



Notice of Administrative Decision

Date: 04/25/2022

To: SMITH ANTHONY T, a1tony@comcast.net

RE: Permit Number: 22-00076
Project Name: Smith- 50% buffer reduction from type F stream
Type of Application: Critical Area Buffer Reduction (Type II)

The Kitsap County Department of Community Development has **APPROVED** the land use application for **22-00076: Smith- 50% buffer reduction from type F stream – 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.cognitofrms.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 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: Quigley, Steve (A. Stevens Quigley) quigley@attorneydude.com

Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: COLIN POFF
DCD File #22-00076



ADMINISTRATIVE STAFF REPORT

Report Date: April 19, 2022

Application Submittal Date: 01/07/2022

Application Complete Date: 01/26/2022

Project Name: Smith Critical Area Buffer Reduction

Type of Application: Critical Area Buffer Reduction (Type II)

Permit Number: 22-00076

Project Location

19973 Indianola Rd NE
Indianola, WA
Commissioner District 1 (north)

Assessor's Account

4360-034-001-0004

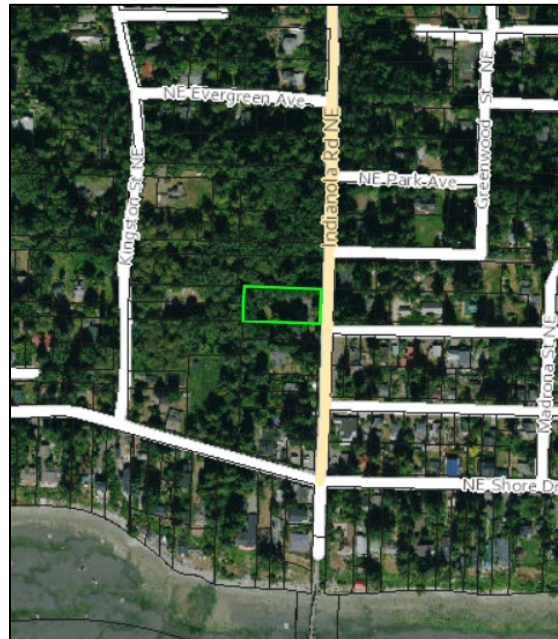
Applicant/Owner of Record

Tony Smith
19973 Indianola Rd NE
Indianola, WA 98342

Recommendation Summary

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

VICINITY MAP



1. Background

Tony Smith (hereafter, “the Applicant”) proposes to reduce a standard stream buffer by 50% to allow for one single-family home on one vacant lot that is constrained by critical areas. For proposed single-family dwellings, the department may administratively reduce a stream buffer by up to 50 percent of the area required under the standard buffer requirement under a Type II process.

An associated Building Permit (21-00344) is in review pending this approval.

2. Project Request

The proposal is for the review of a Critical Area Buffer Reduction to reduce a stream buffer from 150 feet to 75 feet (50%) to allow for the future construction of a single-family home on a lot that is constrained by a stream and existing development. A manufactured home currently exists of the lot and the project proposes to construct a larger residence and

eventually construct a garage in place of the manufactured home. The area of reduced buffer is currently mowed lawn. The proposal will impact approximately 8,789 square feet of buffer. A Habitat Management Plan was submitted which included 1,200 square feet of proposed new native plantings adjacent to the stream. The existing drain field will be utilized.

3. SEPA (State Environmental Policy Act)

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

4. Physical Characteristics

The lot is located on the west side of Indianola Road NE on terrain that slopes moderately to the west in Indianola. The lot is rectangular and extends west from the road to Indianola Creek. There is an existing manufactured home in the northeast corner of the lot with a gravel driveway and parking area. The remainder of the lot is primarily composed of mowed lawn with overhanging tree cover from the lot lines. Topography is relatively level near Indianola Road NE but slopes moderately down to the west to a level terrace at the southwest corner of the lot. Topography then slopes down more steeply to Indianola Creek. The creek occurs primarily offsite but comes onto the northwest corner of the lot.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	NA	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	N/A
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes: None

Staff Comment: The proposal meets applicable standards for the RP zone.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (East)	20 feet*	73 feet**
Side (North and South)	5 feet *	North: Approx. 8 feet** South: Approx. 40 feet
Rear (West)	20 feet *	Approx. 100 feet.

	5 feet for accessory structures	
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*The subject property is less than one acre in size and therefore may utilize smaller setbacks associated with the UL zone, per KCC 17.420.060, footnote 42.B

**73' for proposed home. Existing structure is 20 feet from front

Staff Comment: None

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Residential (RR)
South	Single-family residences	Rural Residential (RR)
East	Single-family residences	Rural Residential (RR)
West	Single-family residences, Manchester State Park	Rural Residential (RR); Park (P)

Table 4 - Public Utilities and Services

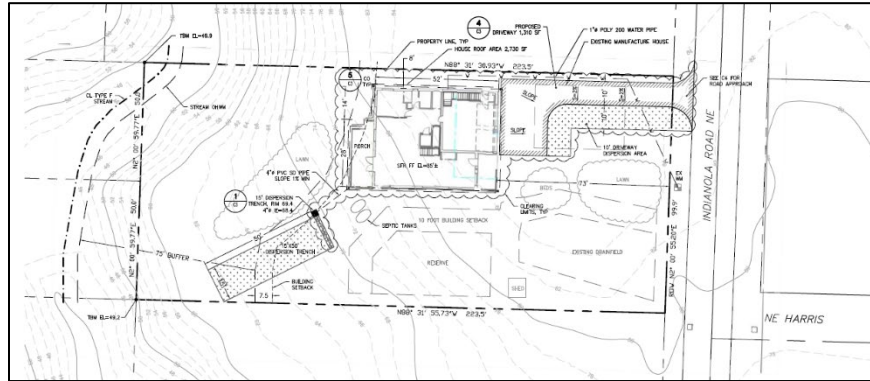
	Provider
Water	Onsite system
Power	Puget Sound Energy
Sewer	Onsite system
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #401

5. Access

The site has existing access from the East Via Indiana Road NE and the home will be accessed by private driveway.

6. Site Design

The image below shows the proposed footprint of the home and associated drainfield as well as the existing driveway. On site is an existing home which will remain during construction and then be rebuilt as a garage in its place. The site plan also shows the location of the onsite Type F stream to the west.



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.

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.

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
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 in the project file. To date, the index to the record consists of Exhibits listed below.

Exhibit #	Document	Dated
1	Habitat Management Plan	Sep. 22, 2021
2	Variance Narrative	Jan. 24, 2022
3	Drainage Report	Oct. 27, 2021
4	Site Plan	Jan. 7, 2022
5	Stormwater Plans	Jan. 7, 2022
6	Public Comments Received	See below

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. One comment was received by the department.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)
1.	3/23/22 A nearby property owner opposes the stream buffer reduction, and their letter can be summarized as follows:

	<ul style="list-style-type: none"> • Critical area buffers provide important functions and protect Indianola Creek. • The area is also prone to slides. The dispersion trench located within the buffer is troublesome. • The need for a reduction could be avoided by shortening the driveway.
2.	<p>3/30/22 A nearby property owner opposes the stream buffer reduction, and their letter can be summarized as follows:</p> <ul style="list-style-type: none"> • <u>Adjacent Stream and Erosion:</u> The buffer reduction would negatively impact salmon restoration efforts and reducing the buffer would result in lost vegetation and erosion. • <u>Precedent:</u> Allowing the buffer reduction would lead to other negative streamside development. • <u>Scope of Project:</u> The proposed home is much larger than existing development and will increase runoff and septic leachate.

Issue Ref. No.	Staff Response
1.	<ul style="list-style-type: none"> • Due to the presence of an erosion hazard area near the stream and slopes on site, the County visited the site on 4/6/2022. For the slope cut, a daylight basement is proposed. The project has already received structural review. The soils in this area are Indianola Sandy Loam and no stormwater will be directed to the slope. The home will be located away from the top of slope of the stream bluff and no erosion impacts are expected. No native vegetation is proposed to be removed and new native plantings will be located within the stream buffer. • The applicant has stated that relocating the driveway is not possible due to the existing manufactured home, drain field, and requirement for three on site parking spaces.
2.	<ul style="list-style-type: none"> • As discussed above the proposal is well setback from the edge of stream bluff and should not result in increased erosion within the stream buffer. No native vegetation will be removed, and new native plantings will be installed. • The proposed home will house the applicant and aging parents. The home should not result in runoff greater than that of adjacent properties.

10. Analysis

a. Planning/Zoning

The proposal meets all zoning standards of the Rural Residential (RR) Zoning designation, Kitsap County Code Title 17.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Per KCC 17.490.030, a single-family dwelling requires 3 parking spaces, not including the garage. The proposal provides adequate parking.

d. Signage

No signage is proposed or required.

e. Landscaping

Per KCC 17.500.010, single-family lots are exempt from landscaping requirements.

f. Frontage Improvements

No frontage improvements are required or proposed as part of this application.

g. Design Districts/Requirements

The subject property is not within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has completed preliminary review of the land use proposal and finds The proposal is feasible from a stormwater perspective. Full technical review will occur with associated site development or building permits.

i. Environmental

Streams:

A Habitat Management Report (HMP) was provided by Eco Land Services, dated September 22, 2021, that identified the following critical areas on site. The County visited the site on March 11, 2022 and agree with the stream delineation and that no other critical areas (wetlands or streams) are in immediate vicinity of the project site.

CRITICAL AREA	CATEGORY	REQUIRED BUFFER	PROPOSED IMPACT
Indianola Creek	Type F	150 feet + 15-foot structure setback.	Reduced stream buffer by 50% to 75 feet. Allow part of a deck to intrude into the required 15-foot structure setback where no vegetation is impacted.

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Mitigation Sequencing

A wetland report was provided by Eco Land Services, dated September 22, 2021. Because the proposed homesite would require a modification of the standard 150-foot stream buffer, the report is required to address mitigation sequencing.

The project avoids direct impacts to Indianola Creek by proposing development in the upland portion of the lot. The application demonstrates that the home is located as far to the east away from the stream as feasible given site constraints including existing developments and septic system.

For mitigation, the project also includes 1,200 square feet of native plantings and enhancement within the stream buffer. The proposed mitigation is consistent with Kitsap County Code requirements for mitigation including plant species and quantity. The buffer enhancement would occur downslope between the proposed house and Indianola Creek. This would likely result in a functional lift of the stream buffer in terms of water quality, hydrologic, and habitat functions.

Critical Area Variance Criteria

Per KCC 19.200.220.B.2, The department may administratively reduce the buffer pursuant to the variance criteria. *KCC Chapter 19.300.315A.3* specifies the criteria for reducing stream buffers.

- 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.*

Response: The lot is zoned for single-family residential development (RR – 1DU/5-acres) and does not meet the minimum size for this zoning (0.51-acres). The stream flows across the northwest corner of the lot, significantly encumbering the lot by the stream buffer. The site also has an existing manufactured home and drain field limiting developable area. The manufactured home must continue to be lived in during construction of the new home. For single-family residential development to occur, the lot cannot meet the full buffer widths. Single family development in the vicinity to the north and south are located closer to the stream due to similar site conditions.

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.*

Response: The lot has been platted in this orientation for many years and is not the direct result of actions taken by 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.*

Response: The project proposes to construct single-family residential development away from the home as far from the stream as feasible given existing site constraints. Historically, a home and associated drain field was located on this property much closer to the stream which has since been removed. Much of the upland area is already cleared and no native vegetation removal will be required for this project.

The project also includes native plantings and enhancement within the stream buffer and the submitted Habitat Management Program has determined there will not be detrimental impacts to the stream. Therefore, the granting of this buffer reduction will not result in substantial, detrimental impacts to the critical area, public welfare, injury to the property, does not run contrary to the goals of the area, and is permitted by this title.

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

Response: The minimum buffer reduction has been proposed to accomplish single-family residential development.

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

Response: Some amount of buffer reduction is necessary to accommodate any single-family development on this lot. The home is utilizing an existing drain field limiting the ability for the home or driveway to be located elsewhere on the property. It does not appear that practicable alternatives exist to the proposed site design.

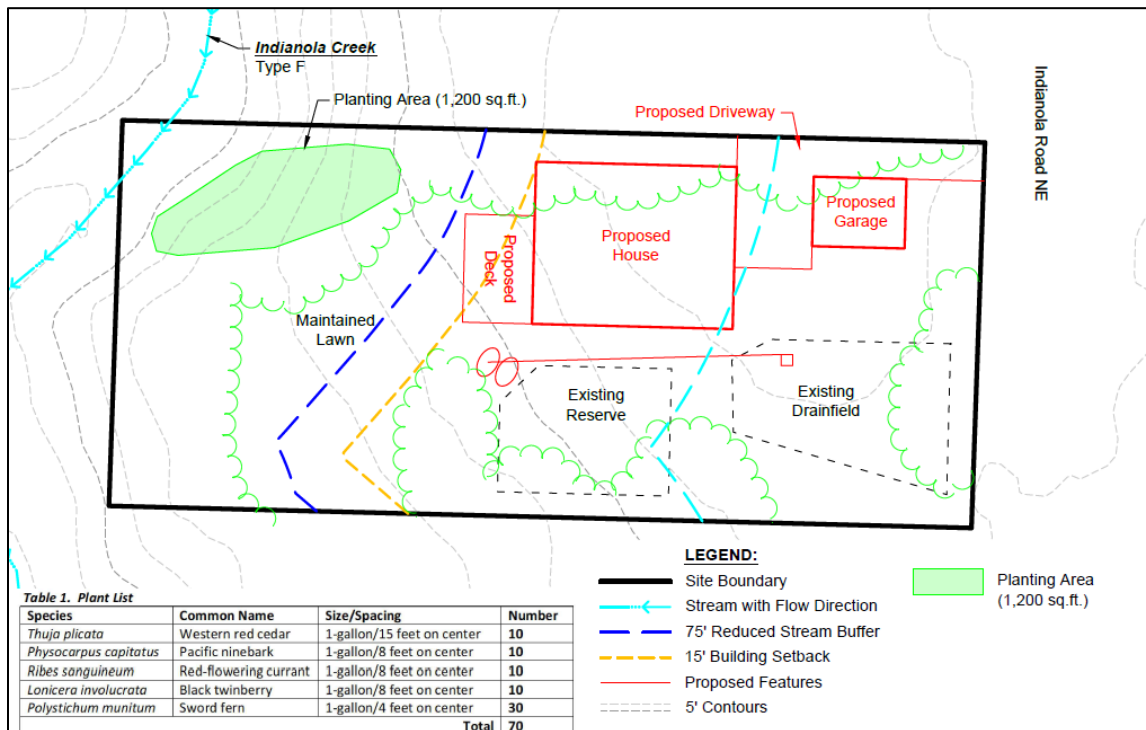
6. *A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.*

Response: The habitat management plan provided by the applicant serves as a mitigation plan for impacts due to the buffer reduction. The project includes 1,200

square feet of native plantings and enhancement within the stream buffer. The proposed mitigation is consistent with Kitsap County code requirements for mitigation including plant species and quantity. The buffer enhancement would occur downslope between the proposed house and Indianola Creek. This would likely result in a functional lift of the stream buffer in terms of water quality, hydrologic, and habitat functions.

Geological Hazards:

Per KCC 19.400.420, an area in the western portion of the parcel is mapped as a Moderate Erosion Hazard. The County visited the site on April 6, 2022. For the slope cut, a daylight basement is proposed, and the project as received structural review. No stormwater will be directed to the slope. No native vegetation is proposed to be removed. A condition of approval has been added to require a minimum separation 25-foot native vegetation buffer from the edge of slope plus an additional 15-foot structure setback, unless otherwise allowed through a Geological Assessment.



j. Access, Traffic and Roads

No comments at this time.

k. Fire Safety

No comments at this time.

l. Solid Waste

No comments at this time

m. Water/Sewer

Potable water is proposed to be provided by an on-site well; sanitary sewage disposal is proposed to be provided by an on-site septic system. Prior to site development activity the applicant must provide approval for water and sewer from Kitsap County Health Department.

n. Kitsap Public Health District

No comments at this time.

11. Review Authority

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

12. Findings

1. The proposal is consistent with the Comprehensive Plan and the zoning standards for the Rural Residential (RR) zone in Title 17.
2. The proposal is consistent with provisions for reducing a stream buffer in KCC 19.300.315.A.3.
3. The proposal meets the criteria for a critical area variance in KCC 19.100.135, as analyzed in section 10.i of this report.

13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 19.100.135, the Department of Community Development recommends that the Critical Area Buffer Reduction 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. 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.

3. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #22-00076. 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.

b. Development Engineering

4. Full technical review will be required with associated building and/or site development permits.
5. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and is located within 200' of critical areas; as such the building permit application materials shall include an engineered drainage design demonstrating compliance with Minimum Requirements #1-5, as outlined in the Kitsap County Storm Drainage Manual.
6. 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, January 26, 2022. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington.
7. If the project proposal is modified from that shown on the submitted site plan accepted for review January 26, 2022. Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

8. Construction techniques shall implement best management practices to ensure protection of Indianola Creek, its associated buffer, and local water quality. Such best management practices shall include protective silt fencing, protective orange construction fencing along defined work areas, working during periods of limited rainfall or potential for adverse erosion, and seeding of exposed soils as needed to prevent adverse erosion.
9. Due to the mapped erosion hazard area on this parcel, a non-clearing native vegetation buffer shall be maintained from the top of the slope to 25 feet beyond the top of the slope as depicted on the approved site plan, unless otherwise allowed through a Geological Assessment. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the buffer.
10. Prior to occupancy, the common boundary between the modified stream buffer and the adjacent land shall be permanently identified with critical area buffer signs. Critical Area Ordinance (CAO) signs shall be placed along the designated boundary spaced approximately 50-feet apart, visual from sign to sign. Signs must be attached to existing trees with diameter breast height greater than 4 inches. Alternative methods include 4x4 posts, metal posts or

split rail fencing.

11. Equipment shall be staged in the previously cleared area in the east of the site. Avoid staging further within the critical area buffer.
12. Permit application approval is subject to chapter 19.300.315 of Kitsap County Code, 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.
13. This approval assumes that no additional clearing or native vegetation and tree removal will be necessary within the standard stream buffer. Clearing limits must be clearly shown on the site plan with the associated building permit and clearing outside of the approved limits will require prior County approval.
14. Due to area constraints from the on-site critical area and associated buffer, the application of a Habitat Management Plan (HMP) shall be implemented on-site to compensate for a buffer reduction at the minimum necessary to accommodate the proposed development. The minimum buffer applied on-site is 75 feet as shown on the site plan. This buffer reduction is greater than 25% of the required buffer but is less than 50% of the required buffer. Notification was completed (Type II). In addition, a 15-foot structure setback is required from the edge of the approved buffer. A slight modification to the structure setback is allowed for the proposed deck where no native vegetation is removed.
15. The project shall adhere to the mitigation measures and recommendations within the approved Habitat Management Plan (HMP) prepared by Eco Land Services dated September 2021. Per the report, areas within the buffer shall be revegetated.
16. As shown on the approved site plan, 1,200 square feet of added buffer area shall be provided directly to the east of Indianola Creek.
17. Vegetation planting shall occur as specified in the approved planting plan produced in support of this permit. Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant must contact Development Service and Engineering Staff at (360)337-5777 for a site inspection and as-built approval. Monitoring and maintenance of the planted area shall be conducted for three years after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division by December 31 of each monitoring year. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with

better maintenance practices to ensure higher plant survival.

d. Traffic and Roads

18. None at this time.

e. Fire Safety

19. None at this time.

f. Solid Waste

20. None at this time.

g. Kitsap Public Health District

21. None at this time.

Report prepared by:



Colin Poff / Project Lead

April 18, 2022
Date

Report approved by:



Scott Diener, DSE Manager

April 18, 2022
Date

Attachments:

Attachment A – Zoning Map

Attachment B – Critical Areas Map

CC:

Tony Smith: a1tony@comcast.net

Engineer: David Bannon: bannoneng1@comcast.net

Wetland Biologist: Joanne Bartlett: joanne@eco-land.com

Interested Parties

Suquamish Tribe

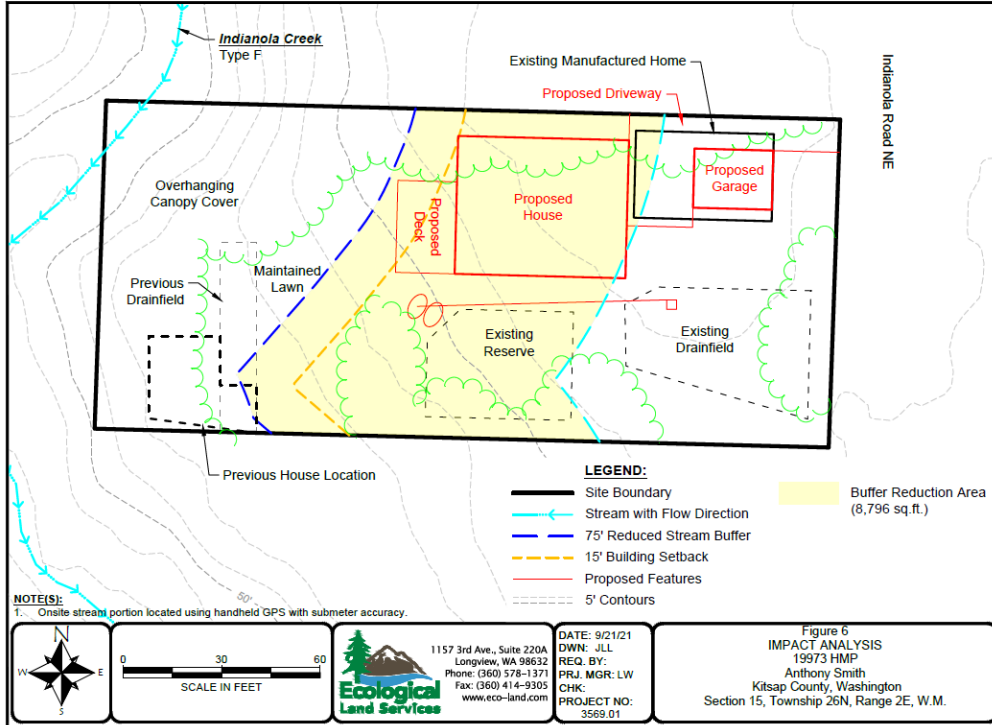
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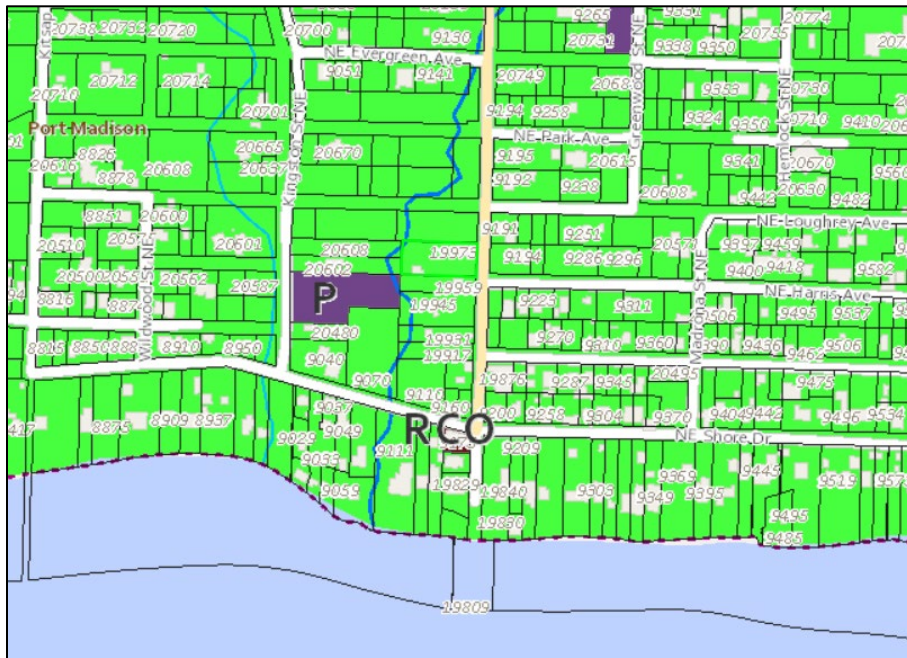
DCD Staff Planner: Colin Poff

Site Plan

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Attachment A – Zoning Map



Attachment B – Critical Areas

