



Administrative Staff Report

Report Date: January 30, 2023 **Application Submittal Date:** January 23, 2023
Complete Date: March 1, 2023

Project Name: Wissmer - Critical Area Buffer Reduction (CABR)
Type of Application: CABR Type II
Permit Number: 23-00331

Project Location

12935 Wye Lake Blvd. S.W.
Port Orchard, WA 98367
Commissioner District 2

Assessor's Account

4858-001-151-0109

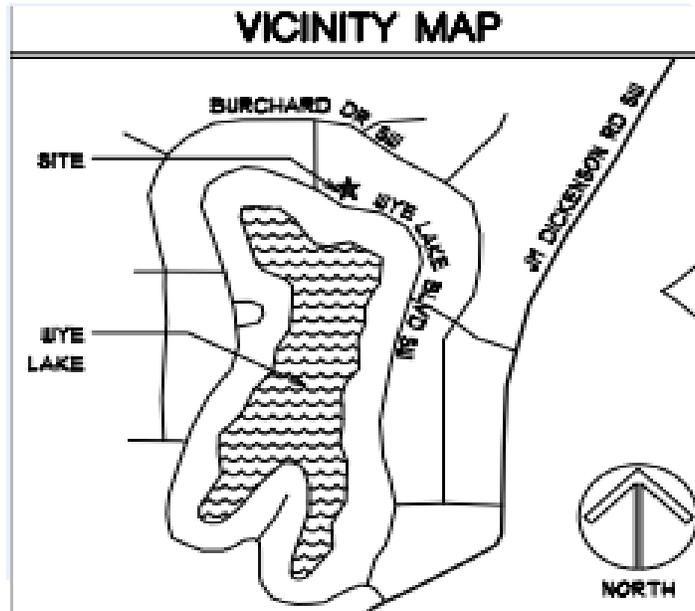
Applicant/Owner of Record

Warren Wissmer & Catherine
Hamilton, 9716 ONYX DR SW
LAKEWOOD, WA 98498

Decision Summary

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

VICINITY MAP



1. Background

Applicant proposes to reduce a Type NS (non-fish bearing) stream buffer by up to 50% to allow for the construction of a 2-story, 3-car, detached garage on an existing lot, constrained by critical areas. Proposal includes a 1,064 square foot Detached Garage on the main floor and 864 square feet for storage, a closet, and a bathroom on the second level. The parcel is encumbered by the stream buffer on the western portion of the property. The project seeks to reduce the stream buffer up to 50 percent (25 feet), and the building setback from 15 to 7.5 feet to accommodate the proposed development and is the minimum necessary to allow onsite development. Included in the application is a Habitat Management Plan. An associated Building Permit (23-03706) is in review pending this approval.

2. Project Request

Applicant requests approval for a Type II CABR for a stream buffer to construct a

3. SEPA (State Environmental Policy Act)

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

4. Physical Characteristics

There is a seasonal drainage flowing SW near the western property line that qualifies as a regulated seasonal non-fish bearing stream because it is hydrologically connected to an aboveground regulated stream via a culvert under Wye Lake Blvd SW.

An individual well with a well house, and primary and secondary drainfields are existing onsite for the benefit of the single-family residence to the south of Wye Lake Rd. S.W.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential (RR) Zone: RR	Standard	Proposed
Minimum Density	NA	NA
Maximum Density	NA	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140	NA
Minimum Lot Depth	140	NA
Maximum Height	35 feet	2 stories, <35 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

*Standards for lot size apply to newly created lots. The subject property is an already existing property.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (South)	20 feet*	56 feet
Side (East)	5 feet*	11 feet
Side (West)	5-feet*	61 feet
Rear (North)	10 feet*	152 feet

*17.420.060 (42) 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	Undeveloped Land/Vacant	Rural Residential (RR)
South	Wye Lake	RR
East	Undeveloped Land/Vacant	RR

West	Undeveloped Land/Vacant	RR
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Table 4 - Public Utilities and Services

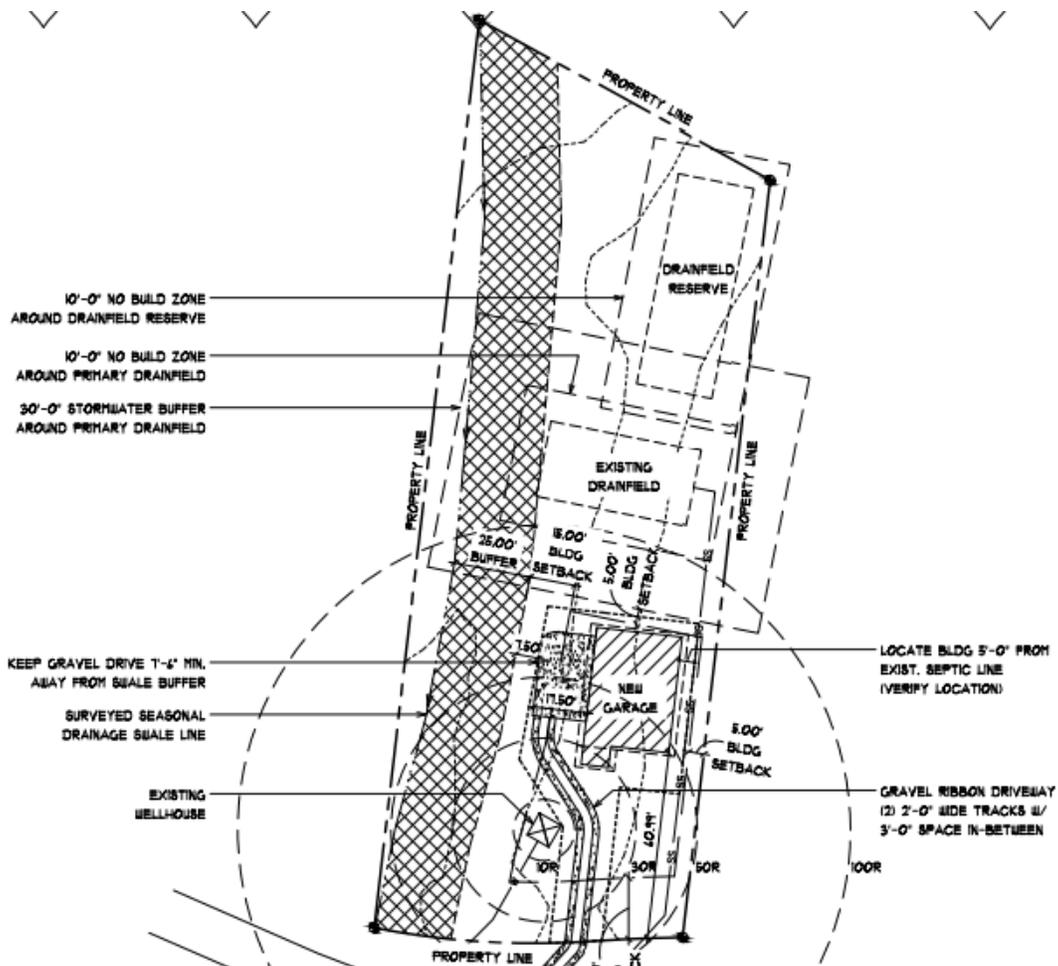
	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

5. Access

The site will access by a private driveway from Wye Lake Blvd. S.W., which is classified as a county maintained, local access road.

6. Site Design

The image below shows the proposed footprint of the detached garage, the proposed driveway, associated parking, onsite septic (OSS), including drainfields and a drinking well for the benefit of the single-family residence south of Wye Lake Blvd. S.W. The site plan also shows the location of the onsite stream and those buffers.



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 as amended April 27, 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.

Environment Policy 18. Compensatory mitigation shall be the last option of resort in mitigation sequencing, following documentation of avoidance and minimization of any impact to the natural environment that triggers compensatory mitigation. Replacement of altered or displaced natural environments (including critical areas and buffers) must be mitigated either onsite, within the watershed, or service area as defined through an approved mitigation bank or in-lieu fee program.

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 19	Critical Areas
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>
Submission Application	January 23, 2023
Public Comment/Roger Hicks	April 6, 2023
Stormwater Conditions Memo	June 6, 2023
Kitsap County Info Request	June 26, 2023
Variance Criteria Narrative/Map	June 30, 2023
Resubmittal Letter	June 30, 2023
Building Clearance Approval	October 30, 2023
Habitat Management Plan (3 rd Cycle)	October 27, 2023
Declaration of Lot Aggregation	January 2, 2024
Combined Site Plan	January 24, 2024
Response Letter	January 24, 2024

9. Public Outreach and Comments

Describe the types of written and verbal public comments on the project

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1	Email concerning stormwater runoff, wildlife corridor, water levels for Wye Lk, and critical areas. – Roger Hicks	Public Comment, 4/6/23

Issue Ref. No.	Issue	Staff Response
1	Critical area buffer and stormwater runoff.	Phoned customer to discuss code sections for review.

10. Analysis

a. Planning/Zoning

The proposal meets all zoning standards of the Rural Residential (RR) Zoning designation,

Kitsap County Code Title 17. The applicant submitted a map and photos of adjacent properties in the same vicinity and zone, describing numerous properties around Wye Lake that have similar detached garages, on adjacent, contiguously owned parcels. Kitsap County Department of Community Development current planning requested that a Lot Aggregation be done. The Lot Aggregation for parcels 4858-003-030-0003 and 4858-001-151-0000 has been approved by the Assessor’s office and recorded with the Auditor’s office (AFN 202312150092). The old parcel numbers are now inactive, and the new parcel number for the aggregated lots is listed on the county website as 4858-001-151-0109. What was once considered two (2) single family residences is now considered one (1) single family residence.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Per KCC 17.490.030, a single-family dwelling requires 3 parking spaces. The proposal maintains adequate parking for the principal dwelling south of Wye Lake Blvd.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family Detached Garage	3 per SFR unit. Garages not calculated towards parking.	3	SFR (existing) = 3 Detached Garage (proposed) = NA
Total			3

d. Signage

No signage was proposed in the application.

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	
Required Buffer(s) 17.500.025		
North	NA	NA
South	NA	NA
East	NA	NA

West	NA	NA
Street Trees	NA	NA

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

Development Services and Engineering has reviewed the land use proposal and finds the concept supportable in its approach to civil site development. Further review will occur with associated site development or building permits. Conditions have been added at the end of this report, in relation to stormwater design requirements.

i. Environmental

Analysis for Streams/Stream Buffers:

MITIGATION MEASURES/ MITIGATION ACTIONS

AVOID the impact altogether by not taking a certain action or parts of an action. Impervious surface area impacts to the full Ns stream buffer cannot be avoided due to the tight constraints of the parcel while allowing for reasonable development of the property.

MINIMIZE impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts. The magnitude of the project was originally designed to utilize a small footprint to minimize impacts to the maximum extent possible while conforming to the Kitsap County Code.

MITIGATION is directed through buffer enhancement. The goal is to combine a mixture of trees, shrubs and groundcover to support a no net loss to the ecological function of the stream buffer while planting species known to minimize erosion. The following conditions apply to all final and approved regulated buffers:

- No added impervious surface area can be added to any of the resultant buffer.
- No heavy equipment is allowed at any time in the regulated buffer areas unless required for construction (temporary).
- Buffer protection signs should be permanently placed along the perimeter of the final approved buffer areas.
- No additional construction of buildings within buffer areas unless permitted by Kitsap County Department of Community Development.
- No dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
- No removing or destroying trees, shrubs or other vegetation, apart from

invasive species removal or danger trees.

- No excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances such as wood in such a manner to affect the surface.
- No surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- No activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

RECTIFY the impact by repairing, rehabilitating, or restoring the affected environment. The affected environment will be restored via native planting enhancements where dominating Himalayan blackberry will be removed.

REDUCE or eliminate the impact over time by preservation and maintenance operations. The resultant reduced buffer will be maintained and preserved with new native vegetation.

COMPENSATE for the impact by replacing, enhancing, or providing substitute resource or environments. The area of enhancement will be almost double to that of the impacted area.

MONITOR the impact and the mitigation projects, and take appropriate corrective measures. Implement the mitigation plan monitoring requirement prior to issuance of the Occupancy Permit if seasonally available. A five-year monitoring plan is required.

Critical Area Variance Criteria

Per KCC 19.200.220.B.2 and KCC 19.300.315.A.3, the department may administratively reduce the buffer pursuant to the variance criteria listed in KCC section 19.100.135.

Evaluation of these variance criteria is included below:

1. *Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance.*

Applicant Comment: The property originally appeared to be encumbered by a 150' buffer associated with a Type F (fish-bearing) stream that crosses the west side of the parcel. The property would be unbuildable with that condition. A wetlands biologist has surveyed the property and determined that there is not a Type F stream on the property. Instead, it has been determined that the stream is actually a seasonal drainage swale. The biologist has recommended a 25'-0" building buffer around the swale.

The proposed variance would allow a new detached garage to be constructed on the site in support of the property across the street on Wye Lake. The property already has the well, septic drainfield and reserve drainfield on it that supports the property on Wye Lake. The proposed garage will provide a reasonable amount of storage space for the Wye Lake property while keeping additional development further away from the Lake shore.

Adjacent and nearby properties have been developed in a similar manner to that proposed by this application. Attached is a map and description of properties around Wye Lake that have similar detached garages.

The zoning in the area is single family and the proposed garage fits well within the neighborhood in terms of scale and surrounding architecture.

Staff Comment: The proposed detached garage is similar to the size and location of neighboring structures. The characteristics of this property require a buffer reduction to accommodate an accessory structure similar in size to neighboring properties. It is not unusual to find 3-car garages, sometimes on adjacent contiguously owned parcels and separated by public right of way.

- 2. The special circumstances referred to in subsection (A)(1) of this section are not the result of the actions of the current or previous owner.*

Applicant Comment: The seasonal drainage swale is naturally occurring, flowing north to south along the westside of the parcel down to Wye Lake. The swale is not a result of the actions of the current or previous owners.

The site has an existing well on the south portion of the site and the septic drainfield and reserve area on the north end of the site. This leaves the center of the site undeveloped and an appropriate spot for the proposed garage.

Staff Comment: The site conditions were not created by the applicant or previous owner. The environmental constraints requiring a buffer reduction were not the result of the applicant's actions. In fact, the lot was originally created as a buildable lot affording a single-family dwelling structure to be built, which may be considered a more intensive impact than the proposed accessory structure.

- 3. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this title.*

Applicant Comment: The granting of this variance will be a net gain to buffer function on this parcel. The increased buffer function will be achieved through removal of invasive

plant species and replacement with native plant species. This project will not have a substantial detrimental impact to this critical area, public welfare or by injurious to the property or improvements in the vicinity and area in which the property is situated.

Staff Comment: Staff finds no evidence that granting of the variance will result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity.

4. *The granting of the variance is the minimum necessary to accommodate the permitted use.*

Applicant Comment: The proposed project is a 3-car detached garage building with storage space on 2nd floor. The parcel currently houses a small wellhouse and the primary and reserve drainfields that serve the property owner's main home, located on the lakefront parcel adjacent to this parcel. With the reduced buffer around the seasonal drainage swale, the new building and driveway can be nestled between the well house and the drainfield without encroaching into the reduced swale buffer.

When the owners did the remodel in 2012, they wanted to have their own septic, water and garage. It was determined per code that the Lakefront lot could not accommodate these items and meet setback criteria. Hence, they purchased the lot across the street as it had a well on it. They now pump water down to the lake property and septic up to the rear field. It was designed so that we could put a garage / storage area on the back lot. They wanted to keep the open aesthetic function of the lake property and hence it has a carport for transitory vehicles and outdoor games etc. There is no secure space to lock up vehicles or store items. The residence will be used seasonally, and the backlot garage / storage is needed to secure and store vehicles and goods when the owners are away. We designed the garage to compliment the house and improve the aesthetic nature of the neighborhood instead of simply adding sheds. The garage design has a regular entry door facing the street and the garage doors are turned 90 degrees to the road to minimize the building's visual impact. The garage is sized to meet the specific needs of the owner and is in keeping with the scale of other developed properties in the area. The owners have three cars, two that are used by the owners for commuting to work and also a weekend recreation vehicle that needs permanent storage. The home that the owners will be moving from in Steilacoom has an attic storage space, double garage and shed. This garage building is designed to accommodate the goods and household items such as seasonal decorations etc. without putting up numerous unsightly sheds on the property. It was designed as an open format storage use both functionally and complementarity to the design of the original Lake property. It is the minimum area needed to accommodate the owner's needs.

Staff Comment: The rural residential zoning typically requires a minimum 20-foot front setback when lot width is less than 140 feet, which is being met. Given site constraints,

there is no better alternative placement of the accessory structure that would result in a lesser buffer reduction.

The detached garage will require a 50% reduction to the stream buffer width and a 7.5-foot building setback totaling 32.5 feet from the edge of the buffer. A habitat management plan and mitigation report (HMP) were prepared that includes installation of 65 native plants and recommends the use of a minimum of 5 varied species installed between the stream and the new development.

5. *No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150.)*

Applicant Comment: No other practicable or reasonable alternative exists for this property. The proposed location for the garage is the only reasonable area to develop the lot based on the existing well, drainfield and drainage swale. The use of this site for the garage and storage areas supports the property on Lake Wye. This also allows the lot to have a lower intensity use while not increasing the lot coverage and intensity of use on the Wye Lake property.

The scale of the proposed garage building is well in keeping with the surrounding properties developed around Wye Lake. Please see attached map and descriptions of surrounding properties.

Staff Comment: The site is constrained with critical areas and those buffers running along the west side of the site and the septic drain fields existing at the northern portion of the site. There is only one feasible area to build the detached garage. applicant has addressed avoidance and minimization in the proper sequencing. As the applicant comment states in the preceding section, the scope of this proposal is indicative to surrounding properties mentioned and found in exhibit titled Wissmer Report-Type II Buffer Reduction and Narrative (HMP), dated December 3, 2022, conducted by Christy Christenson, Biologist for C3 Habitat.

6. *A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.*

Applicant Comment: A Habitat Management Plan has been prepared by C3 Habitat and is submitted with this variance request. This plan delineates mitigation measures to be taken, invasive species to be removed and native plants to be planted in the designated buffer zone.

Staff Comment: The submitted HMP characterizes the stream buffer functions as well as areas outside of the buffer. The report states that avoidance is not possible and discusses minimization and mitigation. Plantings will be installed along the east side of the stream and west of the gravel driveway, enhancing the stream buffer. The proposed mitigation

is enhancing the resultant buffer where it is mostly dominated by Himalayan blackberry currently. The restoration area requirement is 1,815-ft² and will be exceeded by planting approximately 3,188-ft² with a diverse native plant community. The proposal minimizes impacts by placing the accessory structure in an area furthest from the stream while still maintaining the 5-foot side setback requirement as well as setbacks from the septic line at the east, drainfields to the north, and existing well at the south.

j. Access, Traffic and Roads

The proposed driveway will extend from the south where the property meets Wye Blvd. S.W. Conditions of approval are included at the end of this report.

k. Fire Safety

No comments at this time.

l. Solid Waste

No comments at this time.

m. Water/Sewer

No comments at this time.

n. Kitsap Public Health District

No comments at this time.

11. Review Authority

The Director has review authority for this Critical Areas Buffer Reduction application under KCC, Sections 19.100.135 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 a Critical Areas Variance.

12. Findings

1. The proposal is consistent with the Comprehensive Plan and the zoning standards for the Rural Residential (RR) zone in Title 17.
2. The proposal meets the criteria for a critical area variance in KCC 19.100.135, as analyzed in section 10.i of this report. immediate vicinity.

13. Decision

Based upon the analysis above and the decision criteria found in KCC 19.100.135, the Department of Community Development recommends that the Critical Area Buffer Reduction request for Wissmer CABR 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. 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.
3. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #23-00331. 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. This Critical Area Buffer Reduction/Variance approval shall automatically become void if no building permit application is accepted as complete by the Department of Community Development within three years of the Notice of Decision date or the resolution of any appeals.

b. Development Engineering

5. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
6. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the SDAP (or Building Permit if no SDAP required) application is deemed fully complete. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Code in effect at the time of SDAP application, or Building Permit if an SDAP is not required.
7. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

8. Vegetation planting shall occur as specified in the approved Habitat Management planting plan (conducted by C3, dated October 19, 2023), produced in support of this

permit. Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant must contact Development Service and Engineering Staff at (360)337-5777 for a site inspection and as-built approval. Monitoring and maintenance of the planted area shall be conducted for three years after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division by December 31 of each monitoring year. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival.

d. Traffic and Roads

9. None at this time

e. Fire Safety

10. None at this time

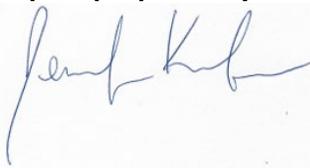
f. Solid Waste

11. None at this time

g. Kitsap Public Health District

12. None at this time

Report prepared by:



Jenny Kreifels, Staff Planner / Project Lead

January 30, 2024

Date

Report approved by:



Katharine Shaffer, Department Supervisor

January 30, 2024

Date

Attachments:

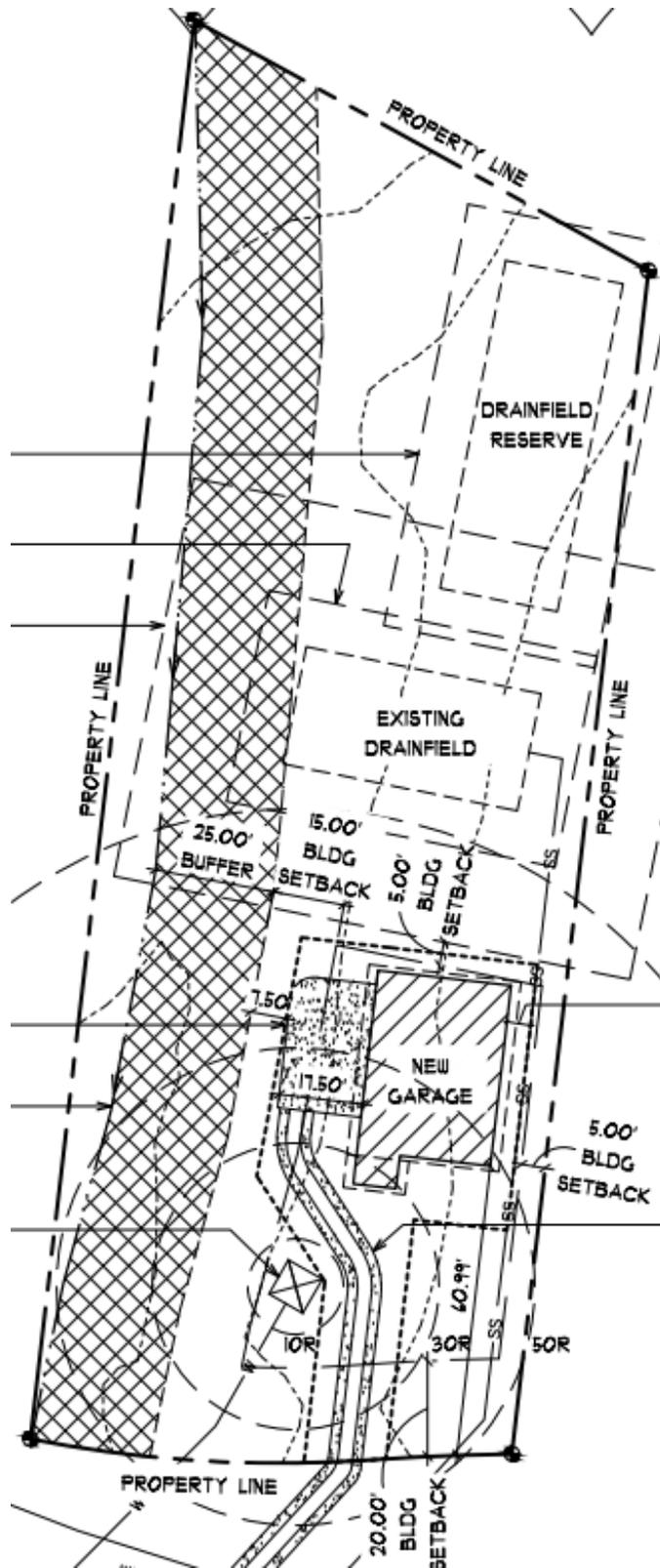
- Attachment A – Site Plan (a)
- Attachment B – Site Plan (b)
- Attachment C – Critical Areas
- Attachment D – Zoning Map

CC:

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Roger Hicks, irogerhicks@outlook.com
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Jenny Kreifels

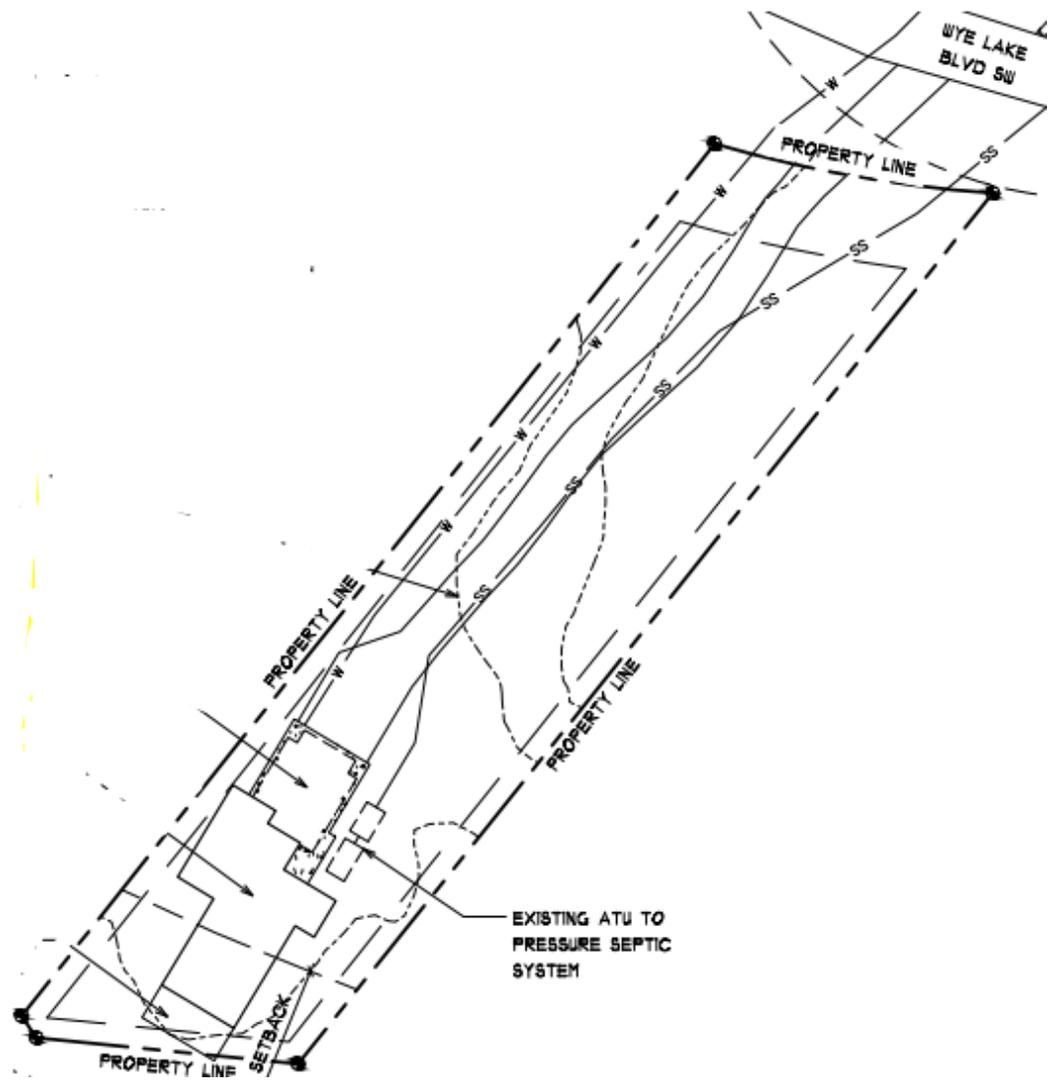
Site Plan (a)

Portion of aggregated parcel north of Wye Lake Blvd. S.W.

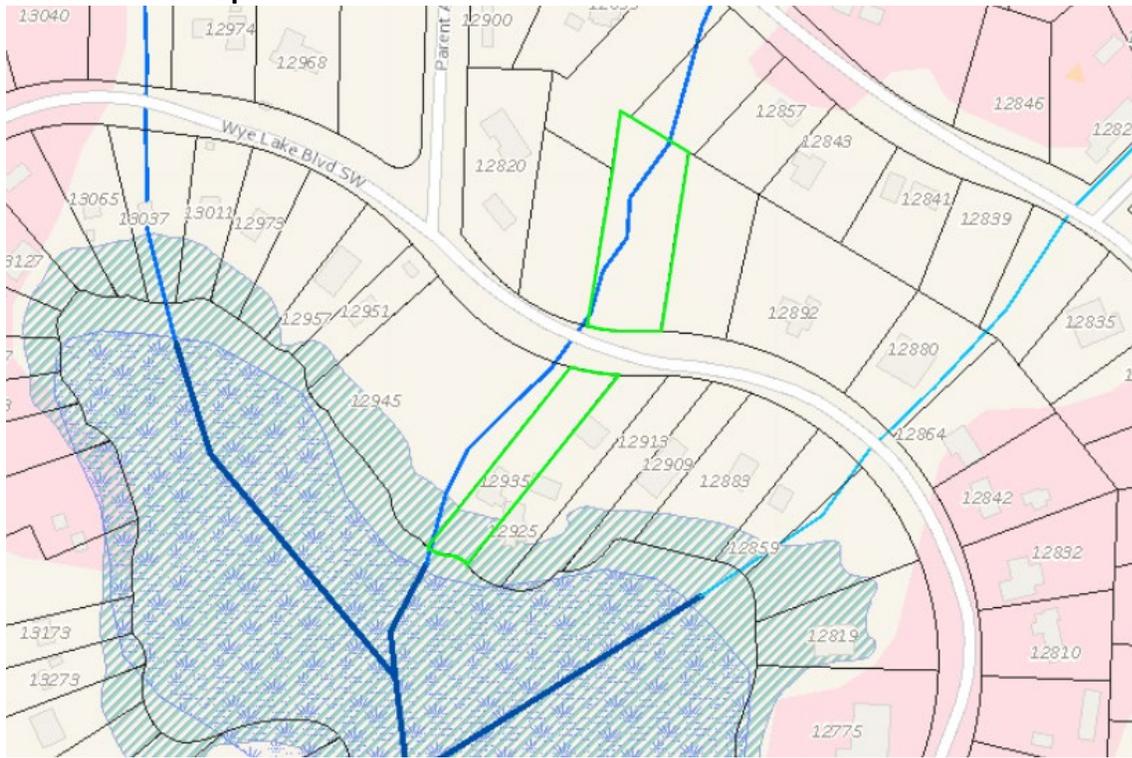


Site Plan (b)

Portion of aggregated parcel south of Wye Lake Blvd. S.W.



Critical Areas Map



Zoning Map

