

Kitsap County Department of Community Development

Hearing Examiner Staff Report and Recommendation

Report Date: 7/2/2021 **Application Submittal Date:** 9/16/2020 **Application Complete Date:** 10/01/2020

Project Name: HILL – Accessory Dwelling Unit (ADU) **Type of Application:** Conditional Use Permit (CUP)

Permit Number: 20-04271

Project Location

4060 SE Scofield Port Orchard, WA Commissioner District 2

Assessor's Account

192302-4-001-2007

Applicant/Owner of Record

Allen and Karen Hill 4060 SE Scofield Rd Port Orchard, WA

Recommendation Summary

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

VICINITY MAP



1. Background

Allen and Karen Hill (hereafter, "the Applicants") propose to construct a detached Accessory Dwelling Unit (ADU). Per KCC 17.410.060.B.3.b, ADUs proposed outside of the urban growth boundary (UGA) shall be subject to a conditional use permit (CUP). The subject site is located outside of the UGA; therefore, CUP approval is required.

2. Project Request

The Applicant has requested approval for a Conditional Use Permit (CUP) that would allow the construction of an 875 square foot Accessory Dwelling Unit (ADU). The existing access to the existing single-family residence is proposed to also serve the ADU, with additional driveway and parking area proposed. Potable water is proposed to be provided by Horizons West Public Water System; sanitary sewage disposal is proposed to be provided by an individual on-site septic system. On-site stormwater management methods include an infiltration trench to manage water quality and quantity from the rooftop runoff, and a vegetated filter strip for runoff from the new driveway surface. The subject site contains a

Type-N stream and a Category III wetland. The proposal meets the required 50-ft buffer from the Type-N stream. The applicant requests a 25% buffer reduction to a portion of the wetland buffer and proposes restoration of 3,000 square feet of the existing wetland buffer with a mix of native fruiting and flowering trees and shrubs.

3. SEPA (State Environmental Policy Act)

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 September 9, 2020 (Exhibit 14). A Determination of Nonsignificance (DNS) was issued on July 1, 2021 (Exhibit 29). The SEPA appeal period will expire July 15, 2021. If no appeals are filed, the SEPA determination will become final.

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.

4. Physical Characteristics

According to the Kitsap County Assessor, the subject site is 2.52 acres. The southwest portion of the site is developed with a replacement single-family residence (approved under Kitsap County Permit 04-21981), an accessory structure/shop, septic system, and a 2-party well. There is a Type N stream and Category III wetland on the northwest portion of the site. Environmental features are discussed further in Section 10.i of this report.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential	Standard	Proposed	
Zone:			
Rural Residential			
Minimum Density	N/A		
Maximum Density	1 dwelling unit/5 acres	N/A - Subject property is	
Minimum Lot Size	5 acres	an existing lot.	
Maximum Lot Size	NA		

Minimum Lot Width	140 feet	
Minimum Lot Depth	140 feet	
Maximum Height	35 feet	1 story, < 35 feet
Maximum Impervious	NA	NA
Surface Coverage		
Maximum Lot	NA	NA
Coverage		

Table 2 - Setback for Zoning District

	Standard	Proposed	
Front (East)	50-feet	50-feet from edge of	
		easement	
		100-ft from property line	
2 nd Front (North)	50-feet	~175 feet	
Side (West)	5-feet for accessory	~125 feet	
	structures		
Side (South)	5-feet for accessory	~187 feet	
	structures		

Table 3 - Surrounding Land Use and Zoning

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

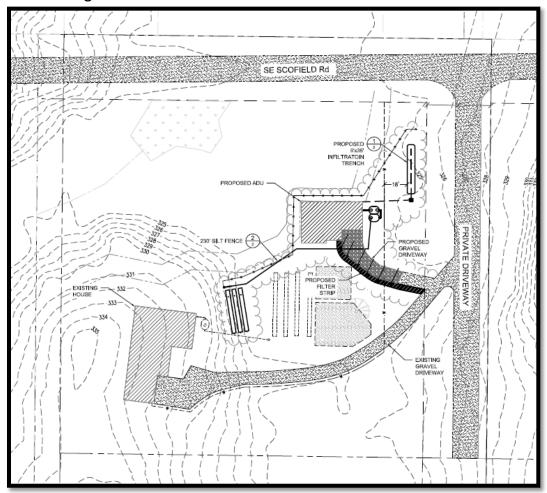
Table 4 - Public Utilities and Services

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

5. Access

The site gains access via a private driveway along the easterly property line, which connects to the north at SE Scofield Rd, a private road along the northern property line. SE Scofield RD continues east to Phillips RD SE, a County maintained public right of way.

6. Site Design



7. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016 and as amended April 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
Title 19	Critical Areas
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 through 32.

Exhibit #	Document	Dated	Date Received
1	Concurrency Test		10/1/2020
2	Elevations: ADU		10/1/2020
3	Elevations: SFR		10/1/2020
4	Floor Plan: ADU		10/1/2020
5	Floor Plan: SFR		10/1/2020
6	Health District Approved (BSA)		10/1/2020
7	Health District Water Availability		10/1/2020
8	Permit Questionnaire		10/1/2020
9	Project Narrative		10/1/2020
10	SEPA Checklist		10/1/2020
11	Soil Report		10/1/2020
12	SWPPP Narrative		10/1/2020
13	Wetland Delineation and Mitigation Plan		10/1/2020
14	Notice of Application		11/30/2020
15	Drainage Report		4/2/2021
16	Post-Construction Soil Quality		4/2/2021
17	Site Assessment and Planning Packet		4/2/2021
18	Site Plan - Revised		4/2/2021
19	Stormwater Worksheet		4/2/2021
20	SWPPP Plan		4/2/2021
21	Preliminary Condition Memo		6/1/2021
22	Notice of Public Hearing		6/23/2021
23	Map: Aerial Imagery		6/30/2021

24	Map: Assessor's	6/30/2021
25	Map: Comprehensive Plan	6/30/2021
26	Map: Critical Aquifers	6/30/2021
27	Map: Critical Areas	6/30/2021
28	Map: Zoning	6/30/2021
29	SEPA Determination of Non-Significance	7/1/2021
30	Staff Report	7/2/2021
31	Certification of Public Notice	7/1/2021
32	Staff Presentation	7/8/2021

9. Public Outreach and Comments

A Notice of Application (Exhibit 14) was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. No comments were received by the Department.

10. Analysis

a. Planning/Zoning

Per KCC 17. 410.060.B.3, in order to encourage the provision of affordable and independent housing for a variety of households, an accessory dwelling unit may be located in residential zones, subject to the following criteria (italicized). Staff comments are provided below:

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 the urban growth boundary.

b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary;

Staff Comment: The subject property is located outside of the urban growth boundary. This application is a Conditional Use Permit for an Accessory Dwelling Unit.

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 currently resides in the existing 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 875 square feet. The existing residence is 2736 square feet. 50 percent of 2736 is 1368 square feet; therefore, the ADU is limited to 900 square feet (the smaller value). The proposed ADU meets this requirement.

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 accessory dwelling unit are 100 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. Please see Exhibit 2 and 3. The roof pitch is similar and both structures propose the same horizontal siding, similar windows and garage doors.

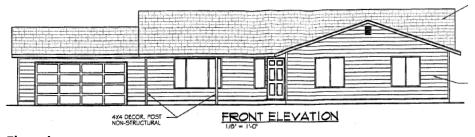


Figure 1 SFR Elevation



Figure 2 ADU Elevation

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

Staff Comment: All setbacks required by the Rural Residential zone are met for the proposed accessory dwelling unit. Please see Table 2.

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

Staff Comment: The applicant submitted Building Site Application (Exhibit 6) approved by Kitsap Public Health District for water and sewage disposal.

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 18) shows the proposed ADU will use the existing driveway that serves the single-family residence. The driveway will provide an additional off-street parking space.

I. An ADU is not permitted on the same lot where an accessory living quarters exists.

Staff Comment: There are no present or 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

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

f. Frontage Improvements

Frontage improvements are not proposed, nor are they required.

g. Design Districts/Requirements

The subject site is not within a designated design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed 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 and requires ten conditions (Exhibit 21, Conditions 20 through 29).

i. Environmental

19.200 WETLANDS: The Kitsap County Critical Areas Map identifies hydric soils on the subject site, which are potential wetlands. The Applicants submitted a Wetland Delineation and Mitigation report from BGE Environmental, LLC, dated May 4, 2020 confirming the presences of a Category III wetland with a habitat score of 6. KCC 19.200.220 requires 110-ft buffer plus 15-ft building setback. In order to avoid the additional zoning setback measured from the edge of easement as well as to preserve mature forested areas, the Applicants request an administrative buffer reduction of twenty-five (25) percent to reduce the buffer to 82.5 ft.

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The department may administratively reduce the buffer pursuant to the variance criteria listed in Section 19.100.135 and the proposal meets these criteria, as outlined in the submitted report.

Three thousand square feet of mitigation to restore the existing degraded buffer area is proposed. The mitigation area includes a variety of flowering trees and shrubs and the proposal is conditioned to follow the mitigation, maintenance and monitoring plan identified in the report.

19.300 FISH & WILDLIFE CONSERVATION AREAS: A Type-N stream has been identified on-site, which requires a 50-ft buffer plus 15-ft building setback per KCC 19.300.315. The submitted site plan shows the proposal meets this requirement.

19.400 GEO HAZARDS: The proposal measures over 250-ft from any mapped geohazards. No further review is required.

19.500 FLOOD AREAS: The proposal is not within a mapped flood hazard area.

19.600 CRITICAL AQUIFERS: The subject site is within a Category II Critical Aquifer Recharge Area. KCC 19.600.615(B)(1) states, "Land uses identified in Table 19.600.620 that are proposed in a Category II aquifer recharge area may be required to submit a hydrogeological report". Neither single family development nor ADUs are land uses identified in Table 19.600.620 and no further review is required.

j. Access, Traffic and Roads

Adequate vehicular access exists via a private driveway along the easterly property line and no new access is proposed. An expanded driveway is proposed to serve the ADU and provides an additional parking space.

Development Services and Engineering has reviewed the proposal for compliance with traffic and road standards and has recommended approval, with two conditions (Condition 31 and 32).

k. Fire Safety

The Kitsap County Fire Marshall's Office reviewed and approved the proposal with one condition (Condition 33).

I. Solid Waste

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

m. Water/Sewer

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The application included an approved Building Site Application that shows approval for water and sewer from Kitsap County's Health Department (Exhibit 6). Potable water is proposed to be provided by Horizons West Public Water System; sanitary sewage disposal is proposed to be provided by an individual 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 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. 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 Conditional Use Permit request for Hill Accessory Dwelling Unit be **approved**, subject to the following 33 conditions:

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction or occupancy.

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> 2. The accessory dwelling unit (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 accessory dwelling unit 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 accessory dwelling unit shall be permitted on the subject property.
- 5. The owner of the property must reside in either the primary residence or the accessory dwelling unit and only one of the structures may be rented at any one time. The accessory dwelling unit'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 875 square feet (Exhibit 4). 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.
- 6. The accessory dwelling unit shall be located within 150 feet of the primary residence.
- 7. The accessory dwelling unit shall be designed to maintain the appearance of the primary residence.
- 8. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
- 9. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit.
- 10. The accessory dwelling unit shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
- 11. An accessory living quarters or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code.
- 12. A property with a primary residence and an accessory dwelling unit 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.
- 13. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
- 14. The recipient of any 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

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acknowledgment of and agreement to abide by the terms and conditions of the 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.

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- 15. 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. 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.
- 16. 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.
- 17. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #20-04271. 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.
- 18. 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.
- 19. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

b. Development Engineering

- 20. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
- 21. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and is located within 200 feet of a critical area. As such the required building permit shall include an on-site stormwater management design that demonstrates compliance with Minimum Requirements #1-5, as outlined in the Kitsap County Stormwater Design

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Manual.

- 22. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, October 7, 2020. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington.
- 23. The Washington State Department of Ecology (Ecology) may require registration of the infiltration trench as a Underground Injection Control (UIC) well in accordance with the Underground Injection Control Program (Chapter 173-218 WAC). The applicant shall contact Ecology to determine if the facility is regulated under the UIC program.
- 24. The design of the infiltration facilities will be accordance with Vol. II, Chapter 5 of the Kitsap County Stormwater Design Manual.
- 25. The infiltration facilities shall remain off line until the drainage areas are stabilized and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities.
- 26. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.
- 27. At the time of submittal of a building permit, soil amendment is required for all disturbed areas not covered by hard surface.
- 28. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.
- 29. If the project proposal is modified from that shown on the site plan accepted for review April 2, 2021, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

30. The proposal shall follow the mitigation, maintenance and monitoring plan as

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identified in the Wetland Report by BGE Environmental, dated May 4, 2020.

d. Traffic and Roads

- 31. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project.
- 32. 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. The need for and scope of bonding will be determined at that time.

e. Fire Safety

33. A fire suppression system is required under a separate permit.

Repo	ort prepared by:	
L	Sator	7/1/2021
Tash	a Santos, Staff Planner / Project Lead	Date
Repo	ort approved by:	
	Dai	7/1/2021
Scott	Diener, Department Manager / Supervisor	Date
	chments: chment A – Site Plan	
CC:	Allen and Karen Hill <u>allenshill@hotmail.com</u> Interested Parties: None Kitsap County Health District, MS-30	

Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Tasha Santos

