



Hearing Examiner Staff Report and Recommendation

Report Date: January 18, 2024
Hearing Date: January 25, 2024

Application Submittal Date: February 14, 2023
Application Complete Date: April 15, 2023

Project Name: Turk Accessory Dwelling Unit (ADU)
Type of Application: Conditional Use ADU (CUP ADU)
Permit Number: 23-00732

Project Location

6641 Banner Rd. S.E.
Port Orchard, WA 98367
Commissioner District 2

Assessor's Account

152302-2-005-2001

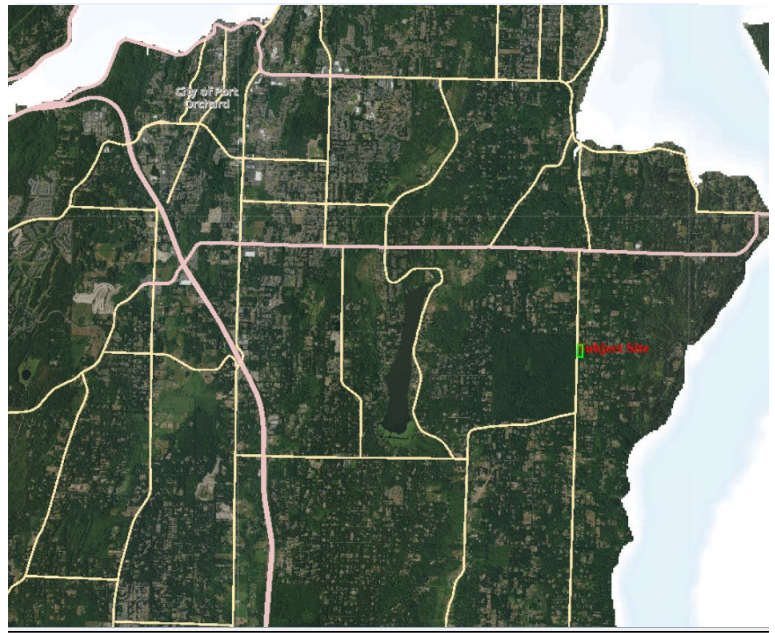
Applicant/Owner of Record

Zachary Turk
1715 E. Main Apt. T101
Puyallup, WA 98372

Recommendation Summary

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

VICINITY MAP



1. Background

Applicant proposes to convert 884 square-feet of the existing 972 square-foot dwelling, built in 1928, to come into conformance with current code standards as an ADU (Bldg. Permit #22-03442). The site includes an existing 2,536 square foot Manufactured Home (MH) as the principal dwelling.

History

January 17, 2023

Letter KCC Violation to Mr. Turk RE: CC21 0184

January 20, 2020

Title Elimination of MH recorded AFN 202001130159

November 19, 2019

Excise Tax Affidavit shows ownership.

October 14, 2019

Reactivated (12567) MH permit 19-04735 to Closed Final

April 12, 2000

Approved MH/SFR & Special Care Unit #12567

February 28, 1994

Garage building application submitted #67399

2. Project Request

Applicant requests a Conditional Use Permit for an Accessory Dwelling Unit (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 May 3, 2023. A Determination of Nonsignificance (DNS) was issued on December 1, 2023. No public comments were received.

The SEPA appeal period expired December 15, 2023. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

According to the Kitsap County Assessor, the subject site is 5.23 acres or 227,819 square feet. The parcel is relatively flat, rectangular in shape and has a perimeter surrounded by thick vegetation, apart from accesses at the north and west boundaries. The central portion is primarily vegetated with lawn and scattered trees. Hard surfaces from existing structures, driveway and parking are at the northern portion of the site. The GIS parcel map does not show mapped critical areas on site. There is a 16-foot-wide private driveway easement at the northern property boundary.

Existing development consists of a 972 square foot, 1-story with attic, single-family residence (SFR) built in 1928, being converted to the proposed 884 square foot ADU with non-habitable attic space for storage above, an existing manufactured home replaced in 2000, as the primary residence, and an existing 1,440 square foot outbuilding. A shared driveway from Banner Rd. S.E. provides access to the SFR and ADU. Two existing drainfields are located at the northwest corner and north central portions of the lot.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential (RR) Zone: RR	Standard	Proposed
Minimum Density	NA	NA/Existing Legal Lot
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	NA/Existing 5.23 ac.
Maximum Lot Size	NA	NA
Minimum Lot Width	140	NA
Minimum Lot Depth	140	NA
Maximum Height	35 feet	1 story, <35 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes: NA

Staff Comment: The parcel is zoned Rural Residential and meets the minimum lots size requirements.

Table 2 - Setback for Zoning District

	Standard	Existing / Proposed
Front (West)	50 ft.	110 ft. (Existing MH/SFR) 94 ft. (Proposed ADU) 57 ft. (outbuilding)
Side (North)	20- ft.	23 ft. (Existing MH/SFR) 210 ft. (Proposed ADU) 84 ft. (outbuilding)
Side (South)	20- ft.	664 ft. (Existing MH/SFR) 509 ft. (Proposed ADU) 664 ft. (outbuilding)
Rear (East)	20 ft.	136 ft. (Existing MH/SFR) 170 ft. (Proposed ADU) 210 ft. (outbuilding)

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence (SFR)	Rural Residential (RR)
South	SFR	RR
East	SFR	RR
West	Publicly owned-Vacant Undeveloped/Banner Rd. S.E.	Parks (P) / RR

Table 4 - Public Utilities and Services

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

5. Access

The subject site gains access via the existing driveway from Banner Rd. S.E., a county-maintained collector/arterial right of way. The parcel is permitted to use the existing 16-foot private driveway easement since it is running along the north perimeter boundary.

6. Site Design

The ADU will be located approximately 87 feet east of the primary residence. Please see Section 10.a for addition site design requirements for the proposed ADU.

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 thereafter.

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 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 19	Critical Areas Ordinance
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 the following Exhibits.

Exhibit #	Document	Dated	Date Received
1	STAFF REPORT	01/18/2024	
2	Historical Photos	1928 – 1989	
3	Title Elimination – Manufactured Home	01/13/2020	
4	Permit Application	02/14/2023	02/14/2023
5	ADU Photos		02/14/2023
6	SFR Photos		02/14/2023
7	SFR Floor Plans		02/14/2023
8	Kitsap Public Health District – Approved BSA Memo	04/04/2022	03/13/2023
9	Notice of Application	05/03/2023	
10	Revised SEPA Checklist	08/02/2023	10/30/2023
11	Letter of Response to Information Request		10/30/2023
12	Revised Site Plan (v6 – showing driveway)		11/06/2023
13	SEPA Determination of Non-Significance	12/01/2023	
14	Case Notes – Code Compliance 21 0184	12/29/2023	01/08/2024
15	ADU Plans, Photos, Renderings	12/29/2023	01/08/2024
16	Notice of Public Hearing	01/10/2024	
17	Certification of Public Notice	01/16/2024	

9. Public Outreach and Comments

A Notice of Application was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. To date, no adjacent neighbors have commented on the proposal.

10. Analysis

a. Planning/Zoning

Per KCC section 17.415.015.B., to encourage the provision of affordable housing, an ADU may be located in residential zones and be allowed as a conditionally permitted use in those areas located outside an urban growth boundary, subject to the following criteria (*italicized*). Staff comments are provided below:

Staff Comment: The subject property is not located within the UGA.

- a. 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.

- b. Only one ADU shall be allowed per lot.*

Staff Comment: This application proposes only one ADU. There are no other ADUs present or proposed.

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

Staff Comment: The owner will reside in the proposed ADU.

- d. 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: Applicant provided supporting documentation that the primary dwelling totals 2,536 sf., with 2,400 sf counted as habitable space. Porches, decks make up the remainder of floor area according to the Assessor's data. Fifty percent of the habitable area of the primary residence is 1,200 square feet, therefore, the ADU is limited to 900 square feet (the smaller value). Dimensions are determined by interior measurements.

The floor plan for the ADU demonstrates the size as 884 sq ft of habitable area, and 520 sf of storage on the main floor, and 600 sq ft of storage in the attic above. It should be mentioned that KCC17.110.319 defines "Habitable area" as the entire area of a dwelling unit or living quarters used for living, sleeping, eating and/or cooking. Storage areas and garages are excluded from calculations of habitable area. A "Habitable floor" means any floor usable for living purposes including working, sleeping, eating, cooking, or recreating uses, or any combination of these uses. A floor used only for storage purposes is not a "habitable floor" per KCC17.110.320

- e. 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 principal dwelling or single-family residence and the proposed ADU are approximately 87 feet apart, satisfying this requirement. Both are existing.

- f. The ADU shall be designed to maintain the appearance of the primary residence.*

Staff Comment: The existing SFR/MH and the proposed 884 square foot ADU shall be similar in appearance and made as a condition of approval at the end of this report. As proposed in the application materials submitted for the ADU, design elements such as siding material, window framing, style of elevation and roof pitch match the SFR.

- g. All setback requirements for the zone in which the ADU is located shall apply;*

Staff Comment: The proposal meets all required setbacks for a lot this size, within the Rural Residential (RR) zone.

h. 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 for OSS January 14, 2022, and water April 4, 2022.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

The proposal allows for an 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/ detached)	3 per unit	3	3
Accessory Dwelling Unit (ADU)	1 additional space	1	1
Total		4	4

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) 17.500.025		
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 a County road. This is addressed in the preceding section 5 for Access.

g. Design Districts/Requirements

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

h. Development Engineering/Stormwater

Approved by engineering staff since structure is existing and being converted to ADU. No site work, no new hard surfaces.

i. Environmental

No critical areas mapped. No new clearing limits outside the existing development.

j. Access, Traffic and Roads

Development Services and Engineering reviewed the proposal for compliance with traffic and road standards and recommended approval with no conditions at this time.

k. Fire Safety

The Kitsap County Fire Marshall's staff reviewed and approved the proposal.

l. Solid Waste

Solid Waste review was not required for this proposal.

m. Water/Sewer

Sewer is not available at this site therefore no review was needed.

n. Kitsap Public Health District

A Building Site Application (BSA) matching this proposal was submitted and approved by KPHD for water and onsite septic (OSS).

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 Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. 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.*

Staff comment: The proposal supports the intent to increase affordable housing options in Kitsap County while limiting the density in the rural areas to ensure the preservation of those areas.

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.*

Staff comment: The applicants are bringing the ADU into compliance with today's county code. There will be 2 dwelling units rather than an unpermitted use no longer active. This proposal meets all the required regulations applicable per KCC17.415.015 (B).

3. *The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.*

Staff comment: The proposal is consistent with the existing residential use of the property and the surrounding properties.

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.*

Staff comment: The design, size, and placement of the proposed ADU effectively utilizes the existing features of the property while complementing the surrounding neighborhood characteristics.

13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 17.550.030.A, the Department of Community Development recommends that the CUP-ADU request for Turk 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. If archaeological resources are uncovered during excavation, developers and property owners must immediately stop work and notify Kitsap County, the Office of Archaeology and Historic Preservation and affected Indian tribes.
3. 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.
4. 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 DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
5. Only one ADU shall be permitted on the subject property.
6. 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.
7. The ADU's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 884 square feet. Any future expansion of the ADU will require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.
8. The ADU shall be located within 150 feet of the primary residence.
9. The ADU shall be designed to maintain the appearance of the primary residence.
10. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
11. No mobile home or recreational vehicle shall be allowed as an ADU.
12. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
13. 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.

14. 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.
15. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
16. 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 the DCD at the applicant's expense.
17. 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 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.
18. 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.
19. The decision set forth herein is based upon representations made and exhibits contained in the project application. 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.
20. This CUP approval shall automatically become void if no development permit application is accepted as complete by the DCD within four years of the Notice of Decision date or the resolution of any appeals.

21. Any violation of the conditions of approval shall be grounds to initiate revocation of this CUP.

b. Development Engineering

None at this time

c. Environmental

None at this time

d. Traffic and Roads

None at this time

e. Fire Safety

None at this time

f. Solid Waste

None at this time

g. Kitsap Public Health District

None at this time

Report prepared by:

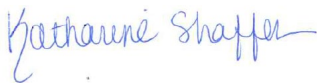


Jenny Kreifels, Staff Planner / Project Lead

January 9, 2024

Date

Report approved by:



Katharine Shaffer, Department Supervisor

January 12, 2024

Date

Attachments:

Attachment A – Site Plan

Attachment B – Critical Areas Map

Attachment C – Zoning Map

Attachment D - Assessor's Historical Photos

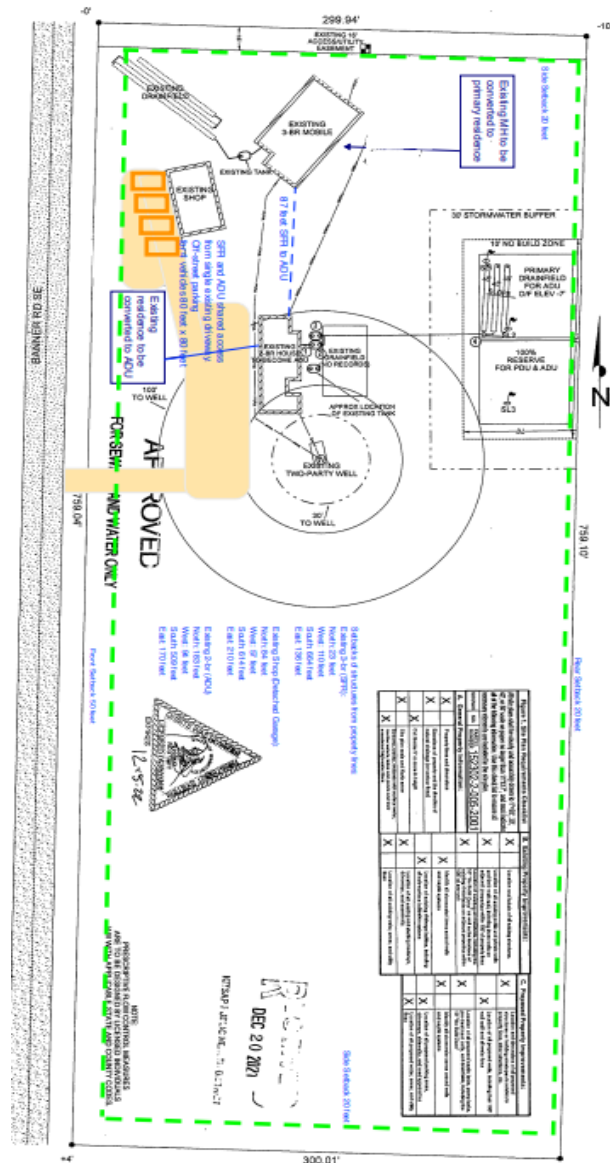
Attachment E – Primary Dwelling Photo

Attachment F – Proposed ADU Photo

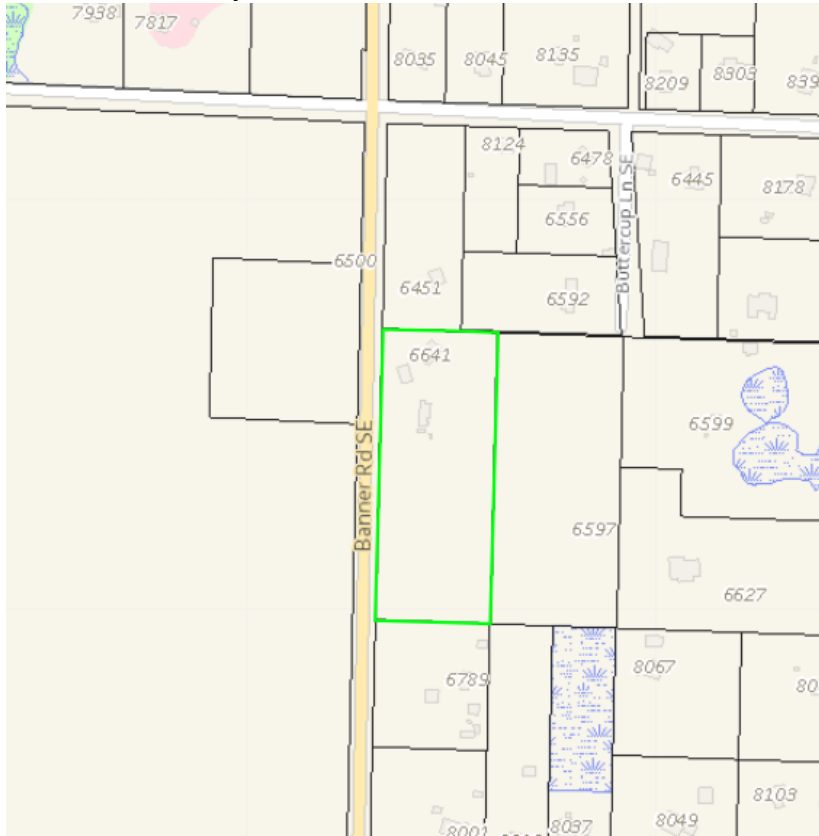
CC:

Applicant/Owner: Zachary Turk, zachturk@gmail.com
 Kitsap County Health District, MS-30
 Kitsap County Public Works Dept., MS-26
 DCD Staff Planner: Jenny Kreifels

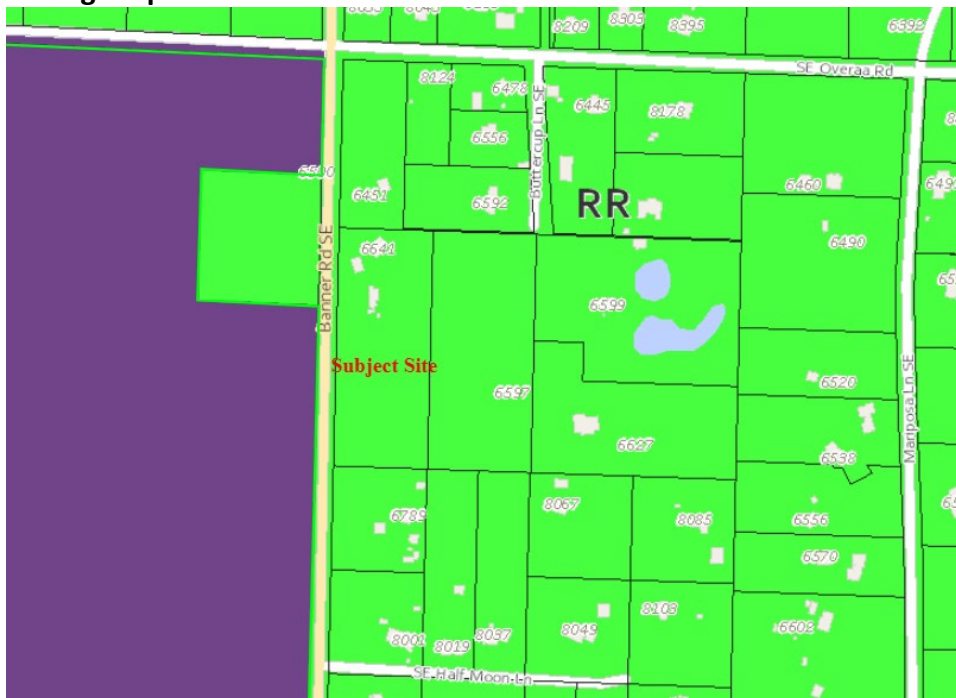
Site Plan



Critical Areas Map



Zoning Map



Assessor's Historical Photos



Existing Primary Dwelling



Site Photo - Existing structure/proposed ADU

