



## Notice of Administrative Decision

**Date:** 11/09/2020

**To:** **Marcus and Emily Bryce**, marcus.mbryce@gmail.com  
**Tabitha Galan of ESTES Builders**, permits@estesbuilders.com

**RE:** **Permit Number:** 20-03350  
**Project Name:** Bryce Setback Variance  
**Type of Application:** Administrative Zoning Variance

The Kitsap County Department of Community Development has **APPROVED** the land use application for **20-03350 Bryce Administrative Zoning Variance**, **subject to the conditions outlined in this Notice and included Staff Report.**

**THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.**

The written appeal shall be made on, or attached to, an appeal form found on DCD's website: <https://www.cognitofirms.com/KitsapCounty1/RequiredPermitQuestionnaireAppealObjectionOfAnAdministrativeDecision>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review through the Department of Community Development; if you wish to view the case file or have other questions, please contact [help@kitsap1.com](mailto:help@kitsap1.com) or (360) 337-5777.

**CC:** Kitsap Public Health District  
Kitsap County Public Works Dept  
DCD Staff Planner: Colin Poff  
DCD File # 20-03350



## Administrative Staff Report

**Report Date:** November 3, 2020

**Application Submittal Date:** July 29,

**2020 Application Complete Date:** September 22, 2020

**Project Name:** Bryce Setback Variance

**Type of Application:** Zoning Variance - Administrative

**Permit Number:** 20-03350

### Project Location

21059 Fern St NE  
Indianola, WA 98342  
North Kitsap

### Assessor's Account #

112602-3-034-2005

### Applicant/Owner of Record

Marcus and Emily Bryce  
11725 High Sierra Lane NW APT 301  
Silverdale, WA 98383

### Decision Summary

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

#### 1. Background

The applicant is proposing to develop the subject site with a single-family residence and attached garage, gravel driveway, and septic drain field. A building permit (#20-00355) is currently in review pending approval of this variance. There is an existing 30-foot private access easement along the eastern portion of the property. This easement serves five or more lots, therefore, setbacks are measured from the edge of said easement and not from the property line. The site is constrained by this required easement as well as critical areas including a stream, ravine and steep slopes.

#### 2. Project Request

Applicant is requesting to reduce front setback requirement from 50 feet to 40 feet (a 20% reduction) to allow the construction of a new single-family residence.

### VICINITY MAP



**3. SEPA (State Environmental Policy Act)**

This project is SEPA Exempt under KCC 18.04 State Environmental Policy Act.

**4. Physical Characteristics**

The subject site is an undeveloped 5.39-acre property. The site is heavily wooded/vegetated throughout and includes slopes from 6 percent to 36 percent. The proposed residence is located in the higher elevations of the property and the property generally slopes down to the south and west. A creek is mapped in the western portion of the site.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Reserve Zone: Rural Reserve (RR)	Standard	Proposed
Minimum Density	NA	NA
Maximum Density	1 DU/ 5 acres	
Minimum Lot Size	5 acres	5.39 acres
Maximum Lot Size	NA	NA
Minimum Lot Width	140 feet	NA
Minimum Lot Depth	140 feet	NA
Maximum Height	35 feet	28 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (East)	50 feet	40 feet (20% reduction proposed by administrative variance)
Side (North)	20 feet	>250 feet
Side (South)	20 feet	>250 feet
Rear (West)	20 feet	>250 feet

Applicable footnotes:

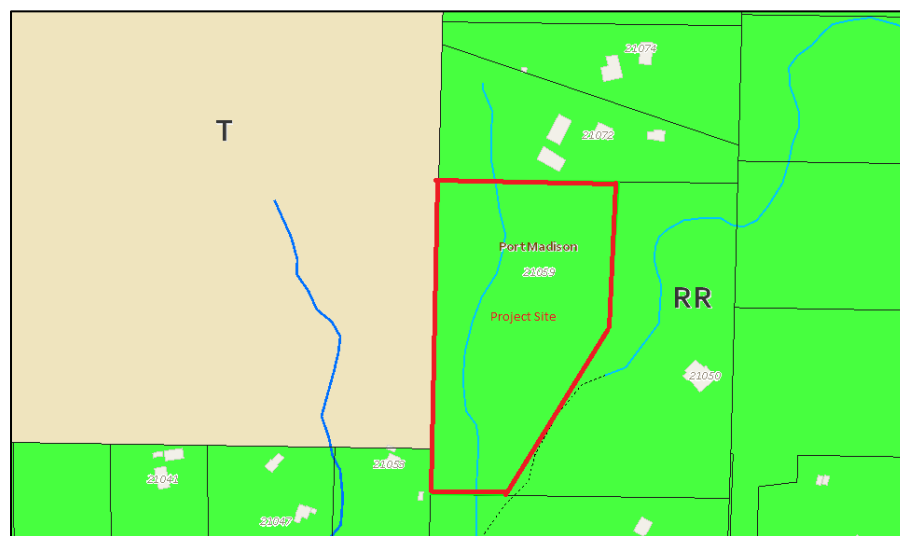
17.120.060.41.D - On lots with multiple front yards, the front yard setback(s) in which the lot does not receive access may be modified by the director. Based upon topography, critical areas or other site constraints, the director may reduce these front yard setbacks to a minimum of twenty feet for properties requiring fifty feet and ten feet for properties requiring twenty feet. The director may not modify front yard setbacks from county arterials or collectors. Such reductions shall not have an adverse impact to surrounding properties.

*Staff Comment: The access easement runs north/south along the eastern portion of the*

*property. Because the access to this property is from the east, the eastern property line is considered the primary "front" and the setback cannot be reduced without this variance.*

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Single-Family Residence	Rural Residential (RR)
South	Single-Family Residence	Rural Residential (RR)
East	Single-Family Residence	Rural Residential (RR)
West	Undeveloped with stream/wetlands	Tribal Land (T)



**Table 4 - Public Utilities and Services**

	Provider
Water	Private System/Well
Power	Puget Sound Energy
Sewer	Private System
Police	Kitsap County Sheriff
Fire	North Kitsap Fire and Rescue
School	North Kitsap School District #400

**5. Access**

Access will be from an existing private driveway located within an existing 30-foot easement. The driveway approaches from the south and currently serves 5 residences.

**6. Site Design**

The proposed site plan includes a 3-bedroom single-family residence, attached garage, three parking spaces, gravel driveway, and a septic system with primary and reserve drain fields.

## 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.

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 designated 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 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
Title 19	Critical Areas Ordinance
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**

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
Authorization Form	July 20, 2020
Drainage Report	July 20, 2020
Drainage-SWPPP Plans	July 20, 2020
Geological Landslide Assessment Letter (revised)	July 20, 2020
Construction Plans (revised)	September 22, 2020
Health Department Site Plan (revised)	September 22, 2020
Final Health District Approval	September 22, 2020
Zoning Variance Request (Project Narrative)	September 22, 2020
<u>Staff Communication</u>	<u>Dated</u>
None	N/A

**9. Public Outreach and Comments**

The department sent a Notice of Application on October 1st, 2020 and the public comment period remained open for 14 days, as required in the land use permit procedures outlined in Title 21 of the Kitsap County Code. Two comments were received, summarized below.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1	A neighbor asked where the project was in reference to their home and asked for clarification on the proposal. The neighbor had concerns about a recent development on a different property and wanted to know what this proposal entailed.	Attachment C
2	A neighbor commented to voice support for approval of the variance.	Attachment C

Issue Ref. No.	Issue	Staff Response
1	Clarification of variance request	An email response was sent to the neighbor on 10/7/20 showing a vicinity map of the proposal in relation to the neighbor's property. A clarification of the proposal was provided. An explanation was provided that the proposal is unrelated to the concerns about a different property.
2	N/A	No response necessary

## 10. Analysis

### a. Planning/Zoning

The proposal meets all Title 17 density, dimension, and design standards except for the required minimum front setback from the easement to the east (See Tables 1 and 2). The requested 10-foot (20%) setback variance can be approved through the Type II variance process if the criteria outlined in KCC 17.560.010 are met. The applicant has demonstrated that the proposal meets all criteria, as follows:

1. 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.

*Staff Analysis: The lot is an existing, legal lot. Although the lot is large, it has an irregular shape and is constrained by a stream and ravine in the west of the property as well as steeper slopes to the west and south. In addition, a 30-foot private access easement exists through the eastern portion of the site which serves other properties to the north. Because this is the 6th house using this easement, the front setback must be measured from the easement edge, rather than the center of the easement, effectively creating a setback that is 14-feet greater than what the applicant originally expected. The new home will effectively be setback over 75-feet from the eastern property line. These special circumstances were not created by applicant.*

2. 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.

*Staff Analysis: The application is for the development of a single-family residence, which is an allowed use in the RR zoning district. Properties abutting the site are also developed with single-family residences. An approved setback variance does not constitute a special privilege not possessed by owners of other properties in the vicinity; the adjacent properties are subject to the same variance criteria.*

3. 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.

*Staff Analysis: Compared to the size of the overall site, the development activity will be contained in a relatively small area. Most adjacent lots in this area have already been developed, with existing homes not located near the proposed home. Given that the area consists of large lots and is generally heavily wooded, the 10-foot setback variance does not impose impacts to adjacent properties as they exist, nor would any impacts be expected to future developments. The accessway to the site is already developed and will not be modified or expanded as part of this proposal. The known critical areas on site have been adequately addressed by the special reports provided as part of the application. (See Section*

10.i of this report).

*The proposed SFR, if it were to comply with the entire zoning front yard setback of 50 feet, would require the residence and drain field to be moved closer to the top of slope. The proposed 40-foot setback is preferred over moving the residence toward critical areas.*

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

*Staff Analysis: The applicant is requesting a 10-foot setback variance, or 20% reduction, which is less than the 25% reduction authorized under this permit type (KCC 21.04.100). The applicant has shown that a 10-foot variance is the minimum required to provide adequate space for the proposed 3-bedroom house and garage, as well as large septic drain field, given the required stream and ravine buffers.*

**b. Lighting**

Single-family developments are exempt from lighting design standards (17.420.030.A).

**c. Off-Street Parking**

Single-Family developments require three (3) off-street parking spaces (KCC 17.490.030), measuring at least 9 feet by 20 feet. The submitted site plan shows that the proposal meets this requirement.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family	3 per unit	3	3
Total	3	3	3

**d. Signage**

No signage is proposed.

**e. Landscaping**

Single-family developments are exempt from landscaping design standards. (17.420.030.A).

**Table 6 - Landscaping Table**

Not Applicable

**f. Frontage Improvements**

No frontage improvements are proposed or required.



**g. Design Districts/Requirements**

Single-Family developments are exempt from general design standards (17.420.030.A). The site is not located within any district or sub-area that requires further design review.

**h. Development Engineering/Stormwater**

A Landslide Hazard Geotechnical Letter prepared by Leroy Surveyors and Engineers, Inc. dated July 18, 2019 and revised June 22, 2020, has been submitted. The report makes various findings and recommendations which will be verified at the time of building permit review and a condition has been placed on the approval to address this (See Section 13, Condition b.7 of this report).

Stormwater review and approval previously occurred with the associated building permit (20-00335); the setback variance request presents no conflicts with the approved storm system.

**i. Environmental**

A Type-N stream is mapped in the western portion of the property. Type N streams require a minimum 50-foot buffer per KCC 19.300.315. The approved site plan denotes a 100-foot buffer, which is the standard required by the Department of Health for the septic drain field. The stream is within a ravine, requiring a minimum 25-foot buffer from the top of slope per KCC 19.300.315(A)(5). An additional 15-foot building setback is required when deemed necessary, per KCC 19.400.435.2, however, this area is not mapped as within a landslide hazard area. The placement of the building is provided outside of the required 25-foot ravine buffer and determined to be an appropriate location per the submitted geological assessment.

A Landslide Hazard Geological Letter was submitted by Leroy Surveyors & Engineers, Inc. dated July 18, 2019 and revised June 22, 2020. The report studies the presence of potential landslide hazard areas, erosion hazard areas, and seismic hazard areas:

Erosion Hazard - The report found that a "moderate" erosion hazard is onsite and provided recommendations for construction.

Seismic Hazard - The report provided seismic parameters to be used by the structural engineer.

Landslide Hazard - The report concluded that it did not appear that an active landslide hazard area exists within 200 feet of the site.

The report concluded that the project is feasible provided that the recommendations provided in said report are followed. These recommendations will be verified at the time of building permit review and a condition of approval to address this (See Section 13, Condition b.7 of this report).

**j. Access, Traffic and Roads**

No adverse impacts to traffic or roads are likely. Access to the parcel is by way of a shared private access easement which has been developed with an existing roadway.

**k. Fire Safety**

Review was completed and approved with the associated building permit (20-00355). There are no additional comments at this time.

**l. Solid Waste**

No comments at this time.

**m. Water/Sewer**

The property will be serviced by an onsite well. The site is outside of the service area for Kitsap County Public Works Sewer Utility Division. Water and sewer were approved by Kitsap Public Health District.

**n. Kitsap Public Health District**

The proposed septic design has been approved by Kitsap Public Health, as shown in the submitted building site application (BSA), dated October 23, 2019. Any changes to the approved site plan must be approved by Kitsap Public Health District and may require a modification to the approved Administrative Variance (See Section 13, Condition a.3 of this report).

**11. Review Authority**

The Director has review authority for this Administrative Variance application under KCC 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Director. The Director may approve, approve with conditions, or deny this application.

**12. Findings**

The Department of Community Development has determined that this application meets all four zoning variance criteria as outlined at KCC 17.560.010 Conditions for granting a variance. The criteria are detailed above in section 10 Analysis.

**13. Decision**

Based upon the analysis above and the decision criteria found in KCC 17.560.010, the Department of Community Development recommends that the Administrative Variance request for Bryce Variance (20-03350) be approved, subject to the following 7 conditions:

**a. Planning/Zoning**


1. This variance decision does not approve any site development activities including clearing or tree removal.

2. The site shall be accessed from the existing private access easement along the east of the site. No additional access shall be allowed without prior approval.
3. The decision set forth herein is based upon representations made and exhibits contained in the project application #20-03350 Bryce Reduced Setback. 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.
4. 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.
5. This Administrative Zoning Variance 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.
6. Any violation of the conditions of approval shall be grounds to initiate revocation of this Administrative Zoning Variance.

**b. Development Engineering and Environmental**

7. The project shall follow the recommendations of the submitted Geologic Landslide Assessment Letter, prepared by Leroy Surveyors and Engineers, Inc., as revised on June 22, 2020. These recommendations will be verified at the time of building permit review.

**Report prepared by:**



\_\_\_\_\_  
Name, Staff Planner / Project Lead

\_November 3, 2020\_  
Date

**Report approved by:**



\_\_\_\_\_  
Name, Department Manager / Supervisor

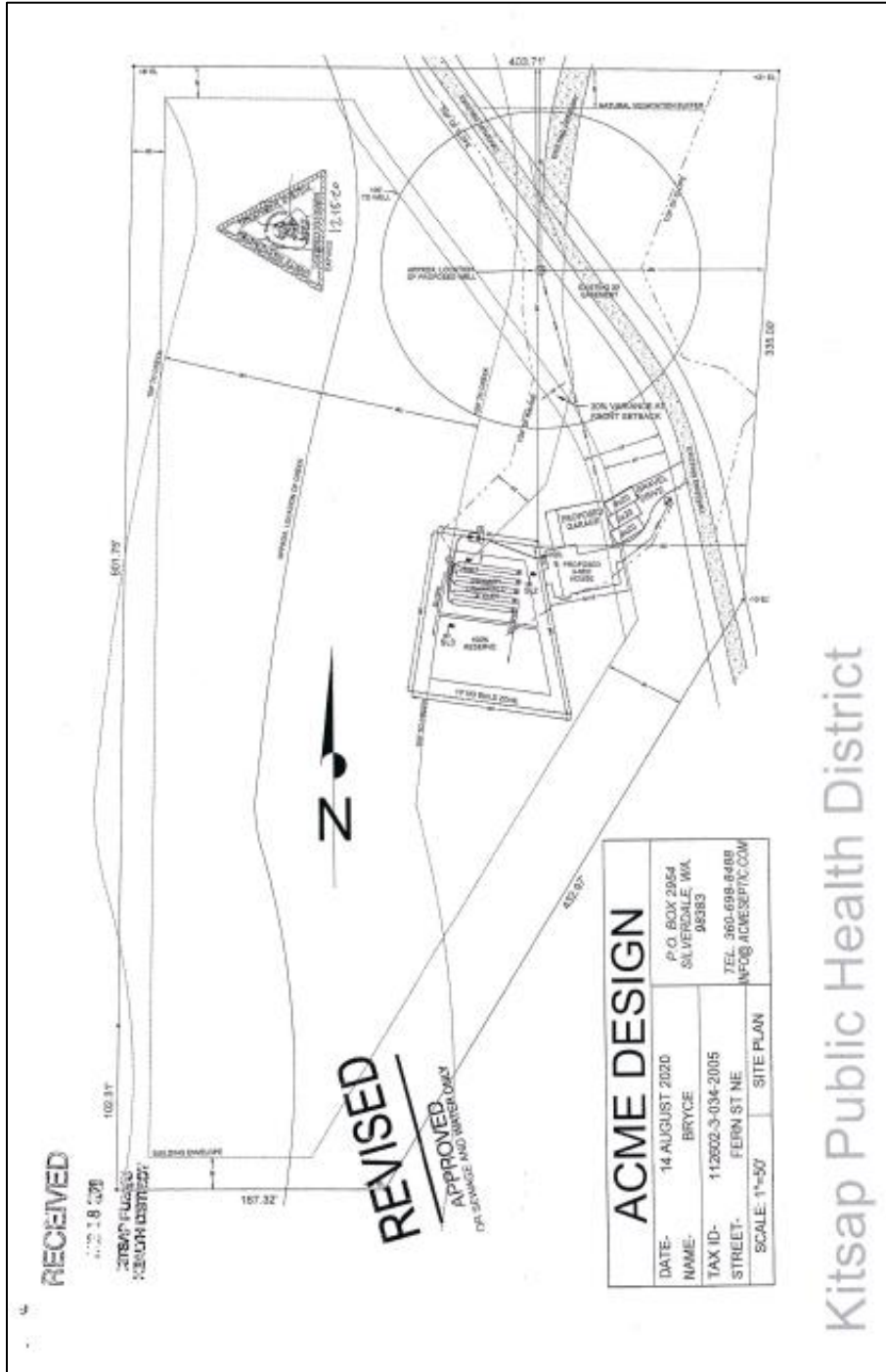
November 3, 2020\_ \_  
Date

**Attachments:**

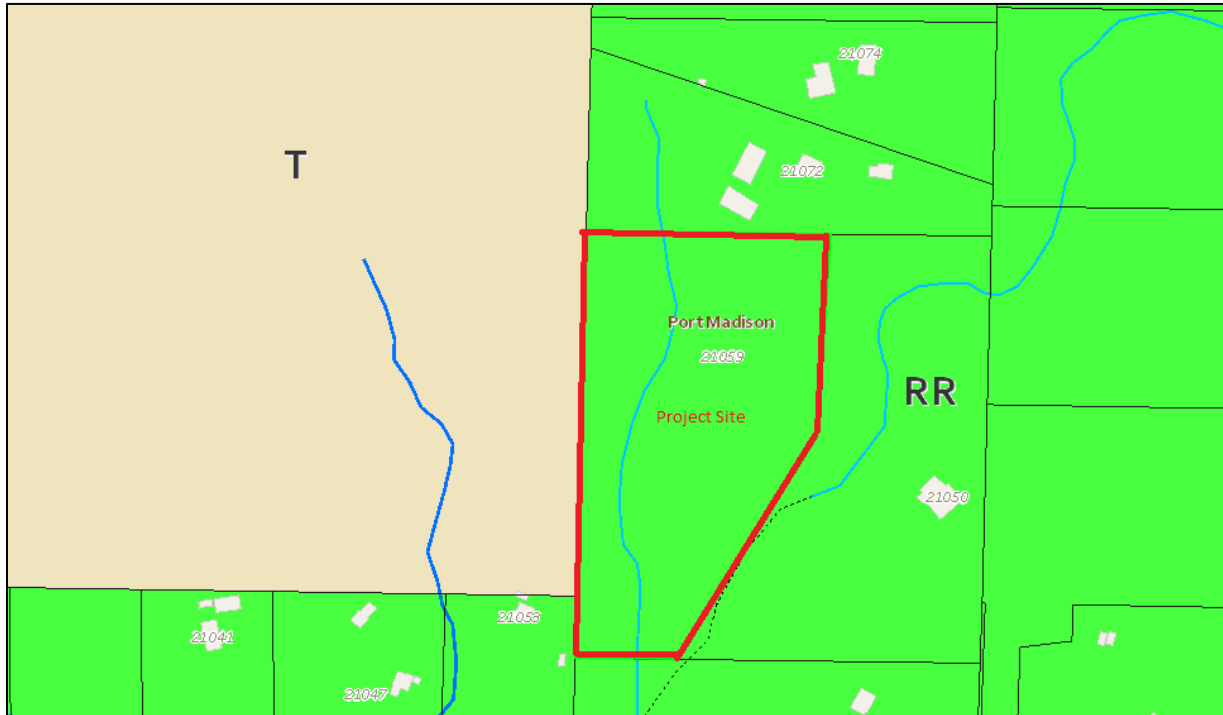
- Attachment A – Zoning Map
- Attachment B - Critical Areas Map
- Attachment C - Public Comments Received

CC: Marcus and Emily Bryce (marcus.mbryce@gmail.com)  
Tabitha Galen w/ ESTES Builders (permits@estesbuilders.com)  
Interested Parties: Susan Kuzminski (threeksmom@gmail.com)  
Mel and Kathy Haug (melandkathyhaug@gmail.com)  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Colin Poff

Site Plan

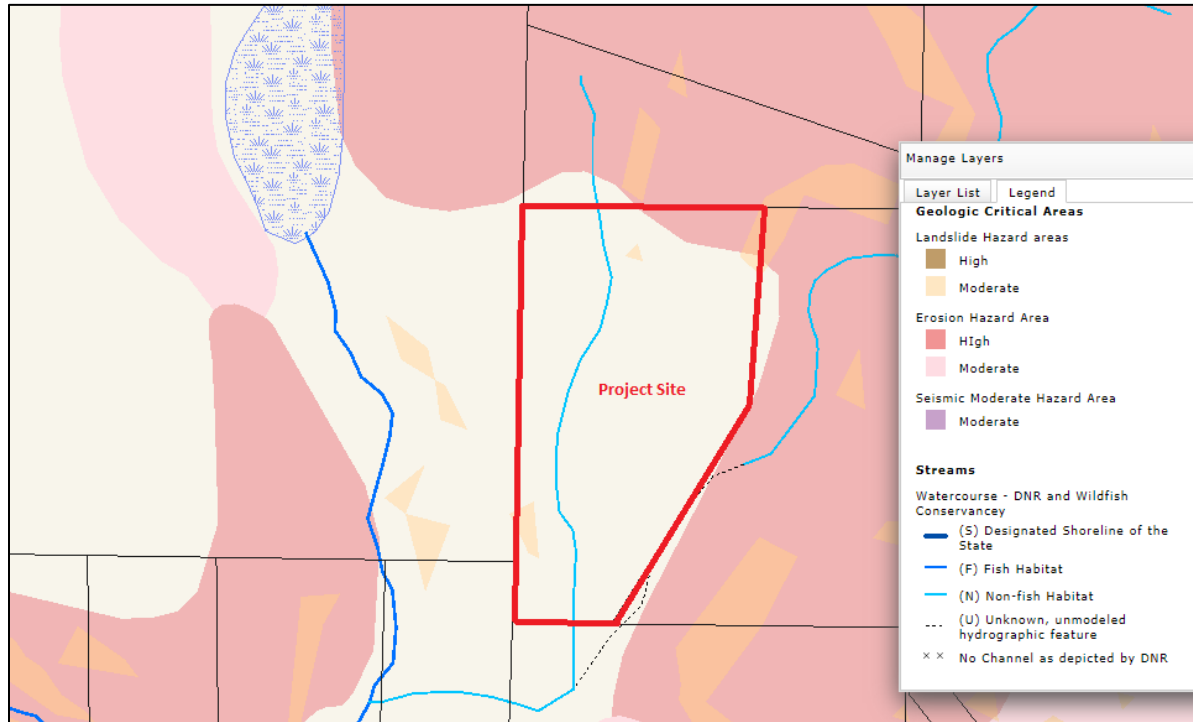


**Attachment A - Zoning Map**



**Subject Surrounding: Rural Residential, Tribal Land**

### Attachment B - Critical Areas Map



**Mapped Critical Areas: Type N Stream, Landslide Hazard Area (moderate), Erosion Hazard Area (moderate)**

### Attachment C - Public Comments Received

**From:** Susan Kuzminski <threeksmom@gmail.com>  
**Sent:** Wednesday, October 7, 2020 11:40 AM  
**To:** Colin Poff <CPoff@co.kitsap.wa.us>  
**Subject:** Bryce reduce front setback

I received today, October 7, notice of an application #20-03350.  
I looked this up on your site but cannot find an explanation for "reduce front setback".  
I live at 20990 Fern. I would like to know:  
-where this is in reference to my home  
-exactly what this means

My concern is the property right before ours on Fern was sold and started developing over a year ago. This land was designated wetlands by the county. Loads (way over 20) of rock, sand and gravel were brought in and filled this land. There used to be a stream through there. Now our back lot has a boggy, smelly wet spot. The trees were cut down right up to the property line. I was given to understand there was suppose to be a buffer left. There is a trailer storage unit, several travel type trailers there now. According to the county storage trailers (like from a semi truck) are not to be used as permanent storage. Yes, I contacted the county about this when they clearcut and started filling. No I didn't receive a reply. This is why I am so concerned about what this setback entails. Thank you for any information you can give me.  
Susan Kuzminski  
20990 Fern st.

#### Comment 1

**From:** Mel & Kathy Haug <melandkathyhaug@gmail.com>  
**Sent:** Friday, October 9, 2020 12:38 PM  
**To:** Colin Poff  
**Subject:** Comment on Variance Application 20-03350

Dear Mr. Poff,

We would like to comment on the Bryce application to "reduce front setback" (Application No. 20-03350) at 21059 Fern St. NE, Indianola, WA 98342.

As neighbors, we support this application. We consider it to be entirely consistent with our neighborhood, and we recommend that it be approved.

Thank you for letting us know of this opportunity to comment.

Sincerely,

Mel & Kathy Haug  
21050 Fern St. NE, Indianola, WA 98342

#### Comment 2