

Kitsap County Department of Community Development

Hearing Examiner Staff Report and Recommendation

Report Date: September 20, 2018 **Hearing Date:** September 27, 2018

Application Submittal Date: June 7, 2018 **Application Complete Date:** June 21, 2018

Project Name: Green-Shire Accessory Dwelling Unit

Type of Application: Conditional Use Permit

Permit Number: 18-02432

Project Location

20940 Jack Davis Place NE Indianola, WA 98342 Commissioner District #1

Assessor's Account # 112602-3-027-2004

Applicant/Owner of Record

Leah Green PO BOX 17 Indianola, WA 98342

Recommendation Summary

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

VICINITY MAP



1. Background

Leah Green has applied for a Conditional Use Permit to allow for an 876 square foot accessory dwelling unit at 20940 Jack Davis Place NE in Indianola.

The property is currently developed with an existing 2,164 square foot single-family residence that will serve as the primary residence. In addition to the existing single-family residence, there is a 416 square foot art studio with no plumbing.

The subject property is zoned Rural Residential and outside of the urban growth boundary. Kitsap County Code 17.410.060.B.3.b requires a conditional use permit for accessory dwelling units outside of the urban growth boundary.

2. Project Request

The applicant requests approval for a Conditional Use Permit for an 876 square foot Accessory Dwelling Unit.

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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 June 29, 2018 (Exhibit 13). A Determination of Nonsignificance (DNS) was issued on August 24, 2018 (Exhibit 15). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions XX at the end of this report:

The SEPA appeal period expired September 7, 2018. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The subject property is a 2.29-acre rectangle shaped parcel. The property slopes slightly from west to east.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan:		
Rural Residential	Standard	Proposed
Zone: Rural Residential		
Minimum Density	N/A Per 17.420.052	Two Dwelling Units: One
Maximum Density	N/A Per 17.420.052	Single Family Residence
		and one ADU
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	N/A Per 17.420.052	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	Under 35'
Maximum Impervious	N/A Per 17.420.052	N/A
Surface Coverage		
Maximum Lot Coverage	N/A Per 17.420.052	N/A

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Applicable footnotes: None

Table 2 - Setback for Zoning District

	Standard	Proposed
Front: West	50 feet	178' to ADU
Side: North	20 feet; 5' for accessory	162' to ADU
	structures	
Side: South	20 feet; 5' for accessory	175' to ADU
	structures	
Rear: East	20 feet; 5' for accessory	116' to ADU
	structures	

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	Tribal	Tribal
West	Undeveloped	Rural Residential (RR)

Table 4 - Public Utilities and Services

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

5. Access

Access to the subject property is off Jack Davis Place NE which is a private road.

6. Site Design

Site design will be analyzed further in this staff 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.

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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

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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 in the project file. To date, the index to the record consists of Exhibits 25.

Exhibit #	Document	Date or date stamped
1	SEPA Checklist	06/03/18
2	Water Availability Letter	06/03/18
3	Health District Documentation	06/03/18
4	Traffic Concurrency Application	06/03/18
5	Elevations – Single Family Residence (SFR)	06/03/18
6	Elevations – ADU	06/03/18
7	Soils Report	06/03/18
8	Project Application	06/13/18
9	Project Narrative	06/13/18
10	Stormwater Worksheet	06/13/18
11	Floor Plans – SFR	06/14/18
12	Floor Plans – ADU	06/20/18
13	Notice of Application	06/29/18
14	Site Plan with Parking	08/22/18
15	SEPA Determination of Non-Significance (DNS)	08/24/18
16	Map – Zoning	09/11/18
17	Map – Critical Areas	09/11/18
18	Map – Aquifer Recharge Areas	09/11/18
19	Map – Comprehensive Plan	09/11/18
20	Map – Aerial	09/11/18
21	Map – Assessor Parcel	09/11/18
22	Notice of Public Hearing	09/12/18

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23	Certification of Public Notice	
24	Staff Report	
25	Staff Presentation	

9. Public Outreach and Comments

No public comments were received.

10. Analysis

a. Planning/Zoning

17. 410.060.B.3. Accessory Dwelling Unit (ADU). 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:

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 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.

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. The subject property does have an existing art studio, which was permitted in 2014. However, this structure has no plumbing and does not meet the definition of a guest house or an accessory dwelling unit under Kitsap County Code 17.110.

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. The owner's son will reside in the ADU.

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;

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Staff Comment: The existing single-family residence has a habitable area of 2,164 square feet (Exhibit 11). 50% of the habitable area of the proposed single-family residence is 1,082 square feet. Hence, the accessory dwelling unit is limited to 900 square feet. The proposed accessory dwelling unit has a habitable area of 876 which meets this requirement (Exhibit 12).

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 106 feet apart satisfying this requirement.

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

Staff Comment: The proposed ADU has a similar appearance to the existing single-family residence. The proposed ADU will have a pitched roof, upstairs dormers, and cedar sidings similar to the existing primary residence. (Exhibit 5 and 6).

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

Staff Comment: All setbacks required by the Rural Residential zone are met for the proposed accessory dwelling unit. Please see Table 2.

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

Staff Comment: The application was routed to Kitsap County Health District and approved. Condition 8 addresses Health District concerns.

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 property is accessed off Jack Davis Place NE. There is one long driveway throughout the subject parcel. There are two access points to the property. One entrance from the southwest and the other from the northwest. The primary residence and the ADU must use the same side street entrance. This is a design standard to which there is no variance or exception process. Condition 23

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requires the applicant to close one of the entrance points to the property. This will be verified by an inspection associated with the building permit for the ADU.

There are four parking spots proposed. Two spots are proposed in front of the accessory dwelling unit and two proposed in front of the single-family residence.

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

Staff Comment: Exhibit 11 shows the floor plans of the proposed single-family residence and no accessory living quarters are proposed.

b. Lighting

Lighting standards do not apply to this project.

c. Off-Street Parking

Parking requirements are satisfied. Please see Table 5 below.

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 and 1 additional space for accessory dwelling units or accessory living quarters.	3+1=4	2 existing spaces in front of the existing single-family residence and two proposed spaces near the ADU- totaling 4 spaces. See Exhibit 14

d. Signage

No signage is proposed with this project.

e. Landscaping

Landscaping requirements are not applicable to this project.

Table 6 - Landscaping Table

	Required	Proposed
Required	Not Applicable	Not Applicable
Landscaping		

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(Sq. Ft) 15% of Site		
Required	Not Applicable	Not Applicable
Buffer(s)		
17.500.025		
North	Not Applicable	Not Applicable
South	Not Applicable	Not Applicable
East	Not Applicable	Not Applicable
West	Not Applicable	Not Applicable
Street Trees	Not Applicable	Not Applicable

f. Frontage Improvements

Frontage improvements are not required for this project.

g. Design Districts/Requirements

Subject property is not located within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed the project and found the concept supportable in its approach to civil site development. The review was based on the permit application materials submitted for this Conditional Use Permit, received June 3, 13, 14, and 20, 2018 to Kitsap County Development Services and Engineering. Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires 2 conditions as an element of the land use approval (Conditions 20 and 21).

i. Environmental

Environmental staff reviewed this project for critical areas. Kitsap County critical area map shows areas of moderate geologic hazards (slopes greater than 15%) on the subject property. However, environmental staff measured the contour lines to determine the slope percentage. The slopes measure approximately 12% which is under the threshold for moderate geologic hazards. No geologic or geotechnical report was required.

j. Access, Traffic and Roads

Kitsap County staff review the proposal. Conditions 22 and 23 address traffic concerns.

k. Fire Safety

Kitsap County Fire Marshal staff reviewed the project and approved with no conditions.

I. Solid Waste

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Solid Waste review was not needed for this project.

m. Water/Sewer

The applicant has provided documentation (Exhibit 3) from Kitsap County Health Department demonstrating that the property has adequate onsite sewage and water for the ADU.

n. Kitsap Public Health District

Kitsap County Health District reviewed and approved the project. Condition 8 refers to Health requirements.

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 Green Accessory Dwelling Unit be **approved**, subject to the following 23 conditions:

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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 (ADU) 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 (ADU) 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 (ADU) and only one of the structures may be rented at any one time.
- 6. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 876 feet (Exhibit 12). 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 (ADU) 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 (ADU).
- 10. The accessory dwelling unit (ADU) shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
- 11. An accessory living quarters (ALQ) or guest house (GH) is not permitted on the same lot unless the accessory dwelling unit (ADU) is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code (KCC).

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12. A property with a primary residence and an accessory dwelling unit (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.

- 13. The accessory dwelling unit (ADU) 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 (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.
- 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 (18-02432). 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.

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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 on-site stormwater management review and approval, through review of the required building permit.

21. If the project proposal is modified from that shown on the submitted site plan dated June 3, 2018, Development Services and Engineering will require additional review and potentially new conditions.

c. Traffic and Roads

22. At the time of submittal of the required building permit, 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.

23. One access/entrance point shall be closed as required by Kitsap County Code 17.410.060.3.k. Prior to requesting the final building permit inspection, a road approach shall be removed, and the ditch restored to original condition. This shall include removal of the ditch culvert, if any, and restoration of the ditch to achieve positive flow. If current conditions do not include a ditch, removal of the road approach shall include scarification of the road approach surface within the right-of-way. An inspection to verify removal of the road approach is required prior to performing the final building permit inspection.

Mother Mother Katharine Shaffer, Staff Planner / Project Lead	9 · 20 · 18 Date
Report approved by:	9/20/18
Shawn Alire, DSE Supervisor	Date

Attachments:

Report prepared by:

Attachment – Zoning Map

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CC: Applicant/Owner email: Leah Green, leah@compassionatelistening.org

Authorized Agent: Mikail Dash Green, mikail@mikailkiva.com

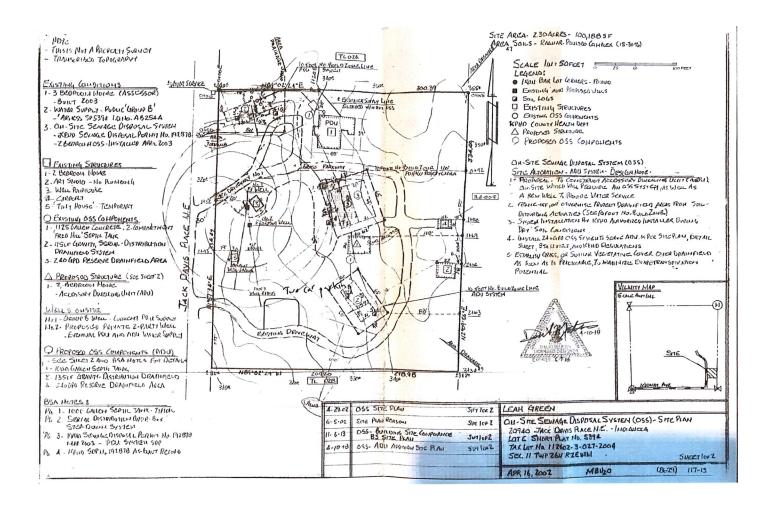
Architect: The Femwood Studio LLC c/o Brandon Hogg, hefemwoodstudio@gmail.com

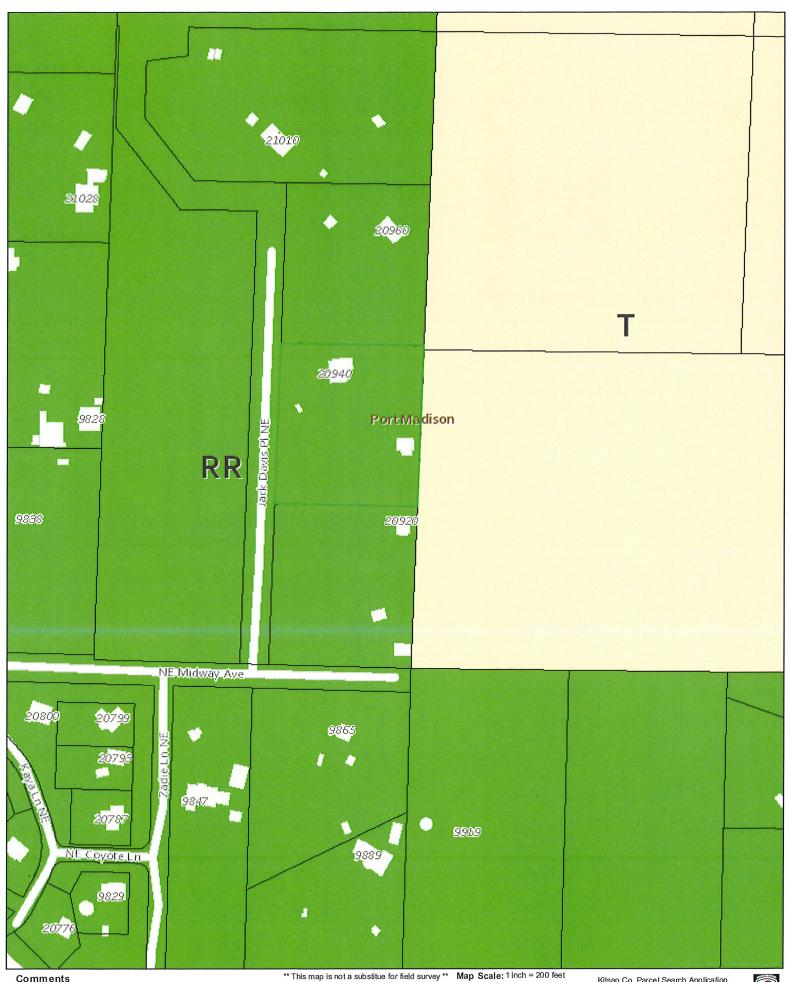
Interested Parties: None

Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

Site Plan





Comments