



Hearing Examiner Staff Report and Recommendation

Report Date: 8/3/2023
Hearing Date: 8/10/2023

Application Submittal Date: 9/29/2022
Application Complete Date: 10/31/2022

Project Name: Druliner – Zoning Variance – Hearing Examiner (> 25%)
Type of Application: Type III
Permit Number: 22-04815

Project Location

Nearest Intersection – NE Harris Ave. and
Division St. NE.
Indianola, WA
Commissioner District 1 (North)

Assessor's Account

4360-006-017-0004

Applicant/Owner of Record

Mary Jeannine Druliner
11501 Greenwood Ave N Apt 401
Seattle, WA 98133

Recommendation 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 attached site plan indicates setbacks for the Rural Residential Zone (RR) in an Unincorporated Rural jurisdiction.

The applicant requests that Harris Street be considered the front property line for setback purposes to establish a dwelling, single family detached, which is allowed in the Rural Residential (RR) zoning designation. The parcel is less than one acre, thus Kitsap County Code (KCC) Section 17.420.060 A.42.b. allows use of the nearest urban zoning designation building setbacks. Division street provides access to the driveway for a proposed single family residence; therefore, the east parcel line is the front parcel line for the purposes of zoning setbacks. This still requires a variance from the required 20 foot front setback to 7 feet 6 inches and the 10 foot rear setback to 5 feet.

2. Project Request

The applicant proposes to reduce the front setback from 20 feet to 7 feet 6 inches (63% variance) which will allow for the construction of a new single-family home on parcel with a Rural Residential zoning (RR) designation (see Attachment B – Zoning Map). The request for a reduction of the zoning setback greater than 25% requires a Type III process with Hearing Examiner approval per KCC Section 21.04.100 Review Authority Table.

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 an undeveloped, rectangular-shaped, and relatively flat 0.11-acre lot vegetated with trees, shrubs, and grasses.

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 lot.
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	0.11 acres
Maximum Lot Size	NA	N/A
Minimum Lot Width	140 feet	44 feet
Minimum Lot Depth	140 feet	51 feet 6 inches
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 (East)	20 feet	7 feet 6 inches (65% reduction)
Side (North)	5 feet	5 feet
Side (South)	5 feet	5 feet
Rear (West)	10 feet	5 feet (50% reduction)

Table 2 - Applicable Footnotes:

The following sub-section of KCC 17.420.060 A.42.b. applies to this request.

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.

Staff Comment: Table 2 reflects the zoning setback requirements of the Urban Restricted zoning designation based on KCC Section 17.420.060 A.42.b.

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Residential (RR)
South	Single-family residences	Rural Residential (RR)
East	Single-family residences	Rural Residential (RR)
West	Single-family residences	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Private well
Power	Puget Sound Energy
Sewer	Onsite septic
Police	Kitsap County Sherriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400
Port	Port of Indianola District No. 7

5. Access

Division St. NE, a County-maintained road, provides direct access to the project site.

6. Site Design

The attached site plan shows the primary dwelling, garage, septic fields, and topography of the site. Generally the site design locates a proposed single family dwelling within approximately 7 feet 6 inches from the eastern property line and 5 feet from the west property line.

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 amended April 27, 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 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.

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.

Land Use Policy 55. Encourage development practices and design standards for the rural area, such as minimizing changes in grade from pre-development site conditions in order to maximize native vegetation retention.

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 21.04	Land Use and Development Procedures

8. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. The index to the record consists of exhibit:

Exhibit #	Document	Dated	Date Received
1	STAFF REPORT	08/03/2023	
2	Authorization Form	05/16/2022	10/31/2022
3	Additional Technical Reports – Explanation		10/31/2022
4	Exterior Elevations – East & South	05/10/2022	10/31/2022
5	Exterior Elevations – North & West	05/10/2022	10/31/2022
6	Floor Plan – Level 1	05/10/2022	10/31/2022
7	Floor Plan – Level 2	05/10/2022	10/31/2022
8	Site Plan & Zoning	09/09/2022	10/31/2022
9	Survey	02/23/2021	10/31/2022
10	Permit Application/Submission Form	09/29/2022	10/31/2022
11	Notice of Application	02/16/2023	
12	Notice of Public Hearing	07/26/2023	
13	Certification of Public Notice	08/03/2023	
14	Staff Presentation		
15	Hearing Sign In		

9. Public Outreach and Comments

A Notice of Application (Exhibit 6) 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 received no public comments.

10. Analysis

a. Planning/Zoning

Per KCC 17.560.010 requests for a variance must meet four criteria to be considered for approval. Analysis of the criteria and the applicant's responses is included below:

A. 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 response: A site survey was completed by AES Consultants Inc, in February of 2021. The property is a corner property, bounded by Harris Street to the south and Division Street to the east. The property slopes downward approximately 8 feet from the northwest to the southeast property corners. An existing, significant cedar tree exists on the west property line. The trunk is approximately 24 inches in diameter and the drip line extends approximately 17 feet from the trunk. Multiple, multi-trunked trees exist in and along the Division Street right-of-way. Frank Marcino of Allied Septic drilled the first septic percolation test pits in April of 2020 and produced an on-site septic, drainfield, and reserve area to fit within the site and maintain required septic design setbacks (Reference attached basis of design), thus establishing the limits of construction.

Staff comment: The developable area of this property is severely restricted by the zoning and development of the property based on parcel size.

B. 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 response: The buildable site area of this corner property is restricted by as much as 780 square feet or nearly 17% of site area in comparison to those setbacks when applied to an adjacent, similar sized internal property with single street frontage. The buildable site area is reduced by 1,017 square feet or 22% of the total site area to preserve and protect the health of the existing, significant cedar tree. 48% of the total site area is required for the proposed on-site septic system, located downhill of the proposed residence to allow gravity feed to the drainfield. In the narrow ~50 foot width of the site, a 20 foot front setback along Division Street and a 10 foot rear setback from the west property line constrict the building footprint to 20 feet maximum width. To fit within these constraints, the proposed residence would require a two-story façade the length of the west property line minus 10 feet of side yard setbacks. This configuration would have a negative impact on the existing neighboring house to the west and is less likely to enhance the desired rural village character of Indianola.

Staff comment: A reduced front and rear setback allows the applicant to construct a single family detached dwelling and garage, which is an allowed use in the Rural

Residential zoning designation. Adjacent properties are developed with single family detached residences and garages as well. Therefore, this variance allows development consistent with owners of other properties in the vicinity.

C. 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.

Preserving the health of cedar tree to remain after the proposed residence is constructed will continue to provide habitat for wildlife as well as privacy/screening for the existing neighboring house to the west. In the narrow ~50 foot width of the site, a 20 foot front setback along Division Street and a 10 foot rear setback from the west property line constrict the building footprint to 20 feet maximum width. To fit within these constraints, the proposed residence would require a two-story façade the length of the west property line minus 10 feet of side yard setbacks. This configuration would have a negative impact on the neighboring house to the west. The position and scale of the proposed residence respects the scale and position of the neighboring residence locating the single story south façade of the proposed residence in close alignment with the existing residence facade on the abutting lot facing Harris Street. The proposed 7'-6" setback from the east property line begins 10 feet south of the north property corner and will have little impact on access to daylight by the existing neighboring residence to the north. Access to light from Division Street may be enhanced due to the removal of street trees as needed for proposed driveway access to the proposed residence. Multiple, mature, multi-trunked trees exist in and along the Division Street right-of-way. These trees will effectively screen and visually separate the 39 foot long façade of the proposed residence from Division Street. There are no structures to the east across Division Street opposite the proposed residence, rather there is open space reserved for a septic drainfield for an existing residence to the north. If the 90 foot long property line along Division Street must be considered the front setback, the minimum required setback area is 90 feet by 20 feet (min. setback) or 1,800 square feet of setback area ($90 \times 20 = 1,800$) along Division Street. The proposed site plan, with a 7'-6" setback for 39 feet of the proposed façade along Division Street, provides more than 2,830 square feet of setback area along Division Street or an additional 1,030 square feet of setback area than the minimum requirement. The proposed residence is designed to address the practical site constraints, to complement and enhance the desired character and quality of the rural village that is Indianola, and to respect the placement and scale of existing neighboring residences. The design addresses these by considerate placement on its site, modulating the scale of the building with both single and two-story elements, and the use of quality, natural exterior building materials such as cedar, stone and copper.

Staff comment: The reduced setback for this use reduces the potential hazards to public welfare or other property in the vicinity.

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

Applicant response: The buildable site area of this corner property is restricted by as much as 780 square feet or nearly 17% of site area in comparison to those setbacks when applied to an adjacent, similar sized internal property with single street frontage. The buildable site area is reduced by 1,017 square feet or 22% of the total site area to preserve and protect the health of the existing, significant cedar tree. 48% of the total site area is required for the proposed on-site septic system, located downhill of the proposed residence to allow gravity feed to the drainfield. In the narrow ~50 foot width of the site, a 20 foot front setback along Division Street and a 10 foot rear setback from the west property line constrict the building footprint to 20 feet maximum width. To fit within these constraints, the proposed residence would require a two-story façade the length of the west property line minus 10 feet of side yard setbacks. This configuration would have a negative impact on the existing neighboring house to the west and is less likely to enhance the desired rural village character of Indianola.

Staff comment: This variance request to reduce the zoning setbacks is the minimum necessary to construct the proposed single family detached dwelling. The property is severely encumbered by parcel size.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Off-street parking of three parking spaces is consistent with KCC Section 17.490.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single Family Dwelling, Detached	3 spaces per dwelling unit	3 spaces per dwelling unit	3 spaces per dwelling unit
Total	3 spaces per dwelling unit	3 spaces per dwelling unit	3 spaces per dwelling unit

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)		
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.

i. Environmental

No critical areas exist on the parcel.

j. Access, Traffic and Roads

Division St. NE, a County-maintained road, provides direct access to the project site. A single family residence will not increase the impacts to this infrastructure.

k. Fire Safety

No comments at this time.

l. Solid Waste

No comments at this time.

m. Water/Sewer

Potable water is provided by Indianola water system; sanitary sewage disposal is provided by an on-site septic system.

n. Kitsap Public Health District

No comments at this time.

11. Review Authority

The Hearing Examiner has review authority for this Zoning Variance application under KCC 21.04.100. The Hearing Examiner may approve, approve with conditions, remand, or deny a Zoning Variance. 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 in KCC Chapter 2.10.

12. Findings

1. The proposal is consistent with the Comprehensive Plan and the zoning standards for the Rural Residential (RR) zone in KCC Title 17.
2. The proposal meets the criteria for a critical area variance in KCC 17.560.010, as analyzed in Section 10.a of this report.

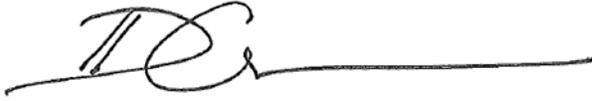
13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 17.560.010, the Department of Community Development (DCD) recommends the Zoning Variance be **approved**, subject to the following conditions:

a. Planning/Zoning

1. 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.
2. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
3. This Variance approval shall automatically become void if no building permit application is accepted as complete by the DCD within four years of the Notice of Decision date or the resolution of any appeals.
4. The decision set forth herein is based upon representations made and exhibits contained in the project application (22-04815). 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.
5. 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.
6. Harris Avenue shall not be used for access to the parcel.

Report prepared by:

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8/3/2023
Darren Gurnee / Project Lead
Date

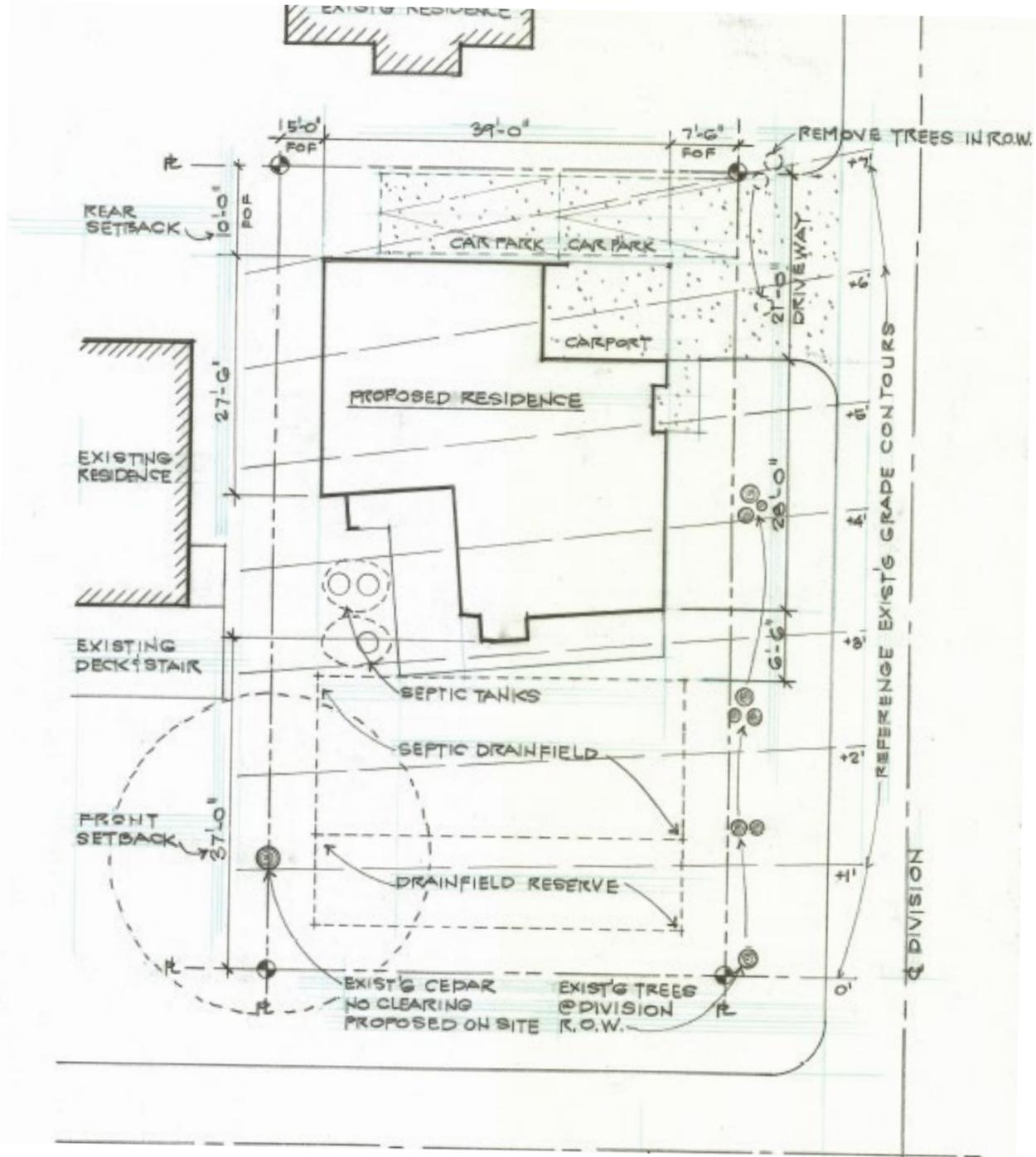
Attachments:

Attachment A – Site Plan

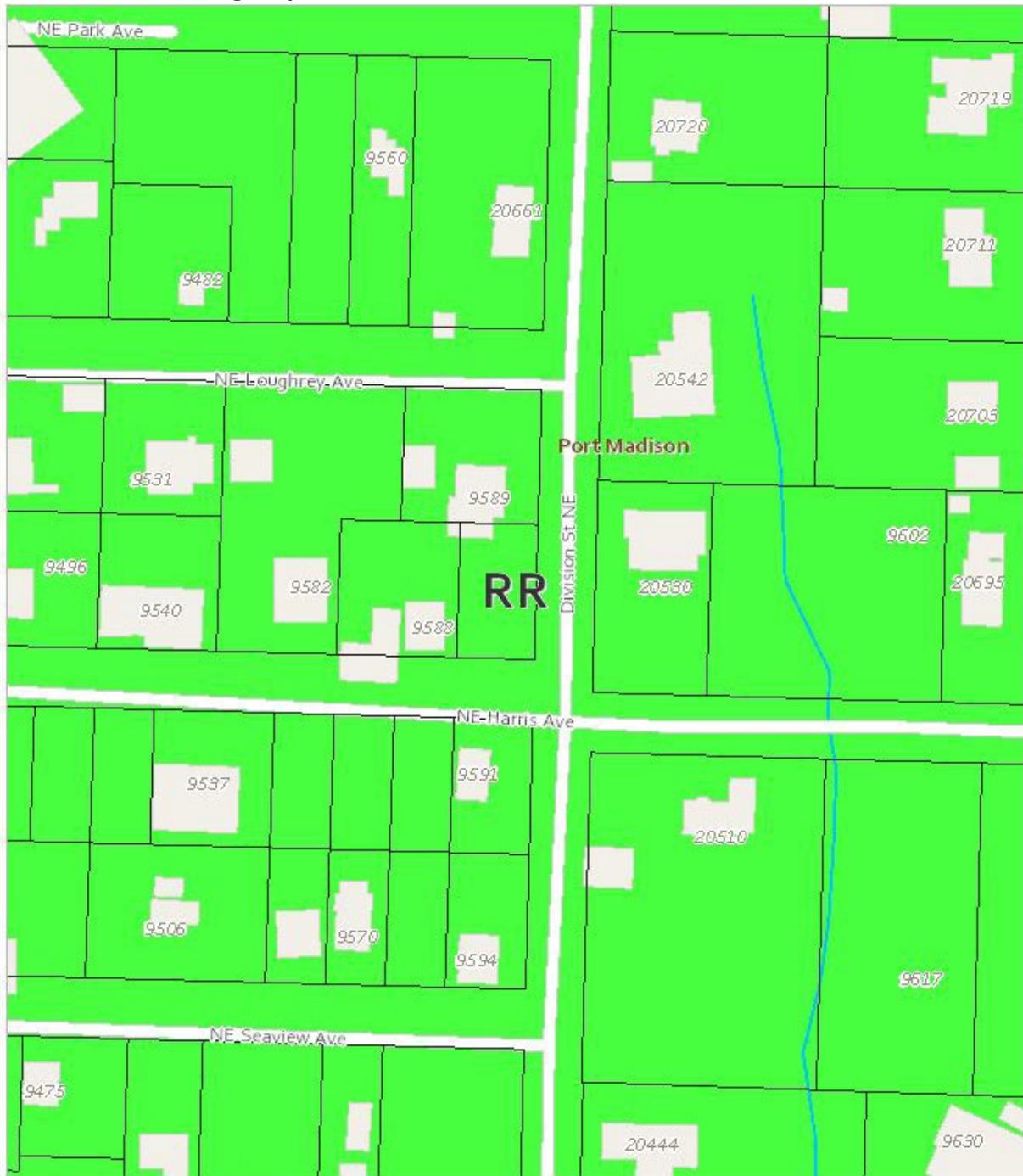
Attachment B – Zoning Map

Attachment C – Critical Areas Map

Attachment A – Site Plan



Attachment B – Zoning Map



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



Attachment C – Critical Areas Map



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

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