



Hearing Examiner Staff Report and Recommendation

Report Date: April 1, 2021
Hearing Date: April 8, 2021

Application Submittal Date: 5/11/2020
Application Complete Date: 5/18/2020

Project Name: BUCKLEY – Accessory Dwelling Unit (ADU)
Type of Application: Conditional Use Permit (CUP) ADU
Permit Number: 20-01920

Project Location

14501 CAVALLI RD SE
OLALLA, WA 98359
Commissioner District 2

Assessor's Account

4862-001-001-0105

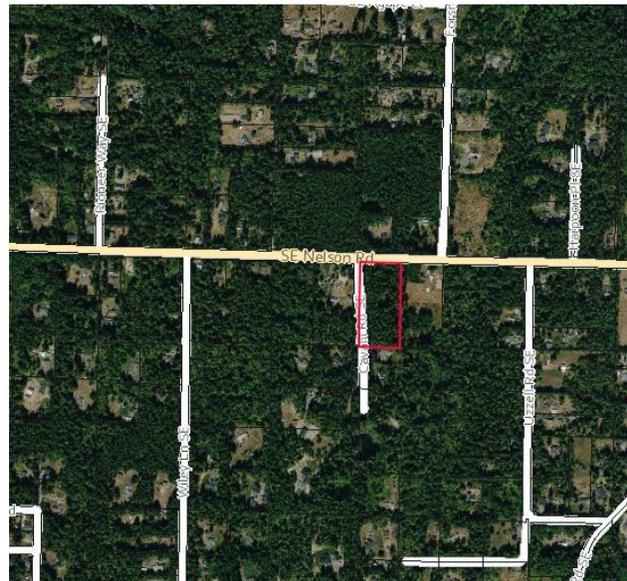
Applicant/Owner of Record

WILLIAM BUCKLEY
14501 CAVALLI RD SE
OLALLA, WA 98359

Project Representative

SHAWN AMES
11414 10TH AVE. CT. E. APT. C 102
TACOMA WA, 98445

VICINITY MAP



Recommendation Summary

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

1. Background

William Buckley (hereafter, “the Applicant”) proposes to construct a detached Accessory Dwelling Unit (ADU). Per KCC 17.410.060.B.3.b, ADUs proposed outside of the urban growth boundary (UGA) shall be subject to a conditional use permit (CUP). The subject site is located outside of the UGA; therefore, CUP approval is required.

2. Project Request

The Applicant has requested approval for a Conditional Use Permit (CUP) to allow the construction of a new 884 square foot Accessory Dwelling Unit (ADU) in the Rural Residential zone. Water is proposed to be provided by an existing private 2-party well. A new onsite septic system is also proposed. The existing access from Cavalli Road SE will be used and the

existing driveway is proposed to be extended to the new ADU. An additional parking space is also proposed.

3. SEPA (State Environmental Policy Act)

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 05/29/2020 (Exhibit 10). A Determination of Nonsignificance (DNS) was issued on 03/04/2021 (Exhibit 13). The SEPA appeal period expired 03/18/2021. No appeals were filed; therefore, the SEPA determination is final.

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.

4. Physical Characteristics

According to the Kitsap County Assessor Database, the subject site is 4.77 acres and is developed with an approximately 2,649 square foot single family residence. The existing residence is served by an on-site septic system, and private 2-party well.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	NA	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	~16-ft

Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50-feet	50-feet, minimum
Second Front (North)	50-feet	~ 370-feet
Side (South)	5-feet for accessory structures	~ 253-feet
Rear (East)	5-feet for accessory structures	~225-feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Public ROW and Single-family residences	Rural Residential (RR)
South	Single-family residences	Rural Residential (RR)
East	Single-family residences	Rural Residential (RR)
West	Single-family residences	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	Private Septic
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

5. Access

The site gains access from Cavalli Rd SE, a county right-of-way, which abuts the subject site along the westerly property line. Cavalli Rd SE connects to SE Nelson Rd to the north. According to Kitsap County’s Assessors Map (Exhibit 15), Cavalli Rd SE is developed outside of the right-of-way area, and intersects the subject site along the western boundary. Cavalli Rd SE serves over five lots and meets the definition of a street

(KCC 17.110.695); therefore, the required setback is measured from the edge of the street instead of the property line.

The proposal is to use the existing access off Cavalli Rd SE and extend the driveway to the proposed ADU. The new driveway extension will also provide an additional parking space for the ADU.

6. Site Design

The proposed ADU will be sited to the west of the existing single-family residence. The existing driveway will be expanded to provide access to the proposed ADU and one additional parking space. At the time the staff report was drafted, the ADU site plan showed the proposed structure within the required 50-foot setback; however, there is adequate space to accommodate the structure outside of the setback area. The applicant has agreed to modify the proposed structure's location to the northeast to avoid the setback area (Exhibit 20). No additional impacts are anticipated because of this modification. Staff also informed the Kitsap Public Health Department of the pending change, and no concerns were found (Exhibit 21). Staff recommends Condition 1 to ensure compliance, which will be verified at the time of building permit approval.

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 in 2020.

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

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

Title 19	Critical Areas
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

8. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1 through 22.

Exhibit #	Document	Dated	Date Received
1	ADU Elevations and Floor Plans		5/15/2020
2	Concurrency Test		5/15/2020
3	Health District Approval		5/15/2020
4	Owner Authorization Letter		5/15/2020
5	Permit Questionnaire		5/15/2020
6	SEPA Checklist		5/15/2020
7	SFR Elevations		5/15/2020
8	SFR Floor Plans		5/15/2020
9	Stormwater Worksheet		5/15/2020
10	Notice of Application		5/29/2020
11	Site Plan		10/5/2020
12	Stormwater Preliminary Condition Memo		3/2/2021
13	SEPA Determination of Non-Significance (DNS)		3/4/2021
14	Aerial Map		3/30/2021
15	Assessor Map		3/30/2021
16	Comprehensive Plan Map		3/30/2021
17	Critical Aquifer Map		3/30/2021
18	Critical Area Map		3/30/2021
19	Zoning Map		3/30/2021
20	Email with Applicant - confirming setback revision		3/31/2021
21	Email with Health District - confirming no revised BSA required		4/1/2021
22	Staff Report		4/1/2021

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 17. 410.060.B.3, in order to encourage the provision of affordable and independent housing for a variety of households, an accessory dwelling unit may be located in residential zones, subject to the following criteria. Staff comments are provided below in *italics*:

- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary;

Staff Comment: Not applicable. The subject property is not located within the urban growth boundary.

- b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary;

Staff Comment: The subject property is located outside of the urban growth boundary. This application is a Conditional Use Permit for an Accessory Dwelling Unit, satisfying this requirement.

- 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, meeting this requirement.

- 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, satisfying this requirement.

- 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 habitable space of the existing residence is 2,649 square feet (Exhibit 8). 50 percent of 2649 is 1324.5 square feet; therefore, the ADU is limited to 900 square feet (the smaller value). The proposed ADU is 884 square feet (Exhibit 1), satisfying this requirement.

- 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 most recent site plan shows the single-family residence and the proposed accessory dwelling unit are approximately 100 feet apart (Exhibit 11), satisfying this requirement. As noted in Section 6, the location of the proposed ADU will be modified to meet setback standards. DCD understands that the final location will be in compliance with this standard (Condition 7), to be verified at the time of building permit.

- g. The ADU shall be designed to maintain the appearance of the primary residence.

Staff Comment: The single-family residence and the proposed ADU are similar in appearance. Both structures are stick-built, with pitched, gable style roofs. The SFR is designed with natural wood siding and trim, and the proposed ADU is designed to match this aesthetic. Please see Exhibits 1 and 7.

- h. All setback requirements for the zone in which the ADU is located shall apply;

Staff Comment: As noted in Section 6, the location of the proposed ADU will be modified to meet setback standards. DCD understands that the final location will be in compliance (Condition 7), to be verified at the time of building permit.

- i. The ADU shall meet the applicable health district standards for water and sewage disposal;

Staff Comment: The application was reviewed and approved by Kitsap County Health District for water and sewage disposal, satisfying this requirement.

- j. No mobile homes or recreational vehicles shall be allowed as an ADU;

Staff Comment: The proposed ADU is a stick-built structure, not a mobile home or recreational vehicle, satisfying this requirement.

- 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 (Exhibit 11) shows the proposed ADU will use the existing driveway that serves the single-family residence and the proposed driveway will provide an additional off-street parking space, satisfying this requirement.

- l. An ADU is not permitted on the same lot where an accessory living quarters exists.

Staff Comment: There are no present or proposed accessory living quarters. Please see the single-family residence floor plan (Exhibit 8).

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 per unit 1 additional space for accessory dwelling units.	4	3 existing 1 proposed
Total	1	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 (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s)		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

f. Frontage Improvements

To meet minimum requirements for fire access, the applicant is proposing to expand the existing driveway approach (Exhibit 11). The Site Plan submitted for the required

building permit application shall include plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Existing approaches may need to be improved to meet current standards (Condition 26).

g. Design Districts/Requirements

The site is not within a designated design district.

h. Development Engineering/Stormwater

Development Services and Engineering has 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 and requires four conditions (Exhibit 12, Conditions 21 through 25).

i. Environmental

According to Kitsap County's Critical Areas Map (Exhibit 18), there are no on-site critical areas. Hydric soils are mapped off-site to the east and hydric soils are potential wetlands; however, this area measures over 400-ft away from the project area exceeding maximum buffer requirements. There are no other critical areas concerns.

j. Access, Traffic and Roads

The proposed ADU uses an existing access and driveway. The driveway will be expanded on-site. No impacts to traffic, access, or roads are anticipated.

Development Services and Engineering has reviewed the proposal for compliance with traffic and road standards and has recommended approval, with three conditions (Condition 25 through 27).

k. Fire Safety

The Kitsap County Fire Marshall's Office reviewed and approved the proposal with one condition (Condition 29). The most recent site plan includes a note

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 (Exhibit 3) that shows approval for water and septic from Kitsap County's Health Department. Potable

water is proposed to be provided by an on-site 2-party well. Sanitary sewage disposal is proposed to be provided by a new on-site septic system.

n. Kitsap Public Health District

The Kitsap Public Health District has reviewed and approved the proposal with no conditions. KPHD was informed of the pending change in the ADU location to meet setback requirements and raised no concerns (Exhibit 21).

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 Conditional Use Permit request for Buckley Accessory Dwelling Unit be **approved**, subject to the following 29 conditions:

a. Planning/Zoning

1. The proposed ADU shall meet the required 50-ft front yard setback, as measured from the edge of Cavalli Rd SE.
2. All required permits shall be obtained prior to commencement of land clearing,

construction and/or occupancy.

3. The accessory dwelling unit (ADU) is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
4. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the accessory dwelling unit building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
5. Only one accessory dwelling unit shall be permitted on the subject property.
6. The owner of the property must reside in either the primary residence or the accessory dwelling unit and only one of the structures may be rented at any one time. The accessory dwelling unit'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 884 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 accessory dwelling unit shall be located within 150 feet of the primary residence.
8. The accessory dwelling unit 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 accessory dwelling unit.
11. The accessory dwelling unit 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 or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code.
13. A property with a primary residence and an accessory dwelling unit 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 accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
15. The recipient of any conditional use permit shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the

use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the Department at the applicant's expense.

16. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code. 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 Permit #20-01920. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
 19. This Conditional Use Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within four years of the Notice of Decision date or the resolution of any appeals.
 20. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
- b. Development Engineering**
21. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require the building permit include a stormwater management design, depicting how the project meets Minimum Requirements #1-5, as outlined in the Kitsap County Stormwater Design Manual.
 22. On-site stormwater management, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, May 19, 2020.

- 23. Prior to requesting the final inspection for the building permit, soil amendment is required for all disturbed areas not covered by hard surface.
- 24. If the project proposal is modified from that shown on the site plan accepted for review October 5, 2020, Development Services and Engineering will require additional review and potentially new conditions.

c. Traffic and Roads

- 25. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project.
- 26. The Site Plan submitted for the required building permit application shall include plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Existing approaches may need to be improved to meet current standards.
- 27. 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 building permit. The need for and scope of bonding will be determined at that time.

d. Kitsap Public Health District

- 28. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

e. Fire

- 29. The driveway approach shall be 150-ft from the edge of SE Nelson Rd. This shall be shown on the site plan submitted with the required building permit.

Report prepared by:



3/31/2021

Tasha Santos, Staff Planner / Project Lead

Date

Report approved by:



3/31/2021

Angie Silva, Assistant Director

Date

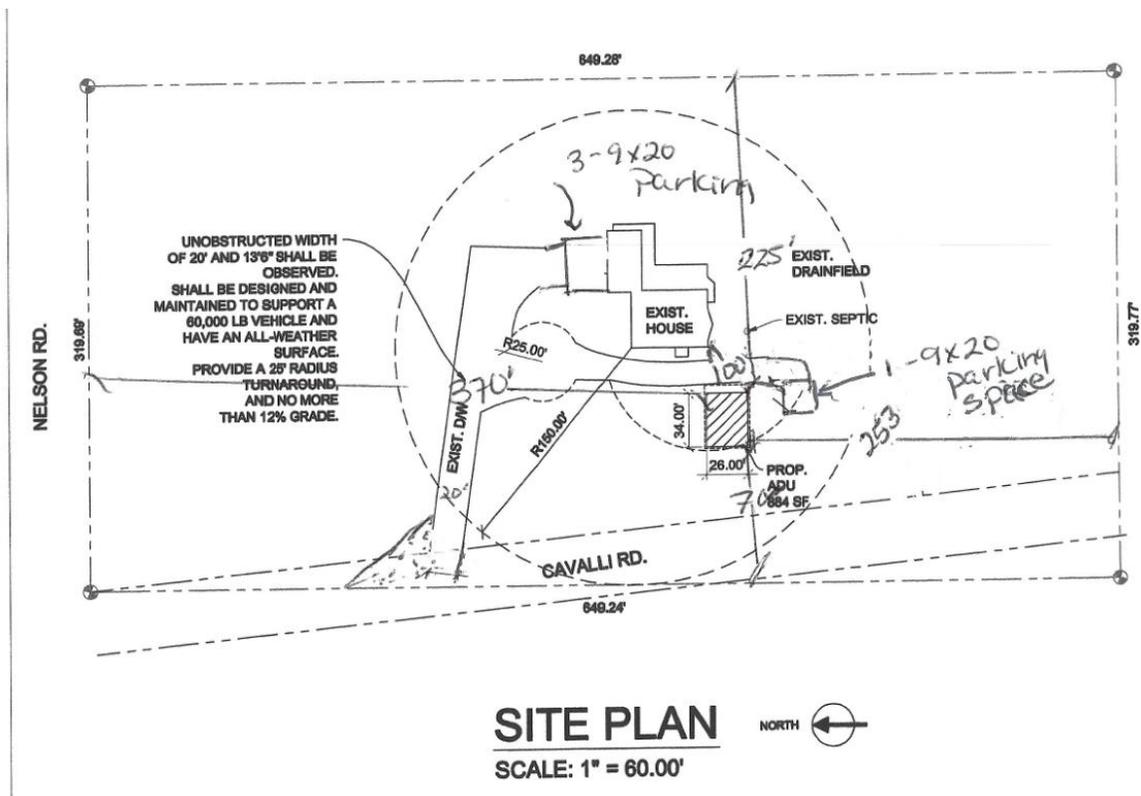
Attachments:

Attachment A – Zoning Map

CC: Project Representative: SHAWNYAMES@YAHOO.COM
Interested Parties: None
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Tasha Santos

Site Plan

Note: A final revised site plan to be provided by the applicant prior to hearing.



Attachment A – Zoning Map

