



Hearing Examiner Staff Report and Recommendation

Report Date: May 20, 2021
Hearing Date: May 27, 2021

Application Submittal Date: July 22, 2020
Application Complete Date: October 28, 2020

Project Name: KUJAWA – Accessory Dwelling Unit (ADU)
Type of Application: Conditional Use Permit (CUP) ADU
Permit Number: 20-03238

Project Location

6990 Seabeck Holly Rd NW
Seabeck, WA
Commissioner District 3

Assessor's Account

292501-3-003-1006

Applicant/Owner of Record

Ryan Kujawa
6990 Seabeck Holly Rd NW
Seabeck, WA 98380

Project Representative

David Fall
8600 Banner Rd SE
Port Orchard, WA 98367

VICINITY MAP



Recommendation Summary

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

1. Background

Ryan Kujawa (hereafter, “the Applicant”) proposes to construct a 24-ft by 36-ft (900-square-foot) 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) that would allow the construction of a 900-square-foot Accessory Dwelling Unit (ADU) (Exhibit 5) on a 4.8-acre parcel. The proposal includes construction of an on-site wagon-wheel driveway, and typical associated residential utilities. The ADU is proposed in the general location of an existing shed

building, to be demolished. There is a Fish Habitat stream in the easterly portion of the parcel; all proposed construction is more than 200 feet from the stream. Potable water is proposed to be provided by an on-site 2-party well; sanitary sewage disposal is proposed to be provided by an individual on-site septic system.

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 November 3, 2020 (Exhibit 9). A Determination of Nonsignificance (DNS) was issued on May 10, 2021 (Exhibit 18). The SEPA appeal period will expire May 24, 2021. If no appeals were filed, the SEPA determination will be 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, the subject site is 4.80 acres. Seabeck Holly Road NW abuts the subject site's westerly property line. A site plan showing existing features was included in the application (Exhibit 9). It shows the property is developed with an existing single-family residence, storage building, onsite septic system, private well and driveway. A portion of Seabeck Creek is located on site, which continues beyond the property to the north and south.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Protection (RP) Zone: Rural Protection (RP)	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 du/10 acres	
Minimum Lot Size	10 acres	N/A

Maximum Lot Size	N/A	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	<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 (East)	50 feet	77 feet
Side (North)	20 feet 5 feet for accessory structures	150 feet
Side (South)	20 feet 5 feet for accessory structures	~297 feet
Rear (West)	20 feet 5 feet for accessory structures	~320 feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Protection (RP)
South	Single-family residence	Rural Protection (RP)
East	Single-family residence under construction (permit 20-05137)	Rural Protection (RP)
West	Right of Way and Single-family residences	Rural Protection (RP)

Table 4 - Public Utilities and Services

	Provider
Water	Private Water
Power	Puget Sound Energy
Sewer	Private Septic
Police	Kitsap County Sherriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District #401

5. Access

The subject site gains via Seabeck Holly Road NW, a County maintained public right-of-way, which abuts the subject site's westerly property line. There are two existing access points from Seabeck Holly Rd NW, one located in the south west corner of the site, and one located near the center of the property.

6. Site Design

See site plan attached to the end of this report.

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

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 Ordinance
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 23.

Exhibit #	Document	Dated	Date Received
1	Concurrency Test		10/26/2020
2	KPHD Building Site Application		10/26/2020
3	KPHD Building Site Application Revision		10/26/2020
4	Permit Questionnaire		10/26/2020
5	Plans (ADU)		10/26/2020
6	Project Narrative		10/26/2020
7	SEPA Checklist		10/26/2020
8	Stormwater Worksheet		10/26/2020
9	Notice of Application		11/03/2020
10	Preliminary Condition Memo		02/26/2021
11	Map – Aerial Imagery	4/14/2021	
12	Map – Comp Plan	4/14/2021	
13	Map – Critical Aquifer	4/14/2021	
14	Map – Critical Areas	4/14/2021	
15	Map – Shoreline	4/14/2021	
16	Map – Zoning	4/14/2021	
17	Site Plan (Revised)		4/27/2021
18	SEPA Determination of Nonsignificance		5/10/2021
19	Notice of Public Hearing		5/12/2021
20	Certification of Public Notice		
21	Plans (SFR)		5/20/2021
22	Staff Report		5/20/2021
23	Staff Presentation		5/26/2021

9. Public Outreach and Comments

A Notice of Application (Exhibit 9) 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 (*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: 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 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 existing residence is 2,305 square feet (See Attachment A). 50 percent of 2305 is 1152.5 square feet; therefore, the ADU is limited to 900 square feet (the smaller value). The proposed ADU is 900 square feet, meeting this standard.

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 accessory dwelling unit are approximately 97 feet apart (See Exhibit 17), 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. Please see Exhibit 12 and 15. Both are stick build structures with similar peaked roofs, horizontal siding and similar windows. The roof pitch is the same and both structures propose the same wood siding.

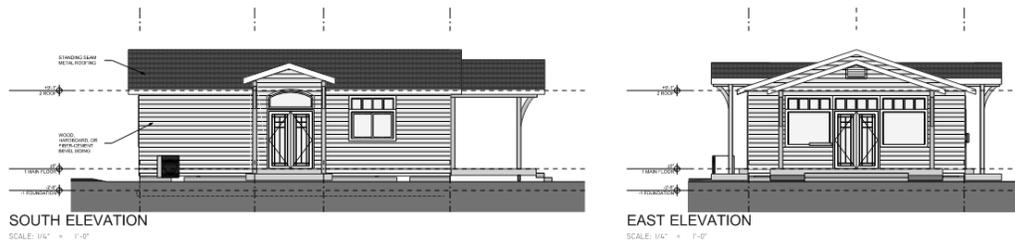


Figure 1: ADU Elevations

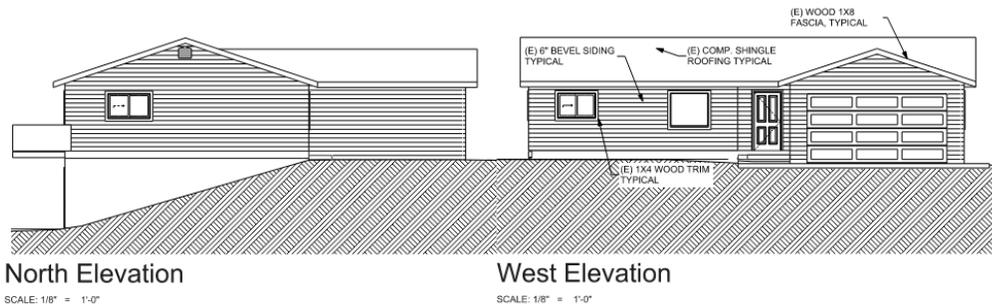


Figure 2: SFR Elevations

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

Staff Comment: All setbacks required by the Rural Protection zone are met for the proposed ADU. Please see Table 2.

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

Staff Comment: The application has submitted a building site application to the Kitsap County Health District, final approval will be required to be submitted at the time of building permit. Application materials were also routed to Kitsap County Health District and was approved

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: An existing access driveway provides access to the existing single-family residence via Seabeck Holly Rd NW (see Figure 3). The submitted site plan (Exhibit 17) a new wagon-wheel driveway will extend from the existing driveway, on

site to serve the ADU. The driveway will provide an additional off-street parking space.



Figure 3 - Primary Access, to remain

As previously motioned, the subject site contains a secondary access point (See Figure 4), which will be required to be abandoned, asphalt removed, and landscaped to prevent vehicular access (Condition 10, 28).



Figure 4 - Secondary Access, to be removed

1. 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 21).

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 for single-family residences 1 additional space for accessory dwelling units.	4	4
Total		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

Frontage improvements are required to remove the existing secondary driveway, as discussed previously in this report. Final design shall be submitted as part of the SDAP process, or building permit if no SDAP is required (Condition 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 if

no SDAP is required. The need for and scope of bonding will be determined at that time (Condition 28).

g. Design Districts/Requirements

The subject site is not within a designated design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed 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 recommends six conditions, as listed in the preliminary condition memo, dated February 26, 2021 (Exhibit 10).

i. Environmental

The Kitsap County Critical Areas Map (Exhibit 14) shows the subject site contains Type-F stream (Seabeck Creek). Per KCC 19.300.315, this stream requires a 150-ft buffer plus 15-ft building setback. The submitted site plan shows all work is outside of this buffer and setback area (Figure 5), thus meeting the requirement.

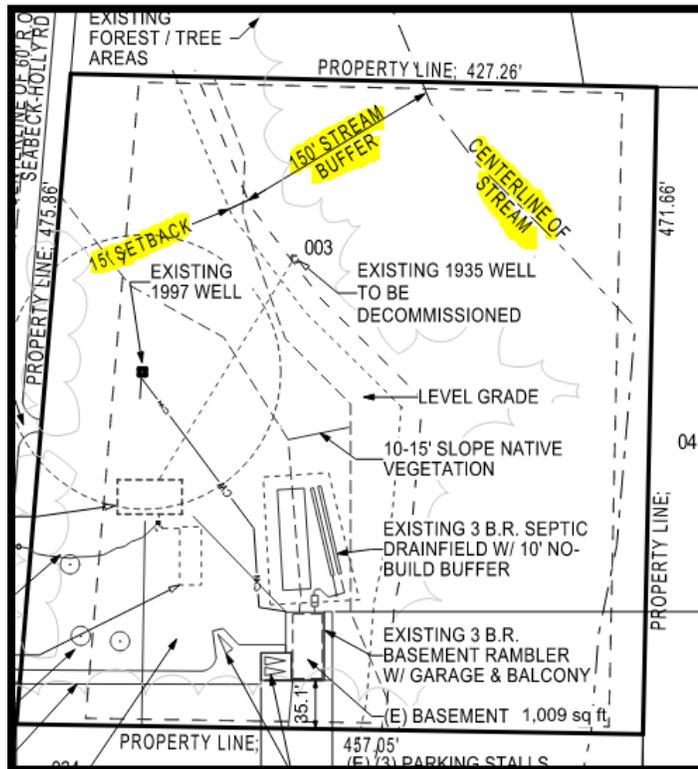


Figure 5: Site Plan, stream features highlighted

j. Fire Safety

The Kitsap County Fire Marshall's Office reviewed and approved the proposal with no conditions.

k. Solid Waste

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

l. Water/Sewer

The application included a Building Site Application (BSA) indicating potable water is proposed to be provided by converting an existing on-site well to a 2-party system; sanitary sewage disposal is proposed to be provided by a new on-site septic system.

m. Kitsap Public Health District

Kitsap County Health District has reviewed and approved the proposal with conditions. As mentioned, a final approved BSA is required to be submitted prior to building permit approval.

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 Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. 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 the Kujawa ADU be **approved**, subject to the following 29 conditions:

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. 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.
3. 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.
4. Only one accessory dwelling unit shall be permitted on the subject property.
5. 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 900 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.
6. The accessory dwelling unit shall be located within 150 feet of the primary residence.
7. The accessory dwelling unit shall be designed to maintain the appearance of the primary residence.
8. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
9. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit.
10. The accessory dwelling unit shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space. The access labeled "Existing Abandoned Driveway Access" on the submitted site plan shall be removed and durably landscaped to prevent vehicle access. Final design shall be submitted for review and approval at the time of building permit submittal.

11. 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.
12. 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.
13. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
14. 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.
15. 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.
16. 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.
17. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #20-03238. 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.
18. 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.

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

b. Development Engineering

20. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require a building permit demonstrating on-site stormwater management in compliance with Kitsap County Code Title 12.
21. 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, October 29, 2020.
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 shall 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.
23. If the project proposal is modified from that shown on the site plan accepted for review October 26, 2020, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

24. 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.
25. A 150-foot native vegetation buffer shall be retained along the perimeter of the stream as depicted on the approved site plan. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the buffer.
26. Prior to occupancy, the common boundary between the stream buffer and the adjacent land shall be permanently identified with critical area buffer signs. A total of 4 Critical Area Ordinance (CAO) signs shall be placed along the designated boundary spaced approximately 50 feet apart, visual from sign to sign. Signs must be attached to existing trees with diameter breast heights greater than 4 inches. Alternative methods include 4x4 posts, metal posts or split rail fencing.

d. Traffic and Roads

27. 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.
28. 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.

e. Kitsap Public Health District

29. A final approved Building Site Application (BSA) from Kitsap Public Health is required to be submitted prior to building permit approval.

Report prepared by:



5/20/21

Tasha Santos, Staff Planner / Project Lead

Date

Report approved by:



5/20/21

Scott Diener, DSE Manager

Date

CC: Ryan Kujawa kujo0311@yahoo.com
David Fall: davef@buildingart.com
Interested Parties: None
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Tasha Santos

Site Plan

