



## Hearing Examiner Staff Report and Recommendation

**Report Date:** October 20, 2022  
**Hearing Date:** October 27, 2022

**Application Submittal Date:** February 28, 2022  
**Application Complete Date:** May 02, 2022

**Project Name:** Johnson – Construct an 899-square-foot Accessory Dwelling Unit with a 440-square-foot attached garage

**Type of Application:** Conditional Use Permit  
**Permit Number:** 22-01104

**Project Location**  
11181 Bowe Ln SE  
Port Orchard, WA  
Commissioner District 2

**Assessor's Account #**  
302302-4-077-2001

**Applicant/Owner of Record**  
David & Jonna Johnson  
11181 Bowe Ln SE  
Port Orchard, WA

### Recommendation Summary

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

### 1. Background

David and Jonna Johnson (hereafter, “the Applicant”) propose to construct an 899-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 site is located outside of an UGA; therefore, CUP approval is required.

The site is developed with a 2,372-square-foot home, an 840-square-foot attached garage, paved driveway, and septic system.

### 2. Project Request

The Applicant requests approval of a CUP to construct an 899-square-foot ADU with a 440-square foot attached garage. The ADU will use an existing driveway on the parcel and access from the west of the parcel which connects to Bowe Lane SE. The ADU will have similar materials as the primary dwelling. The existing onsite septic system will serve the ADU and primary unit. A new

### VICINITY MAP



Kitsap Public Utility District and new Puget Sound Energy meter will provide water and power to the new accessory 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. This project is vested to code in effect at time of Notice of Complete Application, May 19, 2022. The proposal is not subject to later changes made to KCC Title 17 Zoning effective June 28, 2022.

### **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 May 19, 2022 (Exhibit 16). A Determination of Nonsignificance (DNS) was issued on September 15, 2022 (Exhibit 20).

The SEPA appeal period expired October 6, 2022. No appeals were filed; therefore, the SEPA determination is final.

### **4. Physical Characteristics**

According to the Kitsap County Assessor, the subject site is 2.18 acres. The central portion of the site is developed with the existing primary dwelling, attached garage, and driveway. The parcel is mostly wooded, roughly a square shaped parcel, bordered on the west by Bowe Ln. SE, to the north lies Jacobs Ln. SE. The east and south properties bordering the site are developed single-family residential parcels. The northwestern portion of the site is developed with the existing primary drain field and existing reserve drainfield. The southeast portion of the site provides the primary and reserve drainfield for the proposed ADU. The site has moderate erosion hazards extending through the northwest, southwest, southeast, and central portions of the property. The parcel is zoned Rural Residential and meets the minimum lots size requirements.

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

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	1 dwelling unit/2.18 acres, existing
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	2.18 acres, existing
Maximum Lot Size	N/A	2.18 acres, existing
Minimum Lot Width	140 feet	302 feet, existing
Minimum Lot Depth	140 feet	315 feet, existing
Maximum Height	35 feet	1 floor, <35 feet
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (West)	50 feet	61 feet
Side (North)	20 feet	236 feet
Side (South)	20 feet	54 feet
Rear (East)	20 feet	172 feet

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

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Residential (RR)
South	Single-family residence	Rural Residential (RR)
East	Single-family residence	Rural Residential (RR)
West	Single-family residence	Rural Residential (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

**5. Access**

The subject site gains access via the existing driveway off Bowe Lane SE.

## 6. Site Design

The ADU will be located approximately 30 feet south of the 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 (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 24 exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
1	<b>STAFF REPORT</b>	10/20/2022	
2	Site Plan	04/19/2022	04/28/2022
3	GeoTech Report	08/21/2022	04/28/2022
4	Submission Form	03/09/2022	04/28/2022
5	SEPA Checklist	02/28/2022	04/28/2022
6	ADU Construction Plans	Feb 2019	04/28/2022

7	Elevation Plans	11/02/2021	04/28/2022
8	Building Site Application	02/02/2022	04/28/2022
9	Water Availability Letter	02/01/2022	04/28/2022
10	Stormwater Worksheet		04/28/2022
11	Site Assessment Planning Packet		04/28/2022
12	Stormwater Pollution Prevention Plan		04/28/2022
13	SFR Photos	08/30/2021	04/28/2022
14	Post Construction Soil Quality and Depth		04/28/2022
15	Stormwater Plan	11/02/2021	04/28/2022
16	Notice of Application	05/19/2022	
17	Letter of Confidence	07/13/2022	09/13/2022
18	Project Narrative	08/25/2022	09/13/2022
19	Stormwater Conditions Memo	09/13/2022	
20	SEPA Determination	09/15/2022	
21	Notice of Public Hearing	10/12/2022	
22	Certification of Public Notice	10/18/2022	
23	Staff Presentation		
24	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 existing 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 899 square feet. The existing residence is 2,372 square feet. Fifty percent of the primary residence is 1,186 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 30 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 proposal meets all required setback for the Rural Residential (RR) zone.*

- 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. A 972-square-foot new driveway extending beyond the existing driveway is proposed to lead to the ADU. This new driveway will provide the additional parking required for the ADU.*

- 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 on 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	2 SFR—existing 1 ADU—proposed
Total	1	1	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	N/A	N/A

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 an ADU. However, there are access requirements that limit access to one road approach off a County road. This is addressed 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 of this report).

**i. Environmental**

The request is for approval of a CUP to build a 899-square-foot ADU with a 440-square-foot attached garage. The parcel has moderate erosion hazards that were reviewed and re-evaluated by Resolve Environmental & Geotechnical, Inc. on July 11, 2022. Based on the original report dated August 21, 2020, and the additional “Letter of Confidence” dated July 13, 2022, there are no environmental concerns or conditions for this proposal.

**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 of this report).

**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 municipal water; 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 CUP application under KCC 17.550.020 and 21.04.100. The Hearing Examiner may approve, approve with conditions, or deny a CUP. 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 in KCC 2.10.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.

*Staff comment: The proposal supports the intent to increase affordable housing options in Kitsap County while limiting the density in the rural areas to ensure the preservation of those areas.*

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.

*Staff comment: This proposal meets all the required regulations applicable per KCC.*

3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.

*Staff comment: The proposal is consistent with the existing residential use of the property and the surrounding properties.*

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.

*Staff comment: The design, size, and placement of the proposed ADU effectively*

*utilizes the existing features of the property while complementing the surrounding neighborhood characteristics.*

### **13. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 17.550.030.A, the Department of Community Development recommends that the Conditional Use Permit request be **approved**, subject to the following 28 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 899 square feet. 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. Development Engineering**

21. 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.
22. 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.

23. The design of the infiltration facilities shall be in accordance with Vol. II, Ch. 5.4 of the Kitsap County Stormwater Design Manual.
24. If the project proposal is modified from that shown on the submitted site plan accepted for review May 2, 2022, Development Services and Engineering will require additional review and potentially new conditions.

**c. Environmental**

25. Subject to the conditions of the Geotechnical report provided by Resolve Environmental dated August 21, 2020, and the "Letter of Confidence" dated July 13, 2022.

**d. Traffic and Roads**

26. 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). The need for and scope of bonding will be determined at that time.
27. 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.
28. At the time of building permit application, submit plans for construction of the extended driveway from the existing driveway as shown on the submitted plans. Existing approaches may need to be improved to meet current standards.

**e. Fire Safety**

29. None

**f. Solid Waste**

30. None

**g. Kitsap Public Health District**

31. None

**Report prepared by:**

Carla Lundgren  
Carla Lundgren, Staff Planner / Project Lead

10/10/2022  
Date

**Report approved by:**



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Scott Diener, DSE Manager

10/10/2022

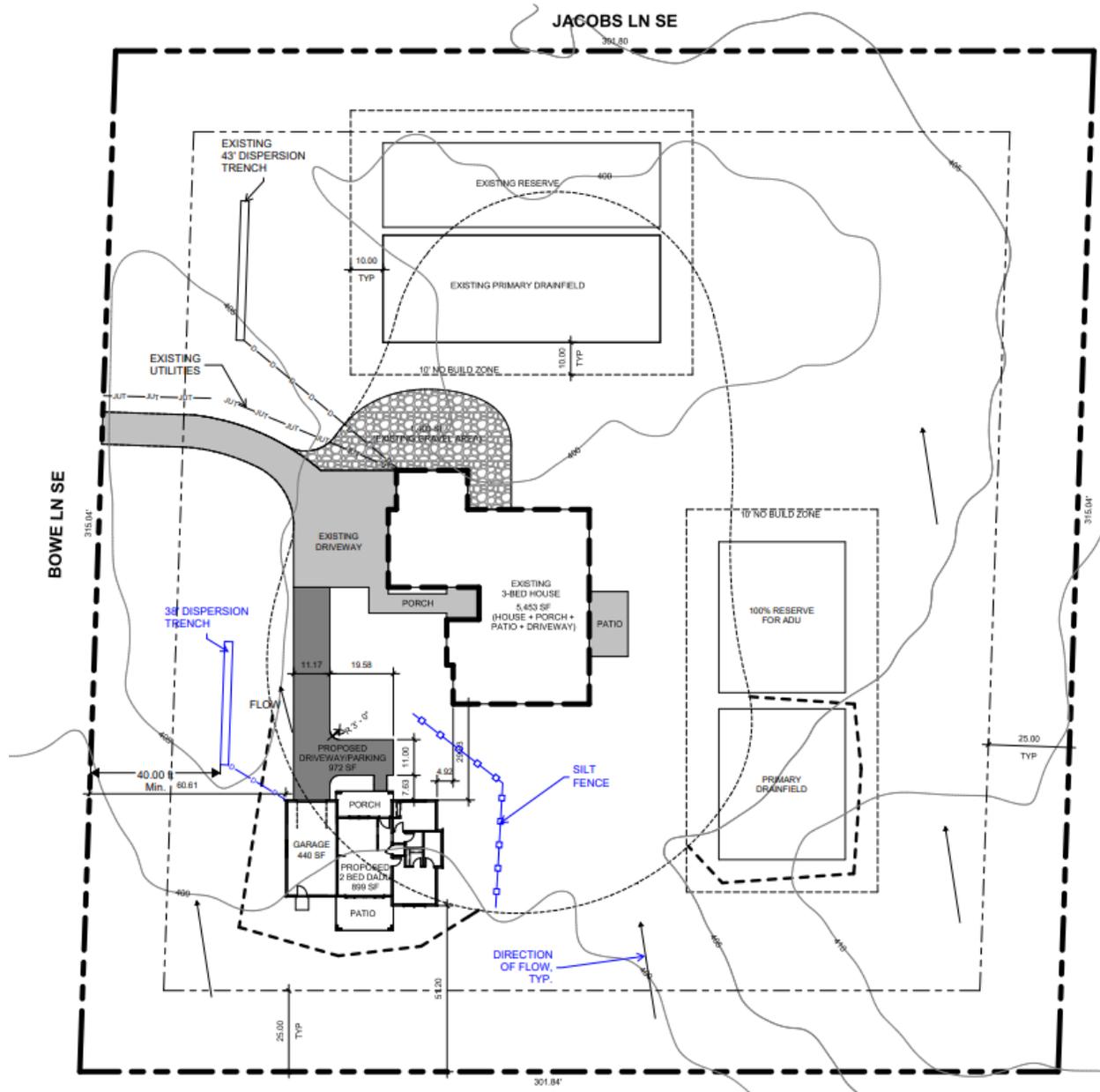
Date

**Attachments:**

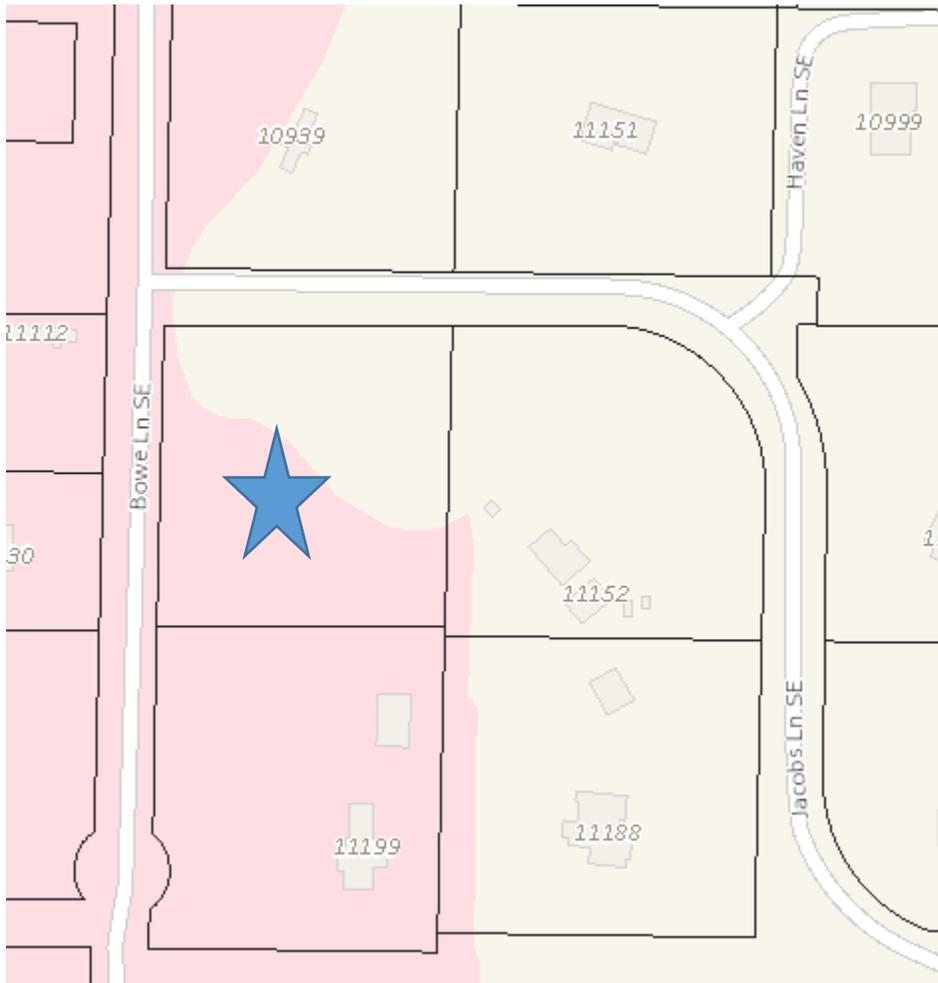
- Attachment A – Site Plan
- Attachment B – Critical Areas Map
- Attachment C – Zoning Map

CC: Applicant/Owner: David & Jonna Johnson - dave@kitsapmarina.com  
Agent: Nicholas Molinaro – nmolinaro@bcradesign.com  
Interested Parties: none  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Carla Lundgren  
DCD Land Use File  
DCD Building Permit File

Attachment A - Site Plan



**Attachment B – Critical Areas Map**



**Attachment C – Zoning Map**

