



Administrative Staff Report

Report Date: June 24, 2024

Application Submittal Date: 10/06/2023

Application Complete Date: 02/13/2024

Project Name: Knasiak Accessory Dwelling Unit (ADU)

Type of Application: Administrative Condition Use Permit (ACUP)

Permit Number: 23-04887

Project Location

700 SW Berry Lake Rd
Port Orchard, WA 98367
Commissioner District #2

Assessor's Account

4751-000-029-0000

Applicant/Owner of Record

Christopher & Eliza Knasiak
700 SW Berry Lake Rd
Port Orchard, WA 98367

Decision Summary

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

VICINITY MAP



1. Background

The applicant proposes to convert an existing structure into a detached Accessory Dwelling Unit on a 3.07-acre parcel zoned Rural Residential. The proposed structure for ADU conversion is an existing building that is currently used for storage but has previously been used for a second home. The main floor will be converted to a 900 square foot ADU space, while the basement rooms will be utilized as storage. The structure is located 155 feet from the primary structure.

Under previous owners, many code compliances cases have been filed for the subject property including a case from 2017 regarding two residences on the property. The current owners, the Knasiaks, filed this ACUP to bring the second residence into compliance with the ADU requirements.

Potable water is proposed to be provided by private well; sanitary sewage disposal is proposed to be provided by private onsite septic. Adequate vehicular access exists via

an access road that intersects Weyers Lane SW. The proposed stormwater facilities include downspout splashblocks for stormwater quantity control. The structure is only to be remodeled internally.

Kitsap County Code 17.415.015.B.b allows for Type II decisions for an ADU in the Rural zone for “persons who meet the criteria of subsection (B)(11) of this section desiring to gain approval of their accessory dwelling shall make application to the director of the department of community development on forms provided by the department, with fees to be paid at the time of application as provided in subsection (B)(11)(e) of this section.” Criteria will be evaluated in Section 10.a of this staff report.

2. Project Request

Applicants Eliza and Christopher Knasiak have requested approval for an ACUP for an unpermitted ADU.

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 March 25, 2024. A Determination of Nonsignificance (DNS) was issued on May 15, 2024.

The SEPA appeal period expired May 28, 2024. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The property is square shaped and slopes from west to east into a wetland/pond on the eastern portion of the property.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	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	
Maximum Impervious Surface Coverage	NA	
Maximum Lot Coverage	NA	NA

Applicable footnotes:

Parcel is existing and newly created parcels are not included in this application.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (North)	50 feet	253 feet
Side (West)	20-feet	184 feet
Side (East)	20-feet	342 feet
Rear (South)	20 feet	8 feet*

**Kitsap County Code 17.420.052 42.a: Building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel; providing, that no structure or portion of such addition may further project beyond the established building line.*

Staff Comment: The proposal does not include any enlargements to the structure which could cause a non-conforming setback.

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	Single Family Residence	Rural Commercial (RCO)
West	Single Family Residence	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Private well
Power	Puget Sound Energy
Sewer	Kitsap Public Health District
Police	Kitsap County Sheriff
Fire	South Kitsap Fire District
School	South Kitsap School District

5. Access

Access to the ADU is off Weyers Road.

6. Site Design

Site design is analyzed under Section 10.a of 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.

Kitsap County Comprehensive Plan, adopted June 30, 2016 amended in 2018 and 2020).

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

Land Use Policy 50

Limit the designed rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.

Land Use Policy 51

Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.

Land Use Policy 53

Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not draw

population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designation, zoning designation, and zoning code provisions.

Housing, Human Services Goals and Policies

Housing, Human Services Policy 5

Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing.

Housing, Human Services Policy 7

Adopt regulatory changes to allow non-traditional housing types.

Housing, Human Services Policy 11

Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class.

Housing, Human Services Policy 12

Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply.

Housing, Human Services Policy 13

Identify and remove impediments to creating housing for harder to house populations.

Housing, Human Services Policy 14

Disperse affordable housing opportunities throughout the County.

The County’s development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
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

Applicant Submittals

Administrative CUP Application

Dated or date stamped

October 13, 2023

Environmental (SEPA) Checklist	November 6, 2023
Site Plan	October 30, 2023
Project Narrative	November 13, 2023
Single-Family Elevations	October 13, 2023
ADU Floor Plans	October 13, 2023

<u>Staff Communication</u>	<u>Dated</u>
Dev. Services & Engineering Memo	May 7, 2024

9. Public Outreach and Comments

Notice of Application was sent out on March 25, 2024. No comments were received.

10. Analysis

a. Planning/Zoning

Kitsap County Code 17.415.015.B: In order to encourage the provision of affordable housing, an accessory dwelling unit (ADU), detached, located outside an urban growth area shall meet the following criteria:

1. Only one ADU shall be allowed per lot;

Staff Comment: There is only one ADU proposed.

2. Owner of the property must reside in either the primary residence or the ADU;

Staff Comment: The property owner resides in the primary single-family residence and plans to remain there.

3. The ADU shall not exceed fifty percent of the square footage of the habitable area of the primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by interior measurements;

Staff Comment: The primary residence is 2,826 square feet which allows for an ADU up to 900 square feet. The proposed ADU is 900 square feet with downstairs being used as unheated storage space.

4. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (e.g., garage);

Staff Comment: Proposed ADU is 155' from the primary residence, however, the proposed ADU is a conversation of an existing detached structure.

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

Staff Comment: The proposed ADU and the primary residence are similar in appearance with the same roof pitch and siding. However, the project is conditioned to remain similar.

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

Staff Comment: The proposed ADU is the conversion of an existing building that does not meet with side yard setback. However, the building is not being expanded, only internally remodeled. The setback is considered legal-non conforming.

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

Staff Comment: Kitsap County Health District has reviewed and approved the proposed.

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

Staff Comment: The proposed ADU is stick-built and not a mobile home or recreational vehicle.

9. An ADU shall use the same side-street entrance as the primary residence and shall provide additional off-street parking; and

Staff Comment: The proposed ADU uses an entrance from Weyers Road and the single-family residences accesses from Berry Lake Road. However, this is a historical access point. In addition, the subject parcel is encumbered by wetlands and using the same access would require a critical area variance.

Both ADU and single-family residence provide 4 parking spaces.

10. An ADU is not permitted on the same lot where an accessory dwelling unit, attached (ADU-A), exists.

Staff Comment: There are no approved attached ADUs on site.

Kitsap County Code 17.415.015.B 11. Existing, Unpermitted Accessory Dwelling Units, Attached or Detached, located Outside an Urban Growth Area.

a. Applicability. The provisions of this subsection shall only apply to property and property owners who can establish all of the following criteria:

i. The parcel is within the unincorporated area of Kitsap County;

- ii. An accessory dwelling unit (ADU), attached or detached, or similar dwelling previously defined as an accessory living quarters (ALQ) or an accessory rental unit (ARU) is located on the parcel;

Staff Comment: The proposed ADU was used as a primary residence from 1974 until the second home as built in 2004. It is unclear how two homes were allowed on the subject property at the time.

- iii. The accessory dwelling has not received any prior review and/or approval by Kitsap County;

Staff Comment: The proposed ADU has not received any prior review with Kitsap County – only code compliance cases under previous owners.

- iv. The property owner did not construct or cause to have the accessory dwelling constructed;

Staff Comments: The proposed ADU was built in 1974 and the current owners bought the property in 2022.

- v. The property owner did not own the property when the accessory dwelling was constructed;

Staff Comment: Current owners, Eliza and Christopher Knasiak purchased the property in 2022. The unpermitted ADU was constructed in 1974.

- vi. The property owner exercised due diligence when purchasing the property with the existing accessory dwelling to discover whether or not the accessory dwelling was approved when purchasing the property. Due diligence is presumed to have occurred if the property owner can document the following conditions:

- (a) That county tax records or parcel records contain no inquiry or other notice that the ADU was unpermitted; and
- (b) That the current owner requested and obtained a title report with no exceptions, restrictions, enforcement actions, permitting or similar issues pertinent to the ADU; and
- (c) That the prior owner's property and improvement disclosures at the time of sale did not indicate any permitting, compliance or similar issues pertinent to the ADU; and
- (d) That any third party involved in the sale or inspection of the ADU did not disclose any permitting, compliance or other issues pertinent to the ADU;

vii. The parcel has a history of property tax assessment and a history of continuous tax payments on the principal and the accessory dwelling;

Staff Comment: Kitsap County Assessor’s Office showed the proposed ADU as dwelling unit leading the applicants to believe the structure had been permitted or was otherwise allowed. (Please see below). The ADU has been taxed accordingly.

Kitsap County

Parcel Details

Search | Details | Maps | Services | Tax Bill | Print

Buildings & Improvements

Parcel #: 4751-000-029-0000
700 SW BERRY LAKE RD
PORT ORCHARD, WA 98367

Dwelling (R03)		Dwelling (R04)	
Type	One story	Type	Multi-story
Construction Quality	Fair	Construction Quality	Average
Condition	Good as of 6/29/2023	Condition	Average as of 6/29/2023
Year Built	1974	Year Built	2004
Percent Complete	100	Percent Complete	100
Roof Material	Composition	Roof Material	Composition
Exterior Wall	Cement fiber siding	Exterior Wall	Cement fiber siding
Heating	Forced hot air	Heating	Heat pump
Fireplace or Stove	No	Fireplace or Stove	No
Bedrooms	1	Bedrooms	4
Half Baths	1	Half Baths	1
Full and 3/4 Baths	1	Full and 3/4 Baths	2

Applicants state that nothing was disclosed to them in the sale about the second dwelling not being permitted.

b. Lighting

Lighting was not required to be analyzed for this proposal.

c. Off-Street Parking

The existing single-family primary residence has space for 3 parking spaces in front. The proposed ADU has 400 square feet (20x20) in front to provide parking for the ADU.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-family and accessory dwelling unit	2 per unit, 1 additional space per guest house, accessory dwelling	2 + 1 = 3	3 existing in front of the SFR and 2 existing in

	unit or accessory living quarter.		front of the ADU.
Total		3	5

d. Signage

No signage is proposed for this project.

e. Landscaping

Landscaping is not required for an ADU.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft) 15% of Site	NA	NA
Required Buffer(s) 17.500.025		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	No	

f. Frontage Improvements

Frontage Improvements were not required with this proposal.

g. Design Districts/Requirements

Project is not within a design district.

h. Development Engineering/Stormwater

Development Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans accepted for review 11/13/2023 to Kitsap County Development Engineering.

i. Environmental

The proposed ADU is within a wetland buffer and geologic hazard areas. However, the structure was built in 1974 when critical areas reports were not required. Only internal alterations are proposed with no expansions of the building footprint making it exempt

from Kitsap Code 19 Critical Area Ordinance (Kitsap County Code 19.100.125.D Exemptions).

j. Access, Traffic and Roads

N/A

k. Fire Safety

This application proposes development in a high fire hazard Wildland / Urban Interface / Intermix zone. Additional requirements for fire resistive building construction, driveway or other fire apparatus access, and creation of defensible spaces may be assessed at the time of building permit application.

l. Solid Waste

N/A

m. Water/Sewer

Potable water is proposed to be provided by private well and has an onsite septic system.

n. Kitsap Public Health District

The Kitsap County Public Health District reviewed and approved the proposal.

11. Review Authority

The Director has review authority for this Administrative Conditional Use Permit application under KCC, Sections 17.540.020 and 21.04.100. 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 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. Decision

Based upon the analysis above and the decision criteria found in KCC 17.540.040.A, the Department of Community Development recommends that the application 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, as appropriate in this specific project.
2. 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.
3. Only one accessory dwelling unit (ADU) shall be permitted on the subject property.
4. 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.
5. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The existing size of the ADU is 900 square feet.
6. The accessory dwelling unit (ADU) shall be located within 155 feet of the primary residence.
7. The accessory dwelling unit (ADU) shall be designed to maintain the appearance of the primary residence.
8. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
9. 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.
10. 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).

11. 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.
12. The accessory dwelling unit (ADU) cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
13. 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.
14. 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.
15. The decision set forth herein is based upon representations made and exhibits contained in the project application #23-04887. 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.
16. Any violation of the conditions of approval shall be grounds to initiate revocation of this Administrative Conditional Use Permit.
17. Issuance of this permit certifies that the applicant has read and examined this application and knows the same to be true and correct. All provisions of Laws and Ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state/local law regulating construction or the performance of construction.

b. Development Engineering

18. Building permits submitted for this development shall include construction plans

and profiles for all roads, driveways, storm drainage facilities and appurtenances. No construction shall be started prior to said plan acceptance.

19. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Building Permit is deemed fully complete. If development meets the thresholds for engineered drainage design, 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 Ordinances in effect at the time of Building Permit Application.
20. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Engineering will require additional review and potentially new conditions.
21. The recipient of any administrative 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 administrative 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.
22. This Administrative 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.

c. Environmental

N/A

d. Traffic and Roads

23. 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 process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

e. Fire Safety

24. This application proposes development in a high fire hazard Wildland / Urban Interface / Intermix zone. Additional requirements for fire resistive building construction, driveway or other fire apparatus access, and creation of defensible spaces may be assessed at the time of building permit application.

f. Solid Waste

N/A

g. Kitsap Public Health District

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

Report prepared by:



Katharine Shaffer, Planning Supervisor/ Project Lead

6-12-2024

Date

Report approved by:



Scott Diener, Planning Manager

6-20-2024

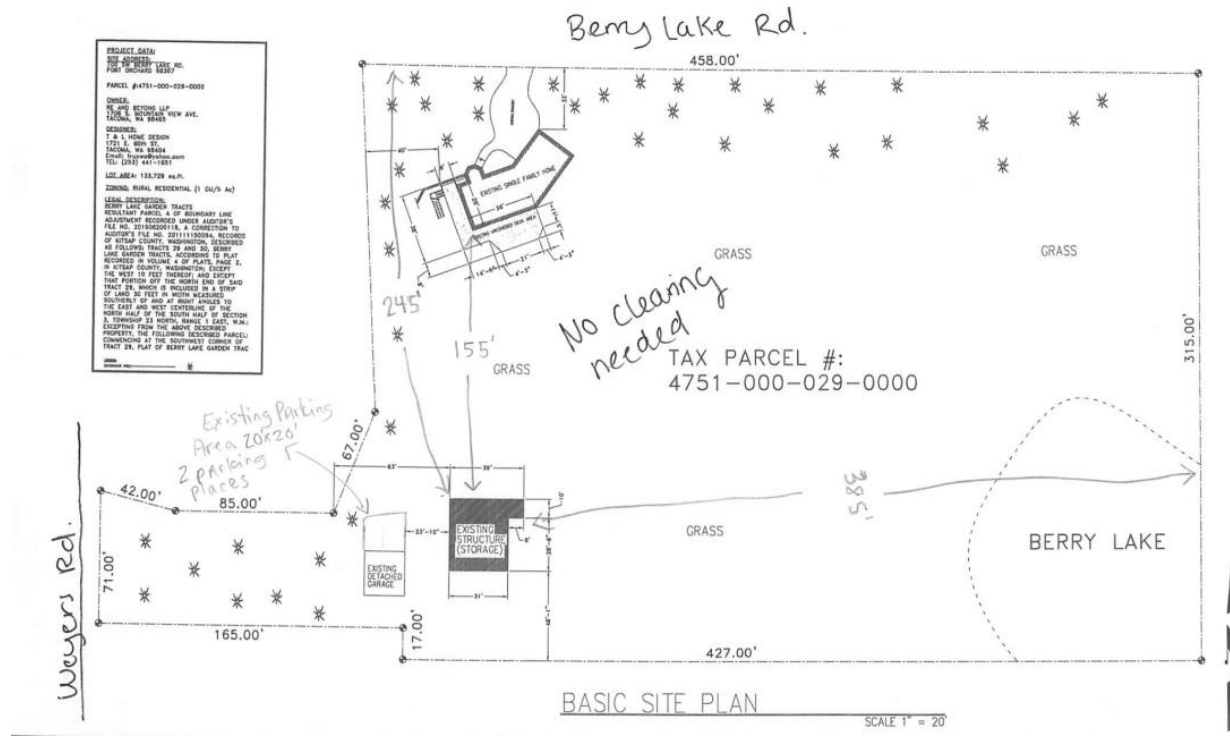
Date

Attachments:

Attachment A – Zoning Map

CC: Applicant/Owner: Christopher and Eliza Knasiak
Authorized Agent: Rach Meyers: rachel_6013@yahoo.com, Susan: staylor61@gmail.com
Contractor: Pinnacle Construction NW LLC, pinnacleconstruction365@gmail.com
Interested Parties: None
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer

Site Plan



Attachment A – Zoning Map

