



## Notice of Administrative Decision

**Date:** 1/24/2022

**To:** Gerald Schneider & Alisa Balk, burleycreek@gmail.com  
Interested Parties and Parties of Record

**RE:** **Permit Number:** 21-03565  
**Project Name:** Schneider - Buffer Reduction of 25% to Construct New Single Family Residence  
**Type of Application:** Critical Area Buffer Reduction - Type II

The Kitsap County Department of Community Development has **APPROVED** the land use application for **Permit 21-03565: Schneider - Buffer Reduction of 25% to Construct New Single Family Residence – Critical Area Buffer Reduction - Type II, 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 at 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. Please note DCD is open Monday to Thursday from 8:00am to 4:00pm and on Friday from 9:00am to 1:00pm except holidays.

**CC:** Interested Parties:  
None  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Roxanne Robles  
Parks  
Navy  
DSE

Permit 21-03565: Schneider - Buffer Reduction of 25% to Construct New Single Family Residence  
1/24/2022

Kitsap Transit  
Central Kitsap Fire District  
Central Kitsap School District  
Puget Sound Energy  
Kitsap Public Utility District 1  
Point No Point Treaty Council  
Suquamish Tribe  
Port Gamble S'Klallam Tribe  
Squaxin Island Tribe  
Puyallup Tribe  
WA Dept of Fish & Wildlife  
WA Dept of Transportation/Aviation  
WA State Dept of Ecology-SEPA  
WA State Dept of Ecology-Wetland Review  
WA State Dept of Transportation



mitigation. County staff determined the best course of action was a site visit with the interested parties, which was conducted on August 18, 2021. County staff issued a memorandum dated August 19, 2021 requesting revisions to the ELS report. The Delineation Report and Habitat Management Plan was revised based on site observations and reissued by ELS on September 22, 2021 to recognize the pond as a Category III wetland, delineate a second wetland, and properly measure the stream buffer.

**2. Project Request**

The request is to reduce the F-type stream buffer of 150 feet to 112.5 feet to accommodate a 3,114-square-foot single-family home in the northwest corner of the property. The stream buffer encompasses the majority of the subject site, and the buffer reduction will allow for home construction.

**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 4.53-acre property. The site is flat and vegetated with alders, ferns, grasses, and Himalayan blackberry. The site is bisected by Crouch Creek, an F-type stream, and a man-made pond that has been classified as a Category III wetland.

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

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	NA	NA
Maximum Density	1 DU/ 5 acres	
Minimum Lot Size	5 acres	4.53 acres (existing)
Maximum Lot Size	NA	NA
Minimum Lot Width	140 feet	450 feet (existing)
Minimum Lot Depth	140 feet	641 feet (existing)
Maximum Height	35 feet	NA; Reviewed with building permit
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

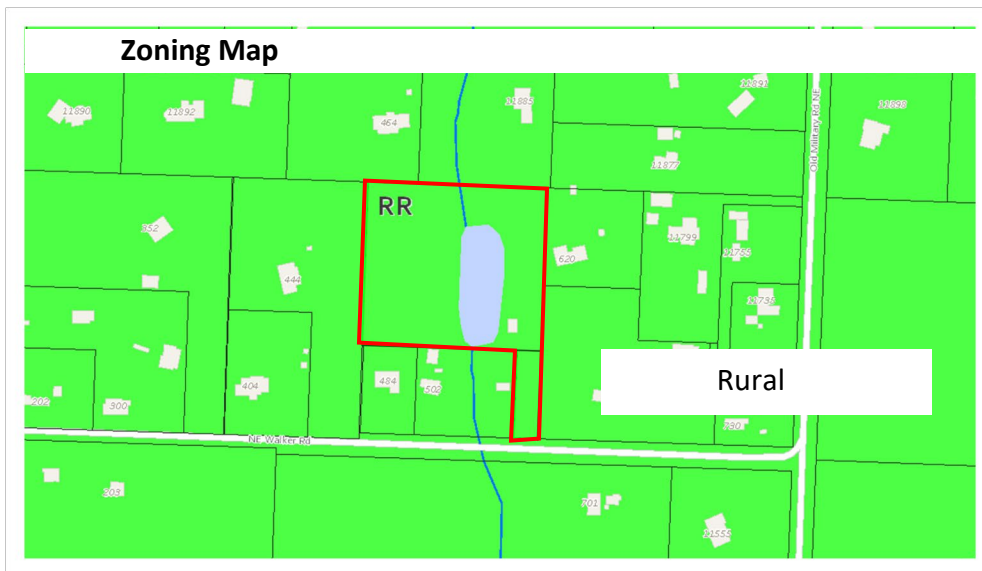
**Table 2 - Setback for Zoning District**

	Standard	Proposed
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Front (South)	50 feet	251 feet
Side (West)	20 feet	31 feet
Side (East)	20 feet	355 feet
Rear (North)	20 feet	95 feet

**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	Single-Family Residence	Rural Residential (RR)



**Table 4 - Public Utilities and Services**

	Provider
Water	Private two-party well
Power	Puget Sound Energy
Sewer	On-site septic
Police	Kitsap County Sheriff
Fire	Central Kitsap Fire and Rescue
School	Central Kitsap School District #400

**5. Access**

Access is from NE Walker Road via an existing gravel driveway.

## 6. Site Design

The proposed site plan includes a three-bedroom single-family residence, parking area, 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 and amended April 27, 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.

### Environment Policy 18.

Compensatory mitigation shall be the last option of resort in mitigation sequencing, following documentation of avoidance and minimization of any impact to the natural environment that triggers compensatory mitigation. Replacement of altered or displaced natural environments (including critical areas and buffers) must be mitigated either on-site, within the watershed, or service area as defined through an approved mitigation bank or in-lieu fee program.

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>
Staff Consultation Notes	February 18, 2021
Site Plan	June 29, 2021
Required Permit Questionnaire	July 15, 2021
Project Narrative	July 16, 2021
Determination Report and Habitat Management Plan	June 7, 2021
Site Plan Sept 2021	September 21, 2021
3414.01 Schneider SMP Update 9.23.21 V2	September 22, 2021

<u>Staff Communication</u>	<u>Dated</u>
Site visit coordination with property owners, ELS, WDFW, DOE, Suquamish Tribe	August 5, 2021
Site Visit Memorandum	August 19, 2021

## 9. Public Outreach and Comments

The department sent a Notice of Application on August 3, 2021 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. Four comments were received.

DOE commented that the fieldwork for the Determination Report and Habitat Management Plan dated June 7, 2021 was conducted on February 10, 2021, outside of the growing conditions when hydrologic conditions were much wetter than normal. The conditions on site during data collection do not support the determination that no wetland is present on site. DOE requested a site visit to review the conditions on site.

WDFW had concerns that the pond is not being considered a critical area and it does not meet exemption criteria in KCC 19.100.125 as a retention/detention facility, biofilter or other stormwater management facility, irrigation or drainage ditch, farm pond, fish pond, manure lagoon, or livestock water pond. The pond meets the definition of Fish Habitat per Washington Administrative Code (WAC) 22-660-030(52), as supported by WAC 220-660-030(62) and 220-660-030(154) where definitions of a 'freshwater area' and 'watercourse' include areas where a 'natural watercourse has been altered by humans'; therefore the entire pond below and waterward of the ordinary high water mark (OHWM) is fish habitat and waters of the state is subject to appropriate buffers. WDFW shared DOE's concerns about the timing of the assessment, and the existing 12" culvert at the north end of the pond is undersized and will need to be upgraded to meet the Unconfined Channel Guidance in the 2013 Water Crossing Design Guidelines and KCC 19.300.315(D)(1).

The Suquamish Tribe commented that the 150-foot stream buffer of the F-type stream should be measured from the OHWM of the pond, and not the center line as proposed in

the Determination Report and Habitat Management Plan dated June 7, 2021; the Type I administrative buffer reduction is not sufficient, and there should be a Type II or Type III variance to reduce the buffer and accommodate the proposed residence; and they shared WDFW's concerns about the undersized culvert.

Dr. Charles Dean submitted a comment outlining concerns about findings in the Determination Report and Habitat Management Plan dated June 7, 2021 including the non-determination of the pond as a wetland; the statement that Crouch Creek is seasonal and intermittent; a discrepancy between the centerline of the stream and Federal and county maps; the nature of the stream as fish habitat; and the siting of the proposed residence.

**10. Analysis**

**a. Planning/Zoning**

The proposal meets all Title 17 density, dimension, and design standards (See Tables 1 and 2).

**b. Lighting**

Single-family developments are exempt from lighting design standards per KCC 17.420.030.A.

**c. Off-Street Parking**

Single-Family developments require three (3) off-street parking spaces measuring at least 9 feet by 20 feet per KCC 17.490.030. 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 per KCC 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 per KCC 17.420.030.A. The site is not located within any district or sub-area that requires further design review.

**h. Development Engineering/Stormwater**

Development Engineering and Stormwater Review will be conducted with the associated building permit (21-04343). No comments at this time.

**i. Environmental**

The subject site is bisected by Crouch Creek, an F-type stream which requires a 150-foot buffer and 15-foot structure setback. A pond was dug within the course of Crouch Creek for agricultural purposes some time prior to 1969. Crouch Creek enters the property and the pond from the north via a culvert, and is contained on site by a control valve at the south end of the pond and exits through a steel culvert.

Comments from DOE, WDFW, and the Suquamish Tribe were received that brought attention to issues in the Determination Report and Habitat Management Plan dated June 7, 2021 and conducted by ELS. The comments drew concern to the conclusions of the report that did not classify the pond as a wetland or fish habitat, did not recommend replacement of the existing 12" culvert, and did not properly measure the buffer from the OHWM of the pond. A site visit was conducted on August 18, 2021 with DOE, WDFW, the Suquamish Tribe, and ELS. County staff issued a memorandum dated August 19, 2021 requesting revisions to the ELS report to recognize the pond as a Category III wetland, delineate a second wetland, and properly measure the stream buffer.

The updated report was issued on September 22, 2021 with the requested updates, and the development proposal now meets the requirements of KCC Title 19 and all applicable WACs.

A variance to critical area vegetation conservation buffers may be granted based on six criteria as outlined in KCC 19.100.135:

1. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance.

*Staff Comment: The 150' buffer as measured from the OHWM of the pond encompasses the majority of the subject property and would prevent the construction of a single family residence, as is enjoyed by other properties in the vicinity. The approval of a 25% buffer reduction would reasonably accommodate the proposed single family residence.*

2. The special circumstances referred to in subsection (A)(1) of this section are not the result of the actions of the current or previous owner.

*Staff Comment: The pond was excavated for agricultural purposes prior to 1969, and was not the result of the actions of the current or previous owner.*

3. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this title.

*Staff Comment: The proposal includes a habitat mitigation plan which will provide a planting/stormwater filtration strip along the driveway and 0.41 acre of mitigation plantings within the stream buffer to compensate for an estimated 0.12 acre of buffer impact. As the proposed use is a single family residence, the granting of this variance is not expected to have a detrimental impact on the critical area, public welfare, or to be injurious to the property or vicinity.*

4. The granting of the variance is the minimum necessary to accommodate the permitted use.

*Staff Comment: The proposal is to reduce the stream buffer by 25% and is the minimum necessary to accommodate the single family residence with the stream buffer and required 15-foot structure setback.*

5. No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150).

*Staff Comment: There is no other practicable or reasonable alternative for this development, especially since the neighbors to the West have declined to allow access from the existing driveway. The northeast corner of the property is accessed by an existing gravel driveway, and can reasonably accommodate the single-family residence outside of the reduced stream buffer.*

6. A mitigation plan (where required) has been submitted as is approved for the proposed use of the critical area.

*Staff Comment: The updated report issued by ELS on September 22, 2021 has been approved*

*for the proposed use of the critical area and has proposed 0.41 acre of mitigation plantings.*

**j. Access, Traffic and Roads**

No adverse impacts to traffic or roads are likely as the proposal includes one single-family residence. Access to the parcel is by way of a private driveway to North Mission Road West.

**k. Fire Safety**

Review will be completed with the associated building permit (21-04343). No comments at this time.

**l. Solid Waste**

No comments at this time.

**m. Water/Sewer**

The property will be serviced by KPUD for water and an on-site septic system requiring a private drainfield. Water and septic design will be reviewed by Kitsap Public Health District.

**n. Kitsap Public Health District**

Water and septic will be reviewed by Kitsap Public Health District. Any changes to the approved site plan must be approved by Kitsap Public Health District and may require a modification to this approval (See Section 13, Condition a.2 of this report).

**11. Review Authority**

The Director has review authority for this Administrative Buffer Reduction application under KCC 21.04.100. The Director may approve, approve with conditions, or deny this application.

**12. Findings**

The Department of Community Development has determined that this application meets the six criteria for granting a variance as outlined in KCC 19.100.135. The criteria are detailed above in section 10 Analysis.

**13. Decision**

Based upon the analysis above and the decision criteria found in KCC 19.100.135, the Department of Community Development recommends that the Schneider - Buffer Reduction of 25% to construct a new single-family residence (21-03565) be approved, subject to the following 13 conditions:

**a. Planning/Zoning**

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

2. The decision set forth herein is based upon representations made and exhibits contained in the project application #21-03565 Schneider Buffer Reduction. 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.
3. 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.
4. This decision 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.
5. Any violation of the conditions of approval shall be grounds to initiate revocation of this decision.

**b. Environmental**

6. This decision is subject to KCC 19.300.315, which states that buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.
7. There shall be no clearing of vegetation or grading in the buffer area, as depicted on the approved site plan. Prior to any clearing or development, please contact Development Services and Engineering Environmental staff at (360)337-5777 to confirm buffer boundaries.

**c. Development Engineering and Environmental**

8. 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.
9. The information provided demonstrates this proposal is a Large Project as defined in Kitsap County Code Title 12, and as such will require a Full Drainage Site Development Activity Permit (SDAP) from Development Services and Engineering.
10. 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 Critical Area Buffer Reduction application was deemed complete, July 30, 2021. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.

11. If the project proposal is modified from that shown on the submitted site plan accepted for review November 8, 2021, Development Services and Engineering will require additional review and potentially new conditions.
12. 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.
13. 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 SDAP process. The need for and scope of bonding will be determined at that time.

Report prepared by:



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Roxanne Robles, Staff Planner / Project Lead

December 29, 2021  
Date

Report approved by:



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Scott Diener, Department Manager / Supervisor

January 3, 2022  
Date

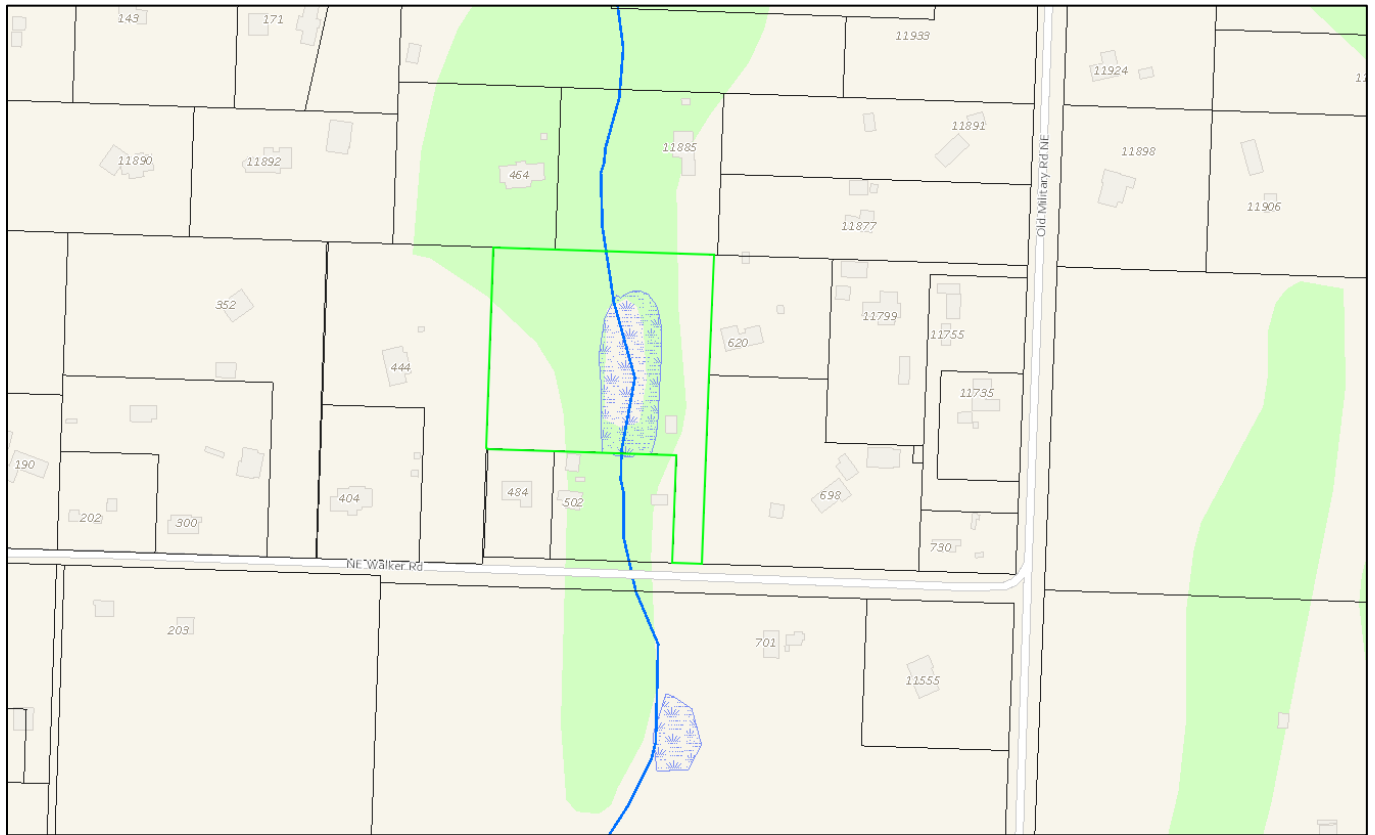
**Attachments:**

Attachment A – Site Plan  
Attachment B – Critical Areas Map

CC: Applicant/Owner: Gerald Schneider & Alisa Balk  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept, MS-26  
DCD Staff Planner: Roxanne Robles



**Attachment B - Critical Areas Map**



**Mapped Critical Areas: Wetland, Type F Stream, Potential Wetlands**