



## Notice of Administrative Decision

**Date:** 08/12/2022

**To:** BELL RICHARD & MELISSA, melbell2@msn.com

**RE: Permit Number:** 21-06200

**Project Name:** Bell- Zoning variance to reduce setback from 100' to 68'

**Type of Application:** Zoning Variance - Administrative

The Kitsap County Department of Community Development has **APPROVED** the land use application for 21-06200: **Bell- Zoning variance to reduce setback from 100' to 68'– Zoning Variance - Administrative, subject to the conditions outlined in this Notice and included Staff Report.**

**THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.**

The written appeal shall be made on, or attached to, an appeal form found on DCD's website: <https://www.cognitofrms.com/KitsapCounty1/RequiredPermitQuestionnaireAppealObjectionOfAnAdministrativeDecision>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact [help@kitsap1.com](mailto:help@kitsap1.com) or (360) 337-5777. Please note DCD is open Monday to Friday from 8:00am to 12:00pm except holidays.

**CC:** Interested Parties:

None

Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

Parks

Navy

DSE

Kitsap Transit

Puget Sound Energy

Point No Point Treaty Council

21-06200, Bell- Zoning variance to reduce setback from 100' to 68'  
08/12/2022

Suquamish Tribe  
Port Gamble S'Klallam Tribe  
Squaxin Island Tribe  
Puyallup Tribe  
WA Dept of Fish & Wildlife  
WA State Dept of Ecology-SEPA  
WA State Dept of Ecology-Wetland Review  
South Kitsap Fire District  
South Kitsap School District  
Point No Point Treaty Council  
Suquamish Tribe  
Port Gamble S'Klallam Tribe  
Squaxin Island Tribe  
Puyallup Tribe  
WA State Dept of Transportation

DCD Staff Planner: Darren Gurnee  
DCD File #21-06200



## Administrative Staff Report

**Report Date:** 8/8/2022

**Application Submittal Date:** 12/11/2021

**Application Complete Date:** 1/24/2022

**Project Name:** Bell – Zoning Variance – Administrative (> 10% to ≤ 25%)

**Type of Application:** Administrative Zoning Setback Variance (Type II request)

**Permit Number:** Permit # 21-06200

### Project Location

12896 Burchard Dr SW  
Port Orchard, WA 98367  
Commissioner District 2

### Assessor's Account #

4858-002-001-0000

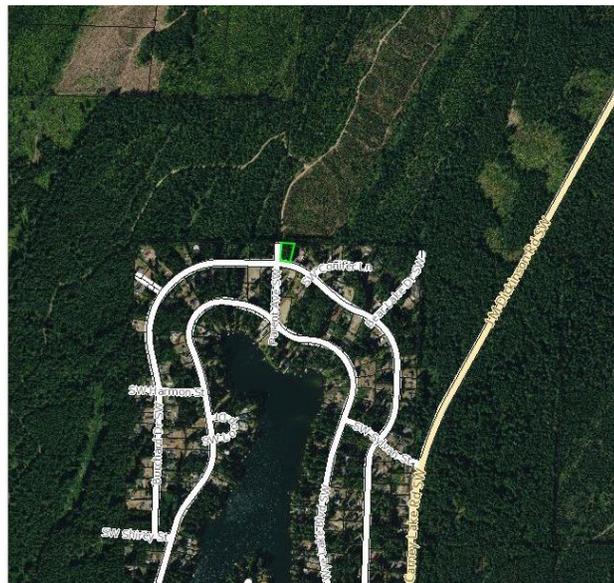
### Applicant/Owner of Record

Richard & Melissa Bell  
7800 Square Lake Rd SW  
Port Orchard, WA 98367-9308

### Decision Summary

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

### VICINITY MAP



\*\* This map is not a substitute for field survey \*\*

## 1. Background

The site is a 0.41 acre, flat wedge-shaped parcel located in a Rural Residential-zoned area in Kitsap County. No wetlands or streams exist on or around the site that would affect the development of this parcel. The proposed development of a single-family residence, with the 20% reduction to the zoning setbacks, is consistent with development on the parcels in the immediate vicinity with and without the same 100 foot setback from a Rural Wooded (RW) zoning designation.

The proposed single-family residence (permit # 21-06371) is 50 feet deep and constrained by the parcel size and shape. A variance is the only way the applicant can build the house. The building permit meets all other conditions except for a zoning variance.

## 2. Project Request

The applicant is requesting a zoning variance to reduce the setback from 100 feet to 80 feet (20% reduction) to allow for the construction of a single-family residence (permit # 21-06371).

**3. SEPA (State Environmental Policy Act)**

The project is SEPA Exempt under KCC 18.04 State Environmental Policy Act.

**4. Physical Characteristics**

The site is a 0.41 acre, flat wedge-shaped parcel located in a Rural Residential-zoned area in Kitsap County. There are no wetlands or streams on or around the site that would affect the development of this parcel.

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

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing parcel.
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	N/A
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes: None.

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (South)	<ul style="list-style-type: none"> <li>50 feet - reduced to 20 feet for all structures by FN: 42.b.</li> </ul>	20 feet
Side (West)	<ul style="list-style-type: none"> <li>20 feet; 5 feet for accessory structures - reduced to 5 feet for all structures by FN: 42.b.</li> </ul>	5 feet
Side (East)	<ul style="list-style-type: none"> <li>20 feet; 5 feet for accessory structures - reduced to 5 feet for all structures by FN: 42.b.</li> </ul>	5 feet
Rear (North)	<ul style="list-style-type: none"> <li>20 feet; 5 feet for accessory structures - reduced to 10 feet for all structures by FN: 42.b.</li> <li>FN 29: 100 feet for single family building abutting Rural Wooded zoning designation as measured from the center of the Right of Way.</li> </ul>	80 feet (per variance request).

The following sub-sections of Kitsap County Code 17.420.060 A. apply to this request:

29. One-hundred-foot setback required for single-family buildings abutting FRL or RW zones.

42. The following exceptions apply to historic lots:

a. ...

b. Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

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

Surrounding Property	Land Use	Zoning
North	Forest Land	Rural Wooded (RW)
South	Mobile Home	Rural Residential (RR)
East	Mobile Home	Rural Residential (RR)
West	Cabins	Rural Residential (RR)

**Table 4 - Public Utilities and Services**

	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	Onsite system
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District

## 5. Access

The site will be accessed directly with a private driveway to Buchard Dr SW, a County-maintained road.

## 6. Site Design

The submitted site plan shows the building envelope for a single-family home located at or within the front and side setbacks so as to minimize the amount of intrusion into the 100 foot rear setback which encompasses the entire property. A septic drain field is proposed in rear yard. See attached site plan.

## 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 amended in 2020.

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

*Land Use Goal 13.* *Protect Kitsap County’s unique rural character.*

*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.*

*Land Use Policy 54.* *In accordance with RCW 36.70A.070(5)(c):*

- *to preserve rural character of the County, emphasize controlling rural development; assuring visual compatibility of rural development with the surrounding rural area,*
- *reduce the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area,*
- *protect critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources, and,*
- *protect against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. This policy is implemented through Comprehensive Plan Land Use designations, zoning designations, and zoning code provisions.*

*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 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**

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
Administrative CUP Application	December 11, 2021
Construction Plans	December 11, 2021
Site Plan	May 5, 2022
Project Narrative	July 5, 2022
 <u>Staff Communication</u>	 <u>Dated</u>
N/A	

**9. Public Outreach and Comments**

The initial variance request for this parcel reduced the rear setback from 100 feet to 68 feet (32% reduction), which required a Type III permit review process with a decision by the hearing examiner. Kitsap County prepared a notice of application consistent with Kitsap County Code (KCC) 21.04 published on April 12, 2022. No comments were received for this initial proposal.

Subsequently, the applicant submitted a revised project narrative and site plan to request a reduction to 80 feet (20% reduction) which changed the permit review process to a Type II permit review with a decision by the Kitsap County Department of Community Development Director. This request is less intrusive than the original request and did not warrant a new notice of application.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
N/A	N/A	N/A

Issue Ref. No.	Issue	Staff Response
N/A	N/A	N/A

## 10. Analysis

### a. Planning/Zoning

#### Setback Variance Criteria

An applicant can request a variation of any numerical standard, except density, when unusual circumstances cause undue hardship in the strict application of the Code. Pursuant to KCC section 21.04.100, a variance greater than 10% and up to 25% requires a Type II administrative review process (see KCC section 21.04.070). A variance shall be approved only when all the following conditions and facts exist:

1. There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, that were not created by the applicant and do not apply generally to other property in the same vicinity or zone;

*Applicant Comment: The variance requested is the only way to construct a single family residence.*

*Staff Comment: The site is a 0.41-acre, wedge-shaped parcel located in an area with a Rural Residential (RR) zoning designation in Kitsap County. This renders the parcel non-conforming by parcel size required by the RR zone (1 dwelling unit per 5 acres). The proposed home abuts one parcel with a Rural Wooded (RW) zoning designation to the north (rear yard). Kitsap County Code (KCC) section 17.420.060, footnote 29, requires a one-hundred-foot setback for a single-family building that abuts parcels with a RW zoning designation. This setback renders the parcel unbuildable. A 20-foot setback reduction to the north allows enough area for a building site.*

2. Such variance is necessary for the preservation and enjoyment of a substantial property right or use of the applicant possessed by the owners of other properties in the same vicinity or zone;

*Applicant Comment: The variance requested is the only way to construct a single-family residence.*

*Staff Comment: The property is in an area of parcels with Rural Residential (RR) zoning designation wherein most parcels are developed with single family homes. Many of the parcels are smaller and legal non-conforming by parcel size in the RR zoning designation. The variance allows the property owner to*

*reasonably develop the parcel with a single-family residence similar to properties in the RR zoning designation.*

3. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zone in which property is located; and

*Applicant Comment: The variance will not be materially detrimental to the neighboring properties.*

*Staff Comment: The 20-foot setback variance will not have adverse impacts on the property or to properties in the near vicinity. Many parcels in the vicinity are smaller in size, similar to the project site. Reduced setbacks are consistent with development of these smaller parcels nearby.*

4. The variance is the minimum necessary to grant relief to the applicant.

*Applicant Comment: The proposed single-family residence is moved as far from the rear setback as possible.*

*Staff Comment: The applicant is requesting a variance to reduce the required setback to the east from 100 feet to 80 feet (20% reduction). The RR zoning designation requires a 50-foot front setback. However, 17.420.060 A.42.b. allows the parcel to use the next nearest zone setbacks of a 20 foot front setback. The proposed residence is located as close as possible to the front setback line, which is already reduced by 30 feet. Without a variance to the rear setback the County would require a variance to the front setback which would likely conflict with rural character in the area. The variance request to reduce the rear setback is the minimum necessary.*

**b. Lighting**

Lighting was not analyzed as part of this proposal.

**c. Off-Street Parking**

Per KCC section 17.490.030, a single-family dwelling requires 3 parking spaces. Per County code, spaces within a garage may not be counted toward this requirement. The proposed driveway and parking pad include enough area to park 3 vehicles.

**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 home	3	3 proposed.
Total	3	3	3

**d. Signage**

No signage is proposed or required.

**e. Landscaping**

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

**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft) 15% of Site		
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**

No frontage improvements are required or proposed as part of this application.

**g. Design Districts/Requirements**

The subject property is not within a design district.

**h. Development Engineering/Stormwater**

No comments at this time.

**i. Environmental**

According to Kitsap County Geographic Information Systems (GIS) the parcel does not contain, geologic hazards, wetlands, or streams, nor do offsite wetlands and streams exist that will affect the development proposal. Wye Lake is approximately 650 feet south of the site, separated by multiple residential parcels that border the lake.

The parcel is located in a Category II Critical Aquifer Recharge area. Per KCC section 19.600.610 uses listed in section 19.600.620 require submittal of a hydrological report. A single-family residence is not listed as an activity with potential threat to groundwater quality and therefore exempt from the requirement to provide a hydrological report to address critical aquifer recharge areas.

**j. Access, Traffic and Roads**

No comments at this time.

**k. Fire Safety**

No comments at this time.

**l. Solid Waste**

No comments at this time.

**m. Water/Sewer**

The proposed development includes installation of a private well and on-site septic system as approved through Kitsap Public Health.

**n. Kitsap Public Health District**

No comments at this time.

**11. Review Authority**

Per KCC chapter 21.04, a zoning setback variance (> 10% to ≤ 25%) is a Type II administrative decision. The Director has review authority for this Administrative Conditional Use Permit application under KCC, Sections 17.540.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Director. The Director may approve, approve with conditions, or deny an Administrative Conditional Use Permit.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies with requirements of KCC Title 17 and complies with 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. Decision**

Based upon the analysis above and the decision criteria found in KCC section 17.540.040.A, the Department of Community Development recommends that the (Zoning Variance – Administrative (> 10% to ≤ 25%)) request for Permit 21-06200 Bell- Zoning variance be **approved**, subject to the following conditions:

**a. Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. This Variance approval shall automatically become void if no building 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.
3. The decision set forth herein is based upon representations made and exhibits contained in the project application (21-06200). 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.
4. 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.
5. The site plan approved by Kitsap Public Health for the single family building permit must reflect the site plan approved through this permit (21-06200) with the requested setback reduction to 80 feet from the rear property line.

**b. Development Engineering**

N/A.

**c. Environmental**

N/A.

**d. Traffic and Roads**

N/A.

**e. Fire Safety**

N/A.

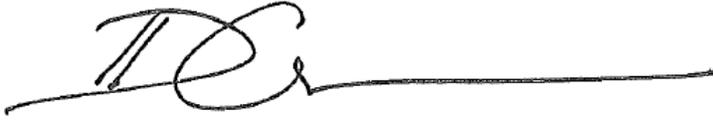
**f. Solid Waste**

N/A.

**g. Kitsap Public Health District**

N/A.

**Report prepared by:**



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Darren Gurnee, Staff Planner

7/29/2022

Date

**Report approved by:**



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Name, Department Manager / Supervisor

8/4/2022

Date

**Attachments:**

Attachment A – Site Plan

Attachment B – Kitsap County Zoning Map

Attachment C – Kitsap County Critical Areas Map

CC: Applicant/Owner email: melbell2@msn.com

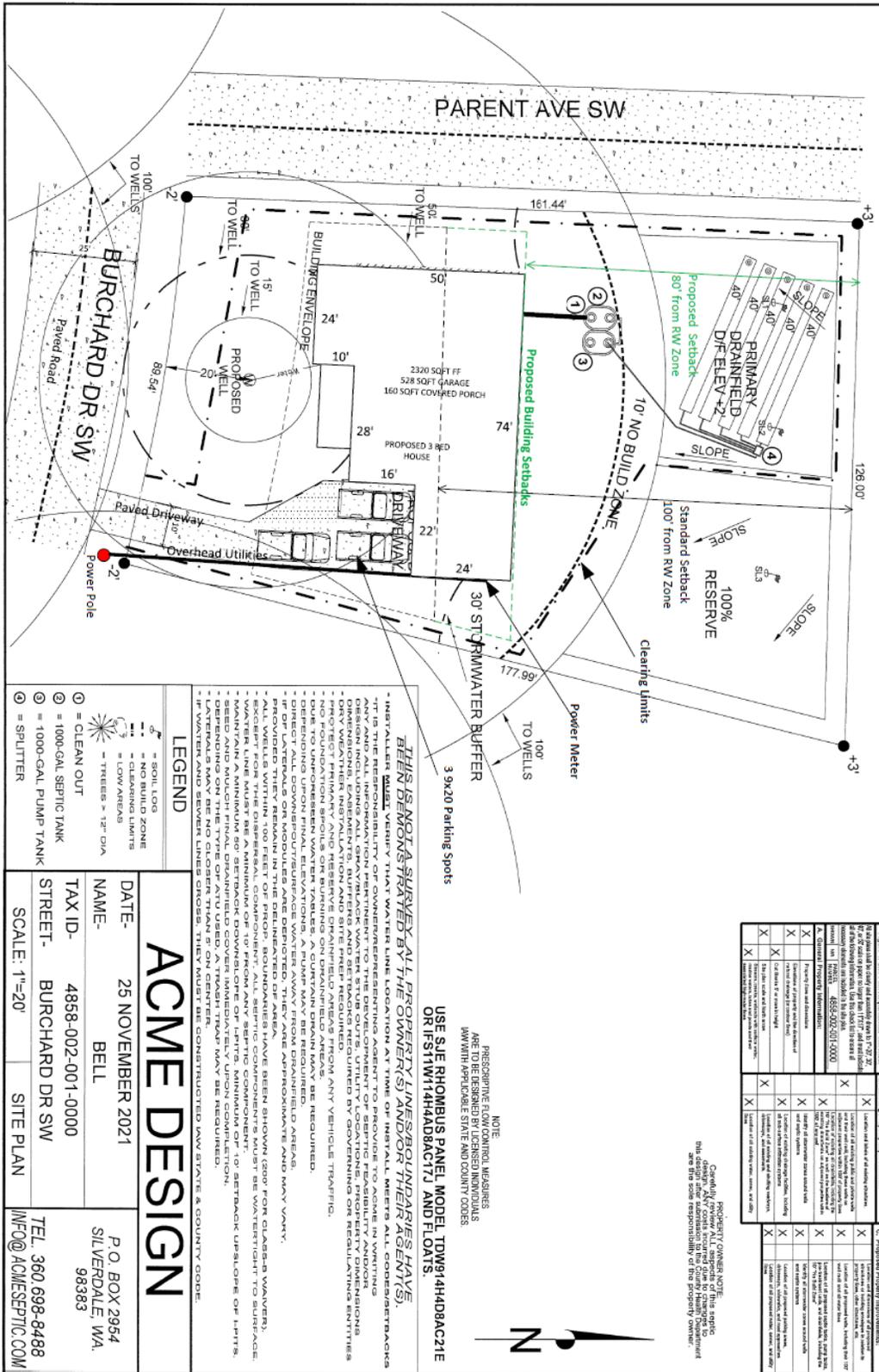
Interested Parties:

Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Darren Gurnee

Attachment A - Site Plan



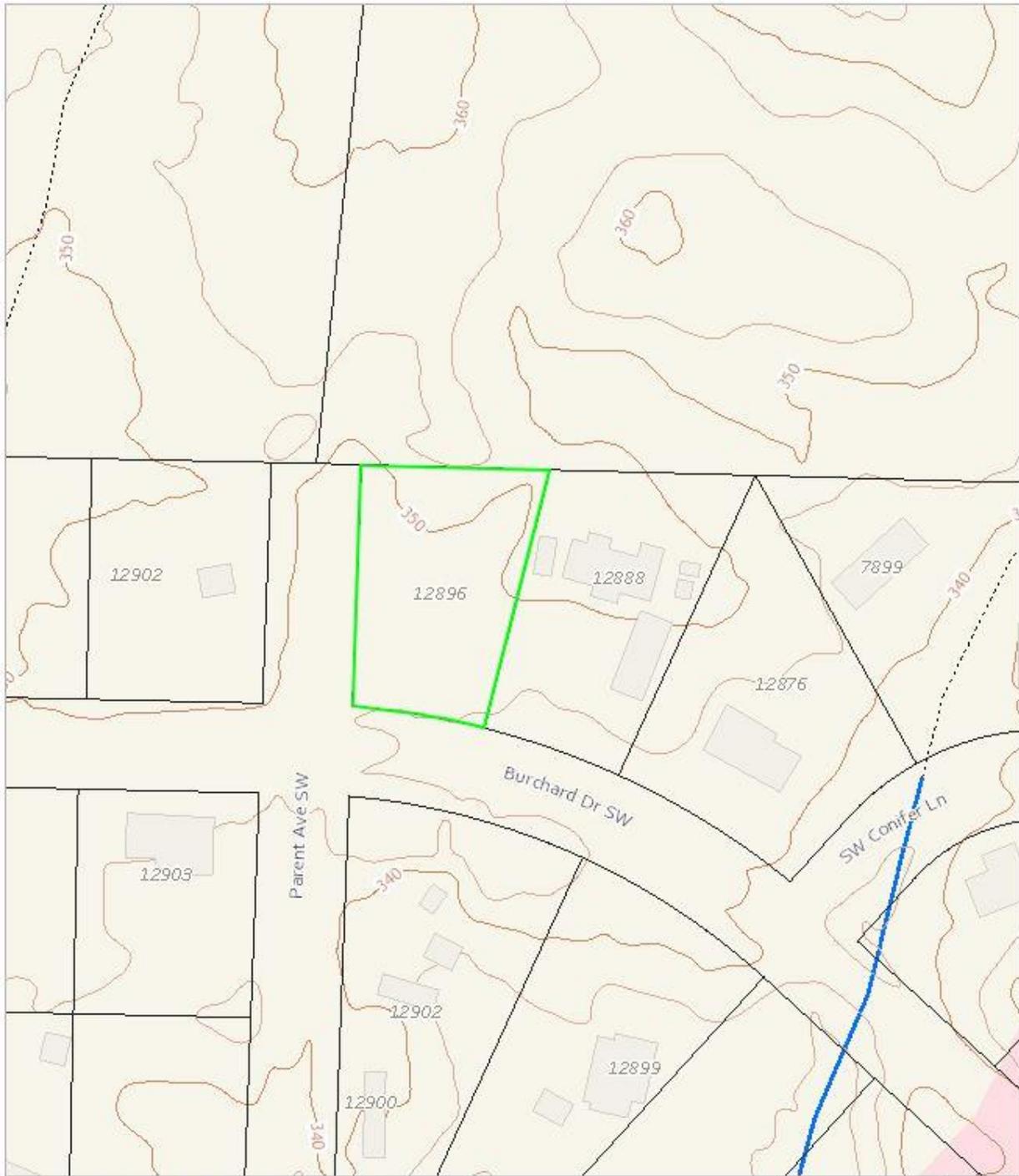
**Attachment B – Kitsap County Zoning Map**



\*\* This map is not a substitute for field survey \*\*



**Attachment C – Kitsap County Critical Areas Map**



\*\* This map is not a substitute for field survey \*\*

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