



Hearing Examiner Staff Report and Recommendation

Report Date: 5/18/2022
Hearing Date: 5/26/2022

Application Submittal Date: 1/26/2021
Application Complete Date: 2/22/2021

Project Name: The Preserve at Southworth Lot 4 - Conditional Use for Accessory Dwelling Unit

Type of Application: Conditional Use Permit – Accessory Dwelling Unit

Permit Number: 21-00513

Project Location

7301 SE Maple Bluff Ct
Port Orchard, WA 98366
Commissioner District #2

Assessor's Account

042302-4-043-2004

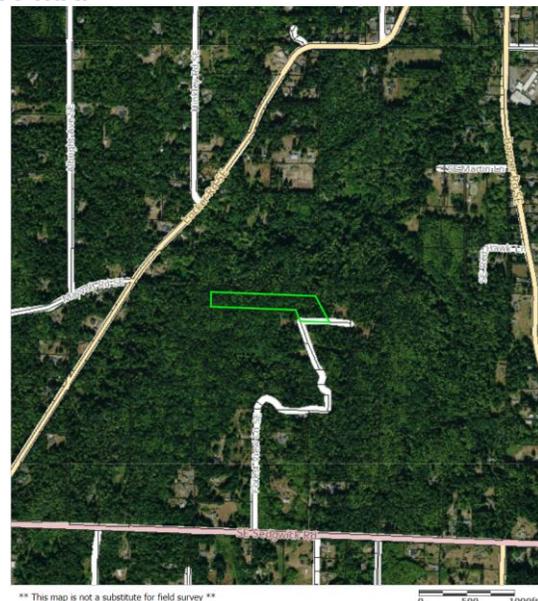
Applicant/Owner of Record

Carlos & Lewis Patrick Pineda
554 Toyon Ave 6
San Jose, CA 95127

Recommendation Summary

Approval, subject to conditions listed under Section 13 of this report.

VICINITY MAP



1. Background

The applicant is proposing a 900-square-foot Accessory Dwelling Unit (ADU). All design aspects of the ADU will be the same as those that will be used in the new 3,084-square-foot single family residence applied for under permit #21-00484. The ADU and single-family residence will have the same siding materials, roofing materials, roof pitches, styles and windows.

According to the Kitsap County Assessor, the subject site is 4.85 acres. The site slopes from the east down to the west with variable slope percentages. According to the Geotechnical analysis the steepest slopes of approximately 45% are located in the middle of the site (Exhibit 16). The eastern quarter of the site is relatively flat and will be developed with a primary dwelling, driveway, the primary septic drainfield, and reserve septic drainfield.

2. Project Request

The applicant requests approval of a CUP to construct a 900-square-foot ADU. The ADU will

be served by a private well and septic system. The ADU meets all applicable provisions applying to special uses per KCC section 17.410.060 as well as criteria for CUP approval per KCC section 17.550.030.A.

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 a substantial environmental impact. 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 Non-Significance (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 Department of Community Development (DCD) used an optional DNS process for this project. The SEPA comment period previously occurred concurrent with the Notice of Application dated May 6, 2021 (see Exhibit 13). The Department of Community Development issued a Determination of Non-Significance (DNS) on May 4, 2022 (see Exhibit 17).

The SEPA appeal period expired May 18, 2022. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

According to the Kitsap County Assessor, the subject site is 4.85 acres. The site slopes from the east down to the west with variable slope percentages. According to the Geotechnical analysis the steepest slopes of approximately 45% are located in the middle of the site (Exhibit 16). The eastern quarter of the site is relatively flat and will be developed with a primary dwelling, driveway, the primary septic drainfield, and reserve septic drainfield.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Protection Zone: Rural Protection	Standard	Proposed
Minimum Density	N/A	1 dwelling unit/4.85 acres
Maximum Density	1 dwelling unit/10 acres	
Minimum Lot Size	10 acres	4.85 acres, existing
Maximum Lot Size	N/A	4.85 acres, existing

Minimum Lot Width	140 feet	160 feet, existing
Minimum Lot Depth	140 feet	1106 feet, existing
Maximum Height	35 feet	One-story, <35 feet
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes:

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (South)	50 feet	50 feet
Side (West)	20 feet; 5 feet for accessory structures	20 feet; 5 feet for accessory structures
Side (East)	20 feet; 5 feet for accessory structures	20 feet; 5 feet for accessory structures
Rear (North)	20 feet; 5 feet for accessory structures	20 feet; 5 feet for accessory structures

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Undeveloped	Rural Protection (RP)
South	Undeveloped, Single-family residence	Rural Protection (RP)
East	Single-family residence	Rural Protection (RP)
West	Undeveloped	Rural Protection (RP)

Table 4 - Public Utilities and Services

	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	Private Septic System
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

5. Access

Southeast Sedgwick Road, a County-maintained road, provides right of way access via Forest View Lane, an access easement to Maple Bluff Court, also an access easement (see vicinity map).

6. Site Design

See attached site plan. The front setback is established based on legal access to the parcel from Maple Bluff Court to the south. The ADU meets the zoning district setback criteria shown in Table 2 - Setback for the zoning district. The ADU is located approximately 20 feet southwest of the primary residence and uses the same access as the primary residence.

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 Goals and Policies

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 Protection 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

A complete index of exhibits is located in the project file. To date, the index to the record consists of exhibits 1-21.

Exhibit #	Document	Dated	Date Received
1	STAFF REPORT	5/19/2022	
2	Project Narrative	2/2/2021	2/5/2021
3	Site Plan	12/11/2020	2/5/2021
4	ADU Floor Plan	Jan 2021	2/5/2021
5	SFR Floor Plan	11/21/2011	2/5/2021

6	Permit Questionnaire – Conditional Use Permit		2/5/2021
7	Concurrency Test		2/5/2021
8	Stormwater Worksheet		2/5/2021
9	Stormwater Infeasibility Worksheet		2/5/2021
10	Stormwater Pollution Prevention Plan (SWPP)		2/5/2021
11	Septic Design	12/23/2020	2/5/2021
12	County Authorization Form	1/28/21	2/5/2021
13	Notice of Application	5/6/2021	
14	Conditional Use Memorandum	11/12/2021	
15	SEPA Environmental Checklist	3/22/2022	3/23/2022
16	Geotechnical Assessment	2/3/21	5/2/2022
17	SEPA Determination of Non-Significance (DNS)	5/4/2022	
18	Notice of Public Hearing	5/6/2022	
19	Certification of Public Notice	5/16/2022	
20	Staff Presentation		
21	Hearing Sign In		

9. Public Outreach and Comments

A Notice of Application (Exhibit 13) was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. The Department did not receive comments.

10. Analysis

a. Planning/Zoning

Per KCC section 17.410.060.B.3, in order to encourage the provision of affordable and independent housing for a variety of households, an ADU may be located in residential zones, subject to the following criteria. Staff comments are provided below (*italicized*):

- 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 an UGA.

- b. An ADU shall be subject to a CUP in those areas outside an urban growth boundary;
Staff Comment: The subject property is located outside of an UGA. This application is a CUP for an ADU.

- c. Only one ADU shall be allowed per lot;
Staff Comment: This application proposes only one ADU. There are no other ADUs present or proposed.

- d. Owner of the property must reside in either the primary residence or the ADU.

Staff Comment: The owner will reside in the proposed single-family residence.

- e. The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by exterior measurements.
Staff Comment: The proposed ADU is 900 square feet. The proposed residence is 3,084 square feet. Fifty percent of 3,084 square feet is 1,542 square feet; therefore, the ADU is limited to 900 square feet (the smaller value).
- 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 ADU are less than 25 feet apart, satisfying this requirement.
- g. The ADU shall be designed to maintain the appearance of the primary residence.
Staff Comment: The single-family residence and the ADU are similar in appearance (Exhibit 4, Exhibit 5). The structure, and siding match the aesthetic of the existing house and garage.
- h. All setback requirements for the zone in which the ADU is located shall apply;
Staff Comment: All setbacks required by the Rural Protection zone are met for the proposed ADU. Please see Table 2 – Setback for the Zoning District.
- i. The ADU shall meet the applicable health district standards for water and sewage disposal;
Staff Comment: The Kitsap County Health District reviewed and approved the ADU (Exhibit 11).
- 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 submitted site plan (Exhibit 3) shows the proposed ADU will use the driveway utilized by the single-family residence. The driveway will provide an additional off-street parking space.
- l. An ADU is not permitted on the same lot where an accessory living quarters exists.
Staff Comment: There are no existing nor proposed accessory living quarters. Please see the single-family residence floor plan (Exhibit 5).

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

The proposal includes one additional parking space for the ADU.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	1 additional space for accessory dwelling units.	1	1
Total	1	1	1

d. Signage

No signage is proposed or required.

e. Landscaping

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

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s)	NA	NA
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

f. Frontage Improvements

Not applicable; there are no frontage improvement requirements for an ADU. However, there are access requirements that limit access to one road approach off of a County road. This is addressed below under the access heading.

g. Design Districts/Requirements

Not applicable; the subject property is not located within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering reviewed the land use proposal and finds the concept supportable in its approach to civil site development. Development Services and Engineering accepts the concepts contained in this preliminary submittal, with conditions (Section 13 of this report).

i. Environmental

The request is for approval of a CUP to build a 900 square foot ADU. The Geotechnical Assessment identifies variable slopes upwards of 45% (see Exhibit 16). According to the assessment, the proposal does not increase the potential erosion hazard indicated in the Kitsap County Geographic Information System (GIS) (Attachment C).

“the slopes on each parcel should be considered globally stable hazard...therefore, no prescriptive buffer should be required by Kitsap County.”

Conditions of approval from the assessment are included in Section 13 of this report.

j. Access, Traffic and Roads

Development Services and Engineering reviewed the proposal for compliance with traffic and road standards and recommended approval, with conditions (Section 13).

k. Fire Safety

The Kitsap County Fire Marshall’s Office reviewed and approved the proposal with the condition that the ADU be equipped with an automatic fire sprinkler system to satisfy access and safety requirements.

l. Solid Waste

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

m. Water/Sewer

The application includes an approved Building Site Application that shows approval for water and sewer from Kitsap County's Health Department (Exhibit 11). Potable water will be provided by a private well; sanitary sewage disposal shall be provided by an on-site septic system.

n. Kitsap Public Health District

Kitsap County Health District as reviewed and approved the proposal with no conditions.

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 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 KCC 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, DCD recommends **approval** of the CUP request to construct a 900-square-foot ADU, subject to the following conditions:

Review the linked Hearing Examiner decision for conditions of approval. The Staff Report conditions below are only recommended conditions to the Hearing Examiner and may not be valid.

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The 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 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 ADU shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time.

6. The 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 900 square feet (Exhibit 4).
7. The ADU shall be located within 150 feet of the primary residence.
8. The ADU shall be designed to maintain the appearance of the primary residence.
9. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
10. No mobile home or recreational vehicle shall be allowed as an ADU.
11. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
12. An Accessory Living Quarters (ALQ) or Guest House (GH) is not permitted on the same lot unless the ADU is removed and the ALQ or GH complies with all requirements imposed by the KCC.
13. A property with a primary residence and an 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.
14. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
15. Building permits submitted 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.
16. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the lot development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, February 22, 2021. If lot 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.
17. If the project proposal is modified from that shown on the submitted site plan accepted for review February 10, 2021, Development Services and Engineering will require additional review and potentially new conditions.
18. Stormwater controls should be planned in compliance with current Kitsap County stormwater criteria. Final landscaping should be planned and conducted in a manner that reduces the possibility for channelization of stormwater runoff which could create erosion of soils.
19. If possible, excavation and grading should be targeted to drier times of the year.
20. The drainage control plan should incorporate protections such as stockpile cover and silt fencing down slope of earthwork areas.
21. The contractor should temporarily grade any exposed surfaces into a planar shape, and have ready, temporary erosion control materials (plastic sheeting

- and sandbags, extra silt fencing, straw waddles, etc.).
22. The conclusions and recommendations presented in the geologic assessment are based, in part, on observations, interpretations, and assumptions regarding shallow subsurface conditions. Site conditions observed at a later date which differ from the assessment will require an update to the geologic assessment to reflect those changes.
 23. At the time of building permit application, submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Existing approaches may need to be improved to meet current standards.
 24. 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 building permit process. The need for and scope of bonding will be determined at that time.
 25. The recipient of any CUP 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 CUP and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by DCD at the applicant's expense.
 26. 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.
 27. 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.
 28. The decision set forth herein is based upon representations made and exhibits contained in the project application (21-00513). 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.

29. 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.
30. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

b. Fire Safety

31. The ADU shall be equipped with an automatic fire sprinkler system to satisfy access and safety requirements.

c. Solid Waste

N/A.

d. Kitsap Public Health District

N/A.

Report prepared by:



Darren Gurnee, Staff Planner / Project Lead

5/19/2022

Date

Report approved by:



Scott Diener, DSE Manager

5/19/2022

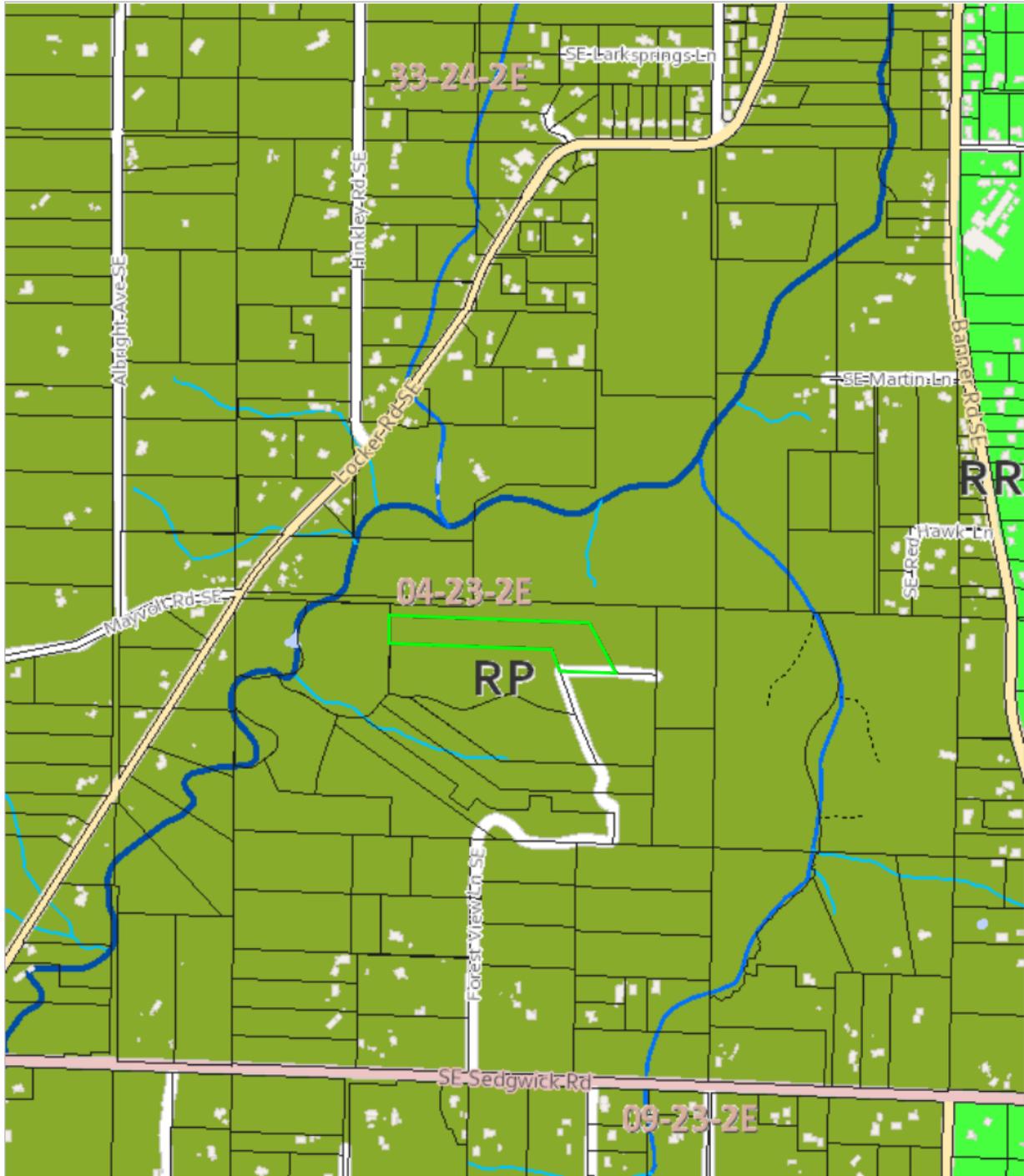
Date

Attachments:

- Attachment A – Site Plan
Attachment B – Kitsap County Zoning Map
Attachment C – Kitsap County Critical Areas Map

CC: Applicant/Owner email
Engineer or Project Representative email
Interested Parties:
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Darren Gurnee

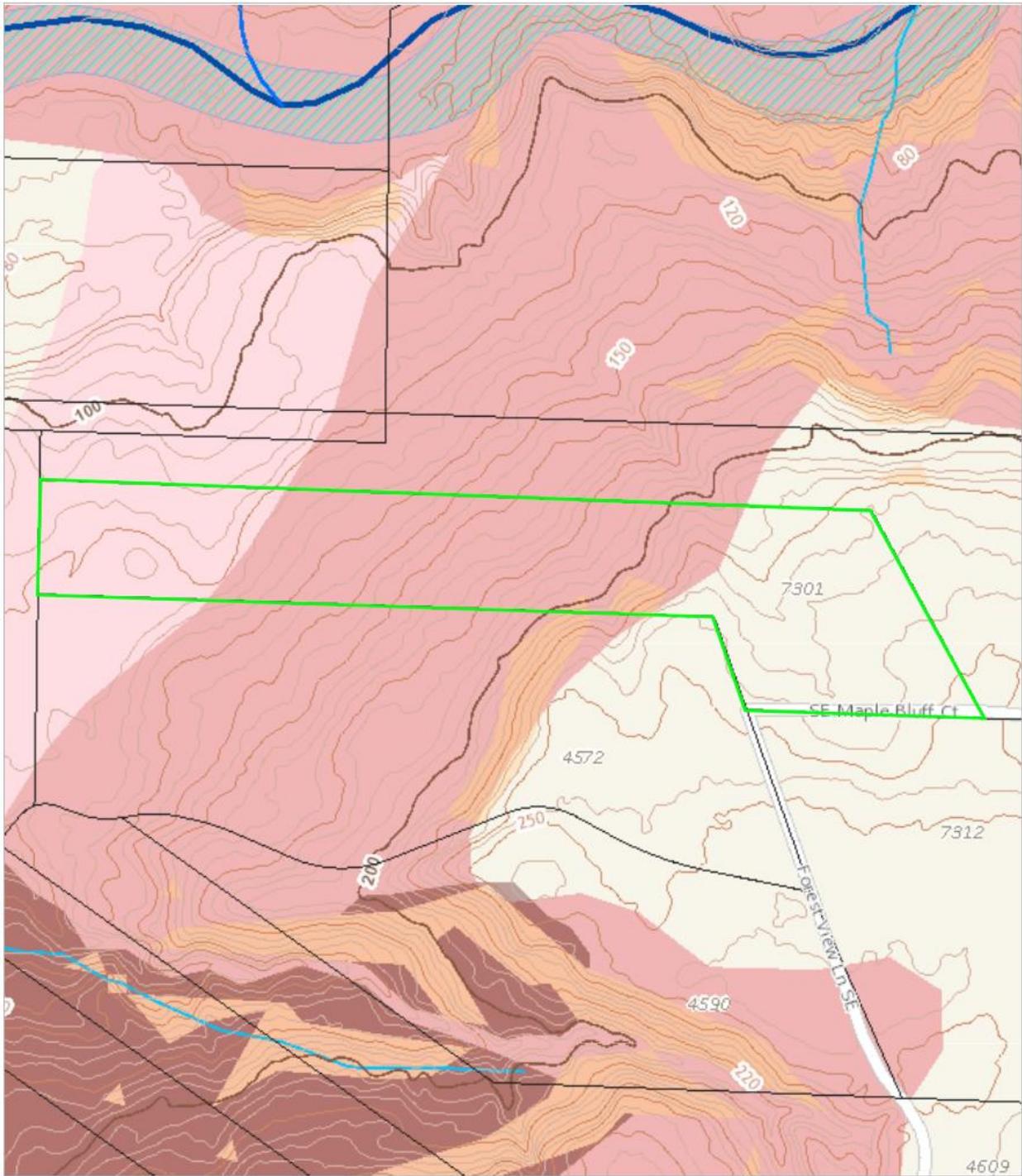
Attachment B – Kitsap County Zoning Map



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

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Attachment C – Kitsap County Critical Areas Map



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

