be removed and the footprint impact of the structure is grass, weeds, forbs, bare ground, and English ivy.</p> <p>INDIANOLA CREEK CORRIDOR adjacent to the project area is a heavily vegetated and relatively steep sloped ravine. The landscape to both sides, east and west, are developed residential use at the break-in-slope. The ravine interior is a blanket of English ivy which has fully invaded the forest understory vegetation. The ivy cover in the ravine is catastrophic. There is an abundance of information and research on the aggressive behavior and threat English ivy has to northwest forests. The dense growth and abundant leaves form a thick canopy just above the ground, preventing sunlight from reaching other plants. Similarly, climbing vines surround trunks, branches, and twigs, preventing most of the sunlight from reaching the leaves of the tree. Loss of sunlight results in loss of vigor in the tree. Death of the tree occurs after a few years. Furthermore, the added weight of vines makes infested trees susceptible to blow-over or tipping, especially during winter storms.</p> <p>English ivy also serves as a reservoir for bacterial leaf scorch (<i>Xylella fastidiosa</i>), a plant pathogen that is harmful to native trees such as elms, oaks, and maples. As for wildlife habitat, a monoculture of ivy is a poor replacement for a diverse native forest understory. Areas dominated by ivy have lower diversity of birds, mammals, and amphibians. Ivy habitat appears to mostly support rats. Although some native birds do eat the berries, ivy fruit seems to be preferred mostly by non-native starlings.</p> <p>Despite its propensity for swift growth and dense ground cover, English ivy increases erosion problems, especially on steep slopes, since its shallow, sparse root system doesn't provide the deep soil anchoring of mature trees and shrubs.</p>

		<p>MITIGATION FOR THE PROJECT buffer modification greater than 50% exceeds the minimum mitigation requirements of 1:1 for critical area buffers. The mitigation plan is conceptual enhancement and an adaptive approach for a larger area of enhancement upon construction retreat. Where appropriate and suitable on-site, ivy removal with native vegetation enhancement will be implemented (refer to HMP, page 12).</p> <p><i>Staff response: The department concurs with this finding.</i></p>
2	Stormwater Drainage	<p>Applicants response: The variance requirements for stormwater and geotechnical reports are draft assurances that the proposed development can comply with the applicable standards and Titles associated with the use. The resultant stormwater design will be reviewed for consistency by the Geotech on record and any existing or newly developed systems will be constructed under the guidance of Kitsap County Code Chapter 12 for stormwater. Any known or anticipated impacts with the stormwater facility will be further addressed to comply with best available science, standards, and/or permit requirements.</p> <p>The potential for water quality impacts with the tight-line discharge is mitigated with compliance to design requirements in Title 12 for Stormwater. Designing for filtration function with native vegetation is not permissible on steep slopes due to the risk of erosion and sedimentation. The outfall detail, to include additional measures for water quality and erosion will be addressed with formal application of the building permit. Best available science encourages removal of English ivy and re-establishing native varieties in areas of heavy ivy cover. Doing so has a measurable benefit to water quality function and habitat attributes.</p> <p><i>Staff response: The department concurs with this finding.</i></p>

10. Analysis

a. Planning/Zoning

The subject site is a legal lot of record, created by way of the Indianola Beach Plat, recorded in April 1916. (Exhibit 2). The site is located within the Rural Residential (RR) zoning district (Attachment C). Detached accessory structures are a permitted use in

the RR zone, subject to footnotes 43 and 101. Neither footnote applies, as the provisions are related to elements that are not part of this proposal (i.e., special care and transitory accommodation provisions). Compliance with applicable use standards will be reviewed again at the time of the building permit with submitted construction drawings. (i.e., design elements suited for guest house or accessory dwelling unit vs. home office)

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Parking was not analyzed as part of this proposal.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family	3 per unit	NA	SFR (existing) = 3 Detached garage (proposed) = NA
Total	3	NA	3

d. Signage

No signage is proposed or required.

e. Landscaping

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

Table 6 - Landscaping Table

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

f. Frontage Improvements

Not applicable; there are no frontage improvement requirements for a detached garage.

g. Design Districts/Requirements

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

h. Development Engineering/Stormwater

Applicant proposes a reduction to the required critical area buffers and setbacks for construction of a detached garage with second floor shop/office space on an approximate 0.37-acre parcel. The parcel is rectangular in shape and partially developed with an existing single-family residence in the southern portion of the site and a centrally located shed. The site generally slopes down from the north to the south. There is a steep slope located along the eastern portion of the site that leads to Indianola Creek with 40 percent slopes and an overall height of approximately 15 feet. The site generally consists of typical residential landscaping throughout the central and western portions of the site while the eastern portion of the site is well vegetated with ivy and scattered large conifers. Potable water is proposed to be provided by existing water line for existing residence; sanitary sewage disposal is proposed to be provided by existing septic system used by existing residence. Adequate vehicular access exists via a residential driveway intersecting NE Shore Dr. The parcel contains the following mapped critical areas: High Erosion Hazard, Moderate Landslide Hazard, Moderate Seismic Hazard, Steep slopes at or above 30%. The parcel is in near proximity to the following mapped critical areas: 100 Year flood plain and Shoreline jurisdiction on Puget sound to the south as well as a fish bearing stream (Indianola Creek) to the east. The proposed stormwater facilities include a tightline roof drain system with a sediment control structure and tee type energy dissipator that routes runoff through a flex pipe to be dispersed through native vegetation near Indianola Creek.

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans accepted for review June 28, 2021, and as revised by additional materials accepted for review February 28, 2022, to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires the eight conditions as an element of the land use approval. (See section 13b)

i. Environmental

A Type F-stream (fish-bearing) at the base of a fifteen-foot ravine with landslide, erosion and moderate seismic hazards are located on the eastern side of the parcel. Per [KCC 19.300.315\(A\)\(1\)](#), the standard critical area buffer for a fish bearing stream is

150 feet with an additional 15-foot building setback. Per KCC 19.400.435(2), the standard top-of-slope setback 25 feet with an additional 15-foot building setback. The detached proposed use is proposed to be 6 feet from top-of-slope and 36 – 56 feet from the fish bearing stream.

The Limited Geotechnical Reconnaissance review performed by Resolve Environmental & Geotechnical, Inc. dated September 17, 2020, states the risks a reduced top-of-slope setback for this proposal appear to be “very low on site”. (Exhibit 4) An addendum to the geo assessment letter dated January 4, 2023, provided support for the proposed 6-foot top of slope setback and recommendations for footings and foundation depth. (Exhibit 21) A full Geotechnical Engineering report will be required at time of building permit review to support the proposed 6-foot top of slope setback (76% reduction) for the detached garage/home office/shop.

The Habitat Management Plan provided by BGE Environmental, LLC. dated March 22, 2021, states, “No known rare, critical, or imperiled plants or habitat are located within the vicinity of the property according to Washington Department Natural Resources.” (HMP page 4, Exhibit 9) BGE proposes a 5-year critical area mitigation plan that includes removal of the invasive English Ivy threatening the health of native vegetation that supports the strength of the steep slope and the fish bearing stream at the base of the ravine. (HMP page 12-20, Exhibit 9)

Per [KCC 19.300.315\(A\)\(3\)\(b\)](#), Buffer reductions for single-family residences greater than fifty percent, shall be reviewed pursuant to variance standards shown in KCC Section [19.100.135\(A\)](#) which are copied and underlined below, with staff comments and applicant comments provided *in italics*.

A. A variance in the application of the regulations or standards of this title to a particular piece of property may be granted by Kitsap County, when it can be shown that the application meets all of the following criteria:

1. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance.

Applicant Comment: This site is limited in area as half of its widths is defined as steep slope ravine to a Type F water. Due to the size of the property, the location of the critical areas, and the standard buffer requirements, strict application of all standards results in no alternatives for expansion outside of the current stream buffer standard. This neighborhood tends to have a variety of parcel acreages and irregular property

boundaries. Most of the properties have several outbuildings which include but are not limited to, garages, boat houses, cabins, and general-purpose buildings. Strict application of the standard critical area buffers deprives the subject property of rights and privileges enjoyed by other properties in the vicinity.

Staff Comment: The subject site was platted prior to stream buffer considerations (1916 plat) and was therefore never considered as a constraint to the plat or property. (Exhibit 2) The Type-F stream buffer of 150 feet encompasses the entire property. Due to the size of the property, location of critical areas, and standard buffer requirements strict application of KCC Titles 19 would result in no possibility to build on a legally established, platted parcel. In addition, there are 45 other properties in the immediate vicinity with detached structures built near or around a critical area. (Exhibit 20)

2. The special circumstances referred to in subsection (A)(1) of this section are not the result of the actions of the current or previous owner.

Applicant Comment: The property is a legal parcel.

Staff Comment: The circumstances referred to in subsection (A)(1) above are not the result of the actions of the current or previous owner. The lot is a legal lot of record, created by way of a plat in 1916. The existing 1,298 SF single family home on the parcel was built in 1925.

3. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this title.

Applicants Comment: The highest sequential order of buffers and setbacks are not feasible with the properties fluency and net developable area. There is no significant vegetation removal necessary with the new construction and per the recommendations of the Geotech of record, the construction provisions will ensure no adverse or substantial detrimental impacts occur. Mitigation to promote and protect stream buffer function and value is prescribed in a planting plan. Both Geotech and BGE recommendations consider adverse or potential detrimental impacts to adjacent critical areas, public welfare, and the integrity of the property long-term.

Staff Comment: The applicant has provided a habitat management plan and no net loss report that adequately demonstrates that this proposal, with mitigation, will not result in substantial detrimental impacts (Exhibit 9). The report recommends enhancement of the stream corridor with in-fill of native trees and shrubs, as well as the eradication of invasive Himalayan blackberry, Japanese knotweed, Scot's broom, and English ivy

from the established stream corridor. The reports also outline a five-year monitoring plan. We recommend that hand and mechanized eradication methods be deployed due to the proximity of the creek to Indianola Creek. The applicant also provided a geotechnical assessment of the proposed reduced top-of-slope setback that indicates a “very low risk” to the stability of the slope, as well as, building recommendations and requests for inspection of the footings and foundation at time of placement to further confirm slope stability. (Exhibit 4)

4. The granting of the variance is the minimum necessary to accommodate the permitted use.

Applicants Comment: The established stream buffer is the minimum necessary to complete the project in conformance with KCC Title 19 in addition to additional Titles where applicable.

Staff Comment: The granting of the variance is the minimum necessary to accommodate the reasonably sized (800-square-foot) detached proposed use. If the proposed structure is moved in any direction, it would result in an impact to either a zoning setback, or further critical area buffer encroachment.

5. No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150.)

Applicants Comment: Due to the size and shape of the parcel, location of the ravine, existing parcel use and fluency, and other Kitsap County provisions (setbacks, drainfield) as proposed, is the only reasonable alternative for the detached garage.

Staff Comment: KCC [19.150.510](#) defines Reasonable Alternative as “an activity that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation”. As noted above, alternative locations would require encroaching into other required setbacks.

6. A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.

Staff Comment: The applicant has submitted a mitigation plan (Exhibit 9) that meets the goals and standards outline in KCC 19.300 and the project is required to follow the recommendations of that report, including mitigation and five-year monitoring.

Applicants Comment: A mitigation plan is provided in this document for the enhancement of the ravine along the top-of-slope and the immediate ravine face. Restrictions apply for safety and slope face disturbances. Invasive species removal is emphasized. Five years of maintenance and monitoring apply.

j. Access, Traffic and Roads

Traffic was not analyzed as part of this proposal.

k. Fire Safety

Conceptual drawings provided indicate construction and configuration consistent with a dwelling rather than an accessory garage use. Any use of this building for other than a detached residential garage shall result in revocation of any approvals granted through this application. Applicant shall file a notice to title - approved by the department, recognizing the prohibition against using the construction resulting from the application for a dwelling or any other use than a detached garage / shop.

No use or occupancy of buildings or other construction accomplished as a result of approval of this application prior to final building inspection approval and issuance of the certificate of occupancy.

A building Permit is required for any construction resulting from approval of this application. Approval of this application does not include construction approval. Any and all construction resulting from approval of this application must comply with the building, fire, energy and other codes in effect at the time of the building permit application.

l. Solid Waste

Solid waste was not analyzed as part of this proposal.

m. Water/Sewer

Water and sewer were not analyzed as part of this proposal.

n. Kitsap Public Health District

Kitsap Public Health District has reviewed and approved the proposal with no comments on the variance.

It is worthy to note that the applicant submitted an application for Building Clearance with Kitsap Public Health associated with this proposal dated October 24, 2022. (Exhibit 18) This application was approved for "building a new garage with full bath" on October 28, 2022, with a specific designer note (#1) stating "A full bath is allowed no kitchens

or bedrooms allowed.” The Building Clearance approval will be reviewed as part of the building permit process.

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 Critical Area Variance request for Klinker Family Legacy, LLC. be **approved**, subject to the following 19 conditions:

a. Planning/Zoning

1. Detached garage with the ‘proposed use’ not to allow a 220v electrical outlet, kitchen plumbing (e.g., a wetbar), appliances, or provisions for cooking. The presence of such design elements or allowances would categorize the home office space as an accessory dwelling unit ([KCC 17.415.015.B](#)) or guest house ([KCC 17.415.260](#)) which requires additional permitting. The approval of this CVAR is not an indication of DCD approval of the proposed use design. Such designs will be reviewed under the associated building permit.
2. No future variances will be allowed at building permit stage of project.

b. Development Engineering

3. The information provided demonstrates this proposal is a Small Project as

defined in Kitsap County Code Title 12 and is located within a mapped critical area. As such, a Full Drainage Site Development Activity Permit (SDAP) is required from Development Services and Engineering.

4. A Hydraulic Project Approval (HPA) permit may be required for work below the ordinary high-water mark or associated with the outfall. Prior to SDAP approval, the applicant shall submit an approved HPA from the Washington Department of Fish and Wildlife (WDFW), or documentation from WDFW specifying that a HPA is not required. Information regarding HPA's can be found at <https://wdfw.wa.gov/licenses/environmental/hpa> or by calling the Aquatic Protection Permitting System at (360) 902-2422.
5. 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 this permit application was deemed fully complete. 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.
6. 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.
7. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before requesting final inspection for the SDAP (or for the Building Permit if an SDAP is not required) 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.
8. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.
9. At building permit application, submit Kitsap County Public Works Form 1601 for issuance of a concurrency certificate, as required by Kitsap County Code 20.04.030, Transportation Concurrency.
10. 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 process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

c. Environmental

11. Permit approval subject to chapter [19.300.315](#) of Kitsap County Code, which states that buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.
12. Vegetation planting shall occur as specified in the approved planting plan produced in support of this permit. Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant must contact Development Service and Engineering Staff at (360) 337-5777 for a site inspection and as-built approval. Monitoring and maintenance of the planted area shall be conducted for five years after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division by December 31 of each monitoring year. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival.
13. Subject to mitigation plan detailed in Habitat Management Plan produced by BGE Environmental, LLC. dated March 22, 2021.
14. Subject to the conditions of the Geotechnical assessment conducted by Resolve Environmental dated September 17, 2020, associated with this permit and on file at the Department of Community Development.
15. A full Geotechnical Engineering report will be required at time of building permit review to support the proposed 6-foot top of slope setback (76% reduction) for the detached garage/home office/shop.

d. Traffic and Roads

None

e. Fire Safety

16. No use or occupancy of buildings or other construction accomplished as a result of approval of this application prior to final building inspection approval and issuance of the certificate of occupancy.
17. Conceptual drawings provided indicate construction and configuration consistent with a dwelling rather than an accessory garage use. Any use of this building for other than a detached residential garage shall result in revocation of any approvals granted through this application. Applicant shall file a notice to

title - approved by the department, recognizing the prohibition against using the construction resulting from the application for a dwelling or any other use than a detached garage / shop.

- 18. A building Permit is required for any construction resulting from approval of this application. Approval of this application does not include construction approval. Any and all construction resulting from approval of this application must comply with the building, fire, energy and other codes in effect at the time of the building permit application.

f. Solid Waste

None

g. Kitsap Public Health District

- 19. A building clearance will be required prior to building permit issuance.

Report prepared by:

Carla Lundgren

Carla Lundgren, Staff Planner / Project Lead

01/18/2023

Date

Report approved by:

Scott Diener

Scott Diener, DSE Manager, DCD

1-18-2023

Date

Attachments:

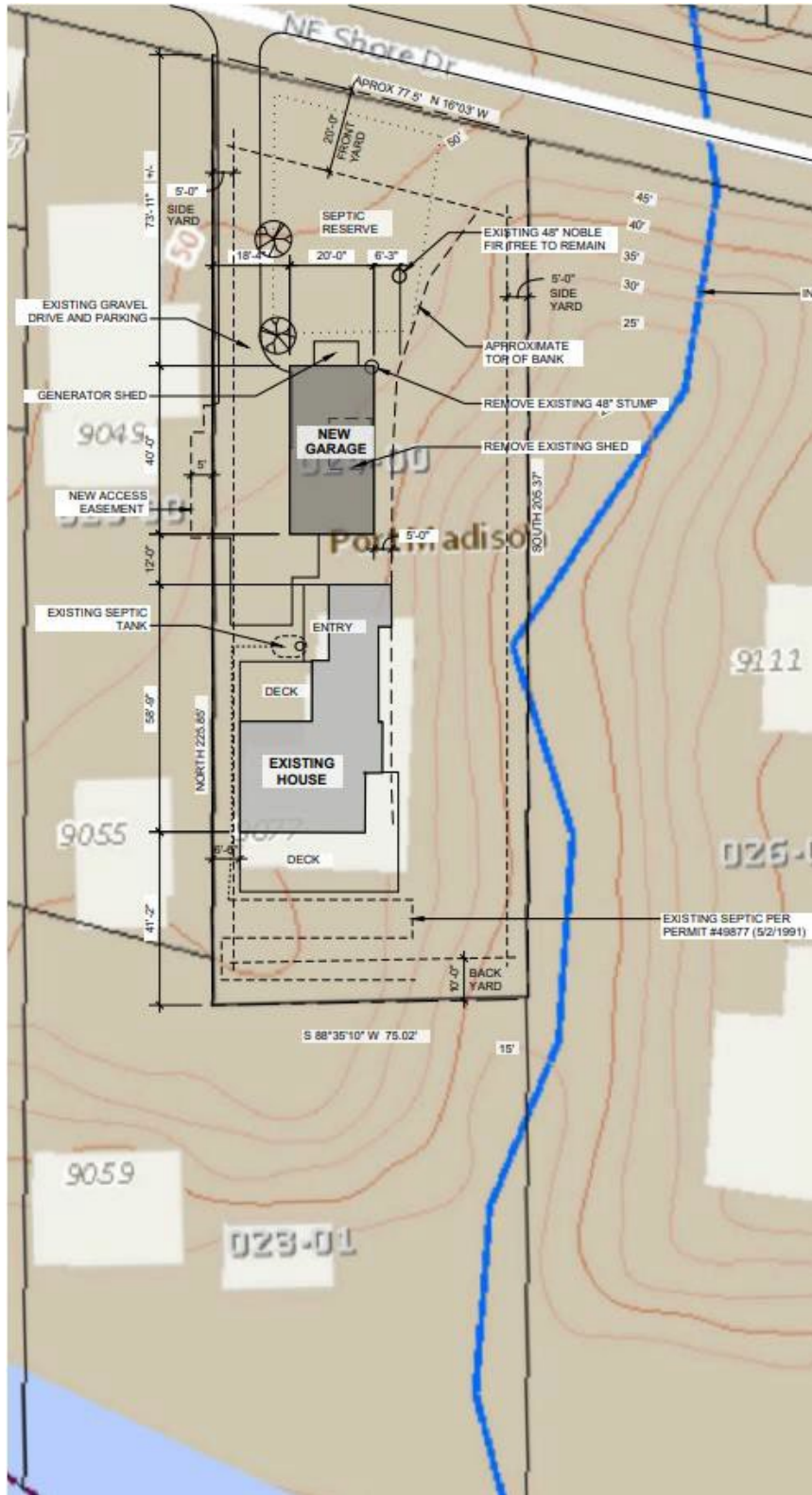
- Attachment A – Site Map
- Attachment B – Critical Areas Map
- Attachment C – Zoning Map
- Attachment D – Surrounding Properties w/Accessory Structures Map
- Attachment E - Proposed Buffer Widths

CC: Applicant/Owner: Klinker Family Legacy LLC – 13205 8th Ave NW, Seattle, WA 98177
 Project Representative: Robbyn Myers - bgerobbyn@comcast.net
 Project Representative: Arthur Langlie - aklanglie@comcast.net
 Kitsap County Health District, MS-30
 Kitsap County Public Works Dept., MS-26
 DCD Staff Planner: Carla Lundgren

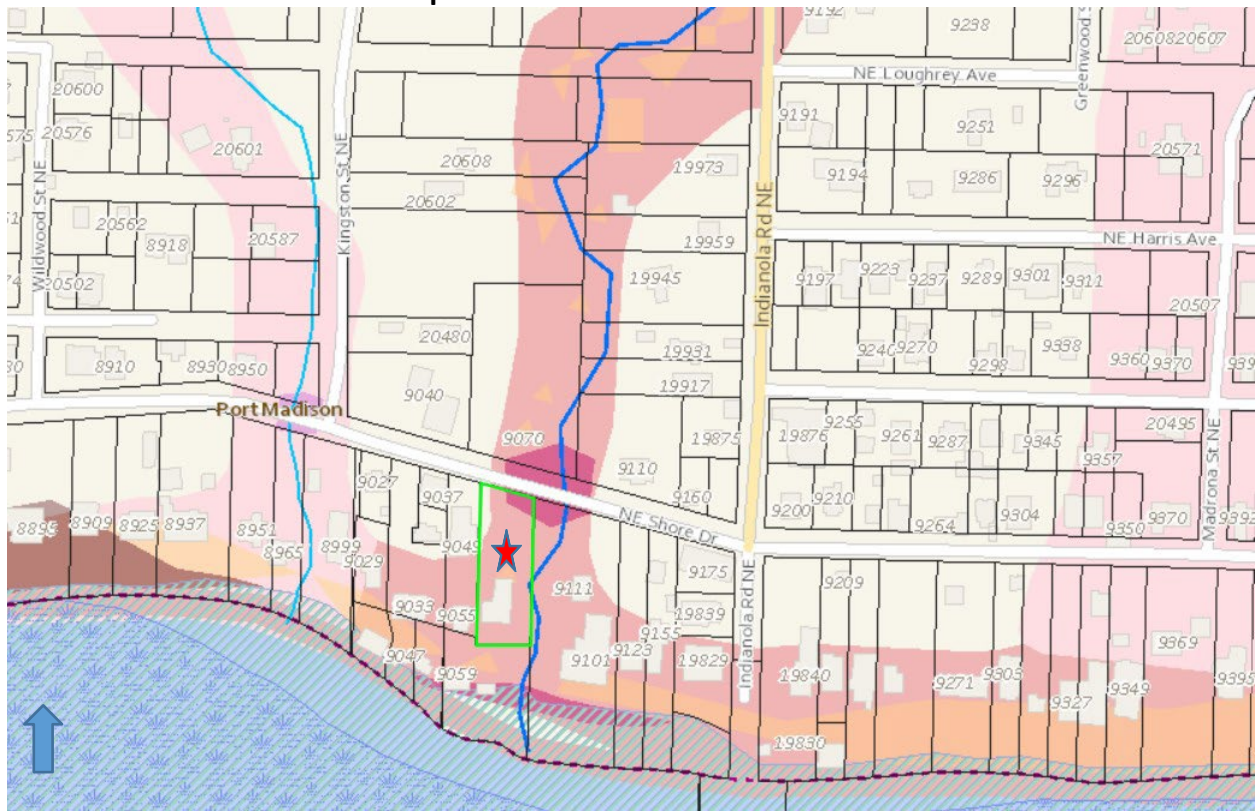
Interested Parties:

Beverly Ford, tthumbs33@yahoo.com ; Beverly Parsons, bevandpar@gmail.com;
Carol Ann Price, carol9price@comcast.net; Lisa J Hurt, lisa@evanlenz.net; Margaret
Tufft, margaret@qord.cc; Brock Robinson, P.O. Box 606 Indianola WA 98342;
Frankye Jones, frankyejones@gmail.com; Bert Jackson, berthj@centurytel.com;
Melissa Blanchard, melb16@comcast.net; Zann Jacobson, zanyajacob@gmail.com;
Reed Garrett Blanchard, reed.blanchard@gmail.com; Steve T Walker,
steve.t.walker@gmail.com; David & Susan Walker, walkers@ourwalkerhome.com;
Neva Welton, neva.welton@gmail.com; Janice Gutman & Tina Gianoulis,
janicegutman@gmail.com; Peggy Thurston, peggythemidwife@gmail.com; Craig
Jacobson, cjacobson@gmail.com; Niki Quester, nikiquester@gmail.com; Rod
Malcom - Suquamish Tribe, rmalcom@suquamish.nsn.us; Alison O'Sullivan –
Suquamish Tribe, aosullivan@suquamish.nsn.us; Shar Willis,
shar_willis_1@hotmail.com; Elizabeth Nichols, Dbnichols@centurytel.net; Sharla
Willis, sharwillis020@gmail.com; Kerrie Deck, PO BOX 495 INDIANOLA, WA 98342-
0495; Melinda J & Paul R West, PO BOX 323 INDIANOLA, WA 98342; Katherine L
Haug, melandkathyhaug@gmail.com; David Ian McIlvena & Lindsey Rapp Smith,
mcilvena@gmail.com; A. Stevens Quigley, quigley@attorneydude.com; Lisa Lenz,
lisa@evanlenz.net; Laura Rotegard, Lmrotegard@gmail.com; Katherine E Dickerson,
katherine.e.dickerson@gmail.com; Doug Hayman, seattleguitarman@hotmail.com;
Susan Hancock, scr Hancock@aol.com; Eir Cheeka, eirquester2@hotmail.com; Brian
Murphy, craftbuilt@yahoo.com; Cy & Pamela Dassel, pamdassel@hotmail.com; Tina
Gianoulis, tgianoulis@gmail.com; MichaelT Dillon, miked7003@gmail.com; Karen J
Kinnaird, kjk98342@gmail.com; Judith Drew, beljd@aol.com; Colleen Crowley-
Vlahovich, vdouplay@comcast.net

Site Plan




Attachment B: Critical Areas Map




Critical Areas



Waterbodies

-  Includes DNR NWI and Surveyed Wetlands


Wetlands

-  DNR NWI Surveyed Wetlands






FEMA Flood Hazard Areas

-  100 Year Floodplain
-  Storm Induced Velocity Wave Hazard

Hydric Soils

-  Potential Wetlands

Streams



- Watercourse - DNR and Wildfish Conservancy
-  (S) Designated Shoreline of the State
-  (F) Fish Habitat
-  (N) Non-fish Habitat
-  (U) Unknown, unmodeled hydrographic feature
-  × × No Channel as depicted by DNR

Geologic Critical Areas



Seismic High Hazard Area

-  High


Landslide Hazard areas

-  High
-  Moderate

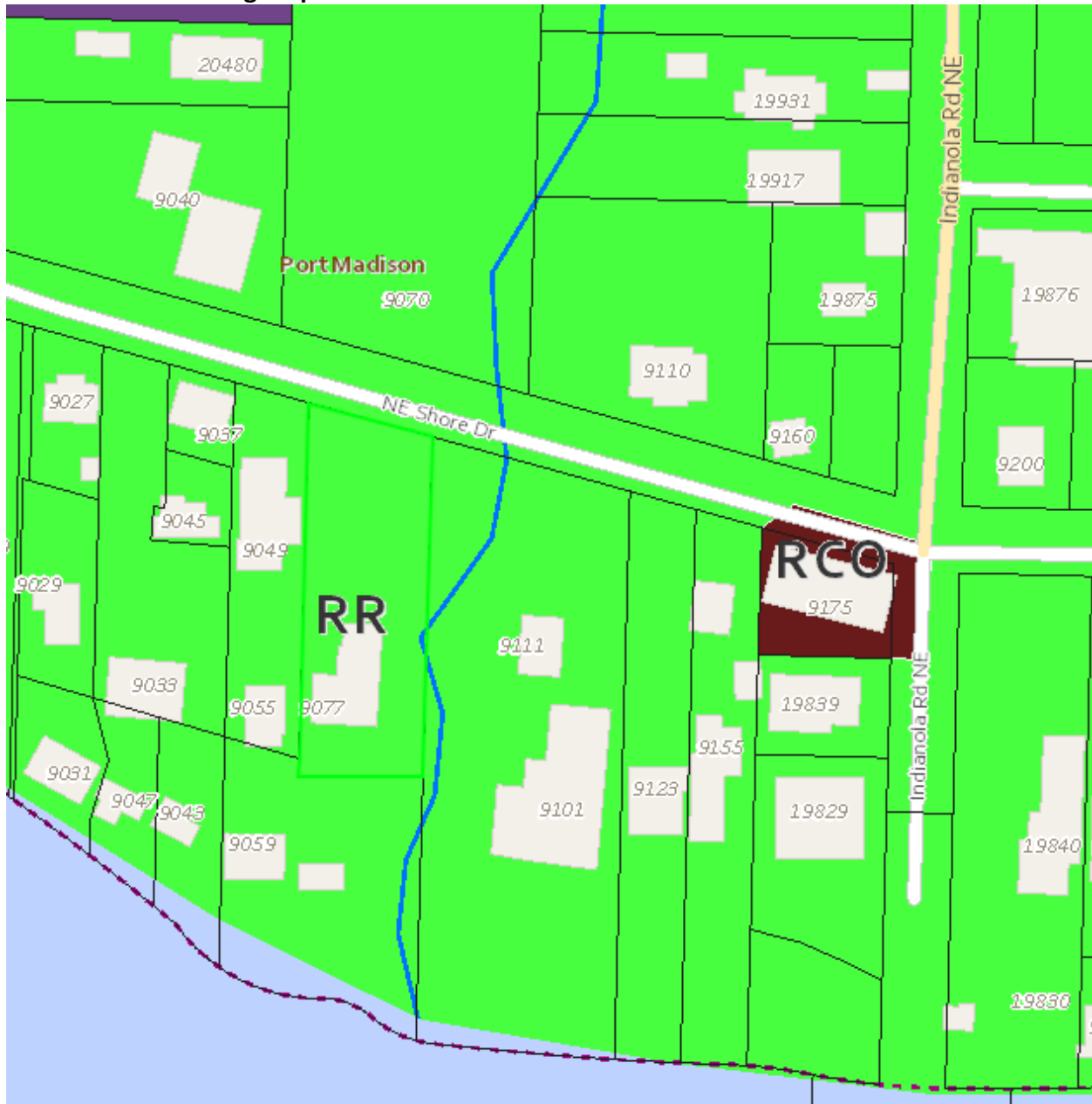
Erosion Hazard Area

-  High
-  Moderate

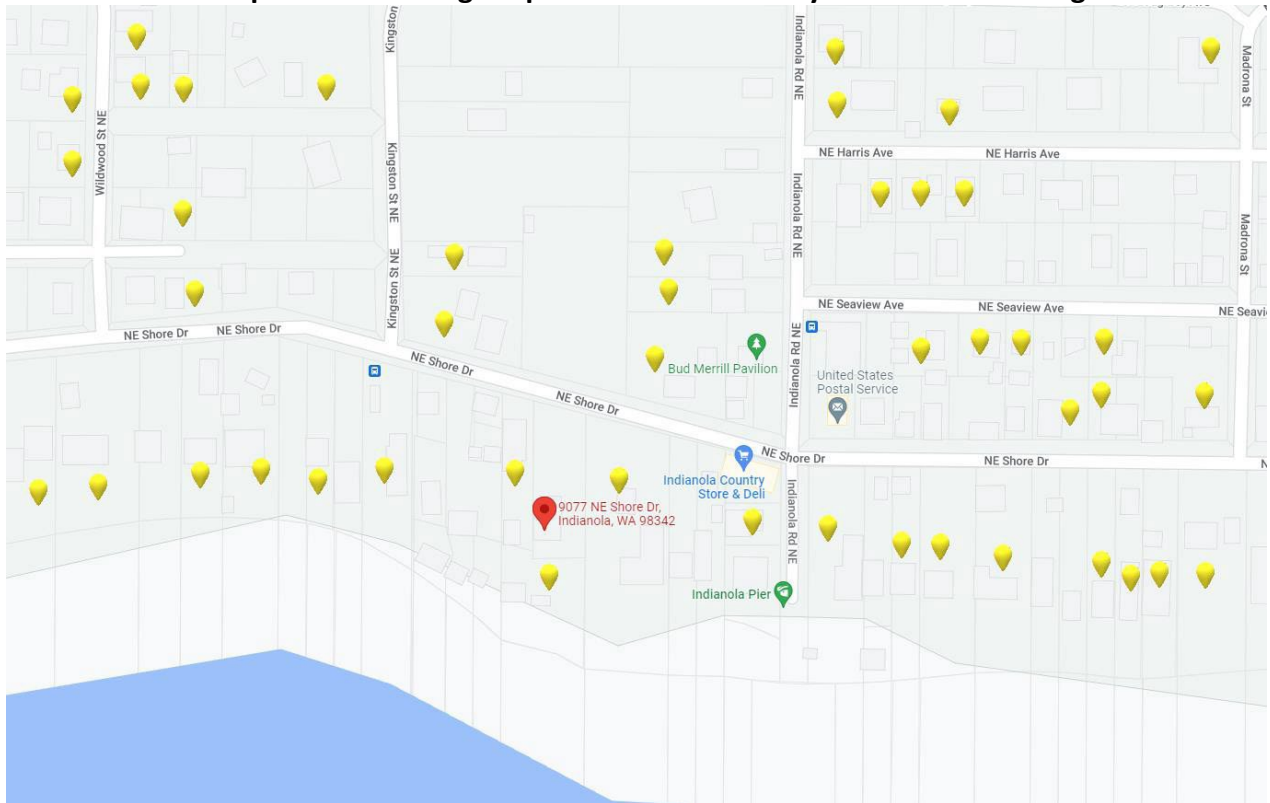
Seismic Moderate Hazard Area

-  Moderate

Attachment C: Zoning Map



Attachment D: Map of Surrounding Properties with Accessory Structures or Garages



Attachment E: Proposed Buffer Widths

