



## Staff Report for the Hearing Examiner

Report Date: December 4, 2017

Application Submittal Date: September 6, 2017

Hearing Date: December 14, 2017

Application Complete Date: September 7, 2017

**Permit Number:** 17 03646

**Project Name:** Gilman – Accessory Dwelling Unit (ADU)

**Type of Application:** Conditional Use Permit - Accessory Dwelling Unit (CUP-ADU)

*This staff report was prepared by Holly Roberts, Planner, Candice Vickery, Engineer 1 and Kathlene Barnhart Environmental Planner, based on information available up until the time the report was prepared. New information relevant to review of this application may become available prior to the hearing or at the hearing. Staff may wish to change their analysis based upon that new information, and reserves the right to do so.*

### **Proposal Summary:**

The Department of Community Development is recommending approval of the applicant's request for a Conditional Use Permit to convert an existing 885 square foot single family residence into an accessory dwelling unit (ADU) subject to 24 conditions outlined at the end of this report. The 2.27-acre parcel is zoned Rural Residential (RR) and is located in North Kitsap County, Commissioner District #1. The project will be served by on-site septic and an individual well.

### **Project Request:**

The applicant proposes to convert an existing 885 square foot single-family residence (SFR) into an accessory dwelling unit (ADU) to allow for the construction of a new 2,040 square foot single-family residence.

### **Project Location:**

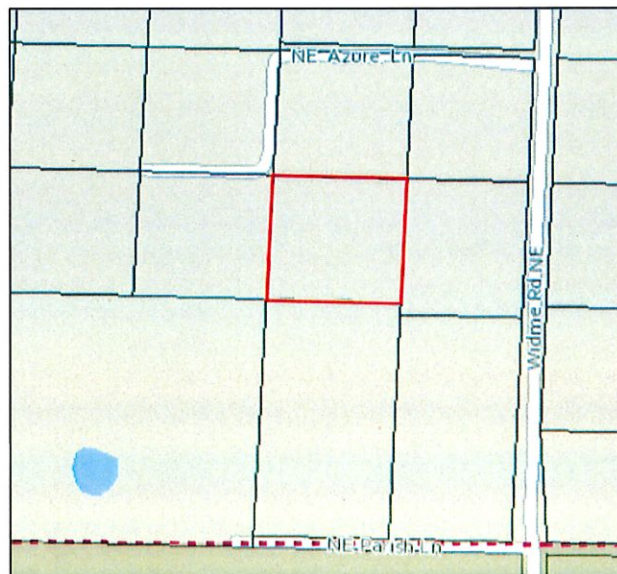
4077 NE Azure Lane  
Poulsbo, WA 98370  
North Kitsap County  
Commissioner District 1

### **Assessor's Account #:**

182602-1-042-2002

### **Applicant/Owner of Record:**

Kevin Gilman  
4077 NE Azure Lane  
Poulsbo, WA 98370



**SEPA (State Environmental Policy Act):**

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of "major" environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated September 8, 2017 (Exhibit 13). A Determination of Nonsignificance (DNS) was issued on November 14, 2017 (Exhibit 21). SEPA noted the following information/SEPA mitigation conditions have been imposed: "The proposal will be conditioned for Stormwater Control per Kitsap County Code Title 12."

The SEPA appeal period expired November 28, 2017. No appeals were filed; therefore, the SEPA determination is final.

**Physical Characteristics:**

The 2.27-acre square parcel is currently developed with an 1,880-square foot garage with office and an 885-square foot single-family residence above, constructed under building permit 15 00151R1. There are no critical areas on-site, however areas of potential wetlands are located off-site to the west. The accessory dwelling unit (ADU) is an existing structure. Any environmental concerns were addressed through the building permit. The new single-family residence will be located more than 250-feet away from any potential wetlands and therefore meets or exceeds any buffer requirement. The site is relatively flat, and outside of the developed areas is a mix of coniferous and deciduous trees and other native vegetation.

**Comprehensive Plan Designation and Zoning:**

The Comprehensive Plan designation is Rural and the Zoning designation is Rural Residential (RR).

Minimum Lot Area	- Not applicable
Minimum Lot Size	- 5 acres (for newly created lots, this is an existing legal lot)
Minimum Lot Width	- 140 feet
Minimum Lot Depth	- 140 feet
Maximum Height	- 35 feet

**Standard Zoning Setbacks**

Front	- 50 feet
Side	- 20 feet, 5 feet for an accessory structure
Rear	- 20 feet, 5 feet for an accessory structure



**Surrounding Land Use and Zoning:**

The surrounding area is also zoned Rural Residential. Parcels in the area are predominately developed with single-family residences on acreage lots or are undeveloped.



Zoning Map

**Public Utilities and Services:**

Water: Individual Well  
 Power: Puget Sound Energy  
 Sewer: On-site septic  
 Police: Kitsap County Sherriff  
 Fire: Kitsap County Fire District #18  
 Schools: North Kitsap School District #400

**Access:**

Access to the site is from NE Azure Lane, a private road.

**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 Goals and Policies:

Land Use Goal 13 – Protect Kitsap County’s unique rural character

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 and Human Services Goal 2 – Increase affordable housing units and ensure that a broad range of housing types are available.

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 and Human Services Goal 4 – Ensure that all people have fair and equal access to housing and services.

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:

Kitsap County Code (KCC)

Kitsap County Code (KCC)

- Title 12 Storm Water Drainage
- Title 13 Water and Sewers
- Title 14 Buildings and Construction
- Title 17 Zoning
- Chapter 18.04 State Environmental Policy Act (SEPA)
- Title 19 Critical Areas Ordinance
- Chapter 20.04 Transportation Facilities Concurrency Ordinance
- Chapter 21.04 Land Use and Development Procedures

**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 31 Exhibits.

Exhibit #	Document	Date or date stamped
1	Project Application	08/04/17
2	Supplemental Application – Land Use Accessory Dwelling Unit	07/24/17
3	SEPA Environmental Checklist	07/24/17
4	Supplemental Application – Traffic Concurrency Test	09/06/17
5	Project Narrative	09/06/17
6	Supporting Document - Stormwater Worksheet	09/06/17
7	Stormwater Site Assessment and Planning Packet	09/06/17
8	Elevated Drainage Review	09/06/17
9	Single Family Residence – Floor and Elevation Plans	10/26/16
10	Accessory Dwelling Unit – Floor and Elevation Plans	10/2014
11	Health District – Building Clearance	08/04/17
12	Photos – West end existing building; Building site facing N-NE; Building site facing N-NW	09/06/17
20	Site Plan	10/19/17
22	Communication - Monaco, Builder's Design Group	11/15/17

**Public Comments:**

Staff has received public comment from several neighbors regarding the accessory dwelling unit (ADU). Most of the concerns center around increased traffic on the private road as well as road maintenance. Additionally, there are concerns over the ADU being used as a rental, and that there may already be a rental unit on the property.

Staff Response: *Azure Lane is a private road. Any concerns over road maintenance are of a civil nature and have no bearing on the Conditional Use Permit request.*

*An Accessory Dwelling Unit is a permitted use. Kitsap County Code allows an ADU to be used as a rental unit. Although neighbors may have concerns regarding the allowance of the ADU as a rental, it is not within the County's authority to limit its use as a rental.*

*Only one ADU is allowed per parcel (Kitsap County Code 17.17.410.060.3.c) (Condition #5). This Conditional Use Permit (CUP) requires the applicant to obtain a building permit for the conversion of the single-family residence into an accessory dwelling unit (ADU). As part of the building permit process an inspection is required to ensure that the structure complies with the conditions of approval for the CUP. If the structure is found to be out of compliance, remedial measures will be required or revocation of the CUP approval will be initiated.*

### **Analysis:**

#### **Land Use and Zoning**

An accessory dwelling unit within the Rural Protection (RP) zone requires a conditional use permit (CUP) as specified in KCC Table 17.410.040 (A) Rural, Resource and Urban Residential Zones, subject to footnote 1. Footnote 1 indicates an ADU is subject to compliance with Section 17.410.060 Provisions applying to special uses.

#### **Accessory Dwelling Unit (ADU) Standards**

An ADU is required to meet the provisions and requirements outlined in KCC 17.410.060(B)(3) – Provisions applying to special uses; Accessory Dwelling Unit (ADU). 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. Criteria from KCC 17.410.060(B)(3) are listed below (*italics*), with a discussion of the individual standard immediately following:

- a. *An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary.*

The proposed ADU is not within an urban growth boundary. Therefore, the ADU cannot be permitted in conjunction with a building permit as an outright use. Land use approval is required for this ADU.

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

The subject property is outside an urban growth boundary. As a result, the applicant has applied for and is requesting approval of a conditional use permit as required by Kitsap County Code (KCC).

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

Only one ADU is proposed for the subject lot.

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

The property owner, Kevin Gilman, will live in the proposed single-family residence (SFR) (Exhibit 2).



- e. *The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or 900 square feet, whichever is smaller.*

The primary residence's habitable area will be 2,040 square feet according to the floor plan (Exhibit 9). Fifty percent of its habitable area is over 900 square feet (2,040 square feet X 50% = 1,020 square feet). The ADU is limited to 900 square feet. The entire ADU building is 3,045 square feet according to the floor plans; habitable area of the proposed ADU is 885 square feet, the office on the first floor is 115 square feet and the garage/shop space is 2,045 square feet (Exhibit 10). The garage shall be used as garage space only and not converted to habitable area unless this CUP is revised through the proper permitting process. In no case shall the habitable area of the ADU be greater than 900 square feet.

- f. *The ADU shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure (i.e., garage).*

The ADU building will be located approximately 80 feet from the proposed primary residence (Exhibit 20).

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

The proposed primary residence and existing ADU will be similar in appearance. The paint colors and materials will match. The ADU's residential architectural design will be similar and complementary to the proposed appearance of the primary residence (Exhibit 2).

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

The existing ADU building was required to comply with the standard Rural Residential setbacks at the time of building permit approval. The ADU building is 205 feet from the north property line (front) exceeding the minimum of 50 feet required by code. The ADU is 116 feet from the east property line (side) and 155 feet from the west property line (side) exceeding the minimum of 5 feet required by code. The ADU is 62 feet from the south property line (rear) exceeding the minimum of 5 feet required by code (Exhibit 20). All required zoning setbacks as delineated for the ADU comply with Kitsap County Code.

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

The Health District has approved the CUP application with no conditions. A final approved Building Clearance from the Health District will be required prior to building permit approval and issuance for the conversion of the existing single-family residence (SFR) to an accessory dwelling unit (Building Permit 17 03649).

- j. *No mobile homes or recreational vehicles shall be allowed as an ADU.*

The proposed ADU will be a stick-built structure.

- k. *An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking.*

Both the primary residence and the ADU will use the same proposed driveway. The driveway is gravel.

Three parking spaces are required for the single-family residence (SFR) and one additional parking space is required for the ADU for a total of 4 spaces. There are two paved parking aprons associated with the garage/ADU structure as well as a parking apron in front of the proposed SFR's garage. There is adequate parking available on-site. (Exhibit 20).

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

Based on the SFR floor plan the structure does not have accessory living quarters (Exhibit 9).

#### Critical Areas

According to Kitsap County geographic information system (GIS) data, there is a potential wetland to the west of the subject property (Exhibit 24). Environmental review staff have evaluated the applicant's request for a Conditional Use Permit and have determined that no additional reports or studies are required.

The GIS data also indicates that the entire site lies within a Category II Critical Aquifer Recharge Area (Exhibit 25). Single-family development is not a threat and doesn't require any further analysis or reports within this recharge area designation.

#### Stormwater

Development Services and Engineering has reviewed the request for CUP approval and accepts the concepts contained in the preliminary submittal. They require that the applicant apply for Concurrency Test at the time of building permit application, see condition 24.

#### **Agency Recommendation**

All reviewing entities recommend approval of the proposed project and any required conditions are stipulated at the end of this report.

#### **Staff Evaluation of Decision Criteria**

1. The Hearing Examiner has review authority for this conditional use permit application under KCC, Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions or deny a conditional use permit. The Hearing Examiner may also continue the hearing to allow for



additional information necessary to make the proper decision. The powers of the Hearing Examiner are at located in KCC, Chapter 2.10.

2. The proposal is consistent with the comprehensive plan.
3. The proposal complies with or will comply with requirements of Title 17 and complies with or will comply with all of the other applicable provisions of the KCC and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
4. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity.
5. 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.

**Recommendation:**

Based upon the information above, the Department of Community Development recommends that the Conditional Use Permit request for the Gilman Accessor Dwelling Unit be **approved**, subject to the following 24 conditions:

**Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. A building permit is required for the conversion of the existing single-family residence into an accessory dwelling unit.
3. 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.
4. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the accessory dwelling unit (ADU) 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.
5. Only one accessory dwelling unit (ADU) shall be permitted on the subject property.
6. The owner of the property must reside in either the primary residence or the accessory dwelling unit (ADU) and only one of the structures may be rented at any one time.
7. The accessory dwelling units (ADU) habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The existing size of the ADU is 885 square feet as indicated in Exhibit 10. Any future expansion of the ADU will require a building permit and would have to comply with all code requirements in place at the time

- of the new building permit application.
8. The accessory dwelling unit (ADU) shall be designed to maintain the appearance of the primary residence.
  9. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
  10. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
  11. The accessory dwelling unit (ADU) shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
  12. An accessory living quarters (ALQ) or guest house (GH) is not permitted on the same lot unless the accessory dwelling unit (ADU) is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code (KCC).
  13. A property with a primary residence and an accessory dwelling unit (ADU) cannot be segregated to create two separate legal lots unless it complies with all subdivision, zoning and density requirements in place at the time of a complete subdivision application.
  14. The accessory dwelling unit (ADU) cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
  15. 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 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.
  16. 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 (KCC). Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.
  17. 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.



18. The decision set forth herein is based upon representations made and exhibits contained in the project application 17 03646. 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.
19. 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 three years of the Notice of Decision date or the resolution of any appeals.
20. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

**Development Engineering**

21. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and meets the criteria for a Simplified Drainage Review. This level of drainage review is reviewed as part of the building permit and does not require plan preparation to be done by a professional engineer. In this instance, since the Accessory Dwelling Unit building already exists, review of additional hard surface area (extension of the driveway to the new Single-family Residence) takes place with that building permit.
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, September 7, 2017.

**Survey**

23. Prior to final building permit approval for the new single-family residence or the conversion building permit for the Accessory Dwelling Unit, the Final Short Plat Alteration Permit (17 04199) shall be approved and recorded with the Kitsap County Auditor's office.

**Traffic and Roads**

24. 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.

**Attachments:**

Appendix A – Site Plan

  
\_\_\_\_\_  
Holly Roberts, Staff Planner

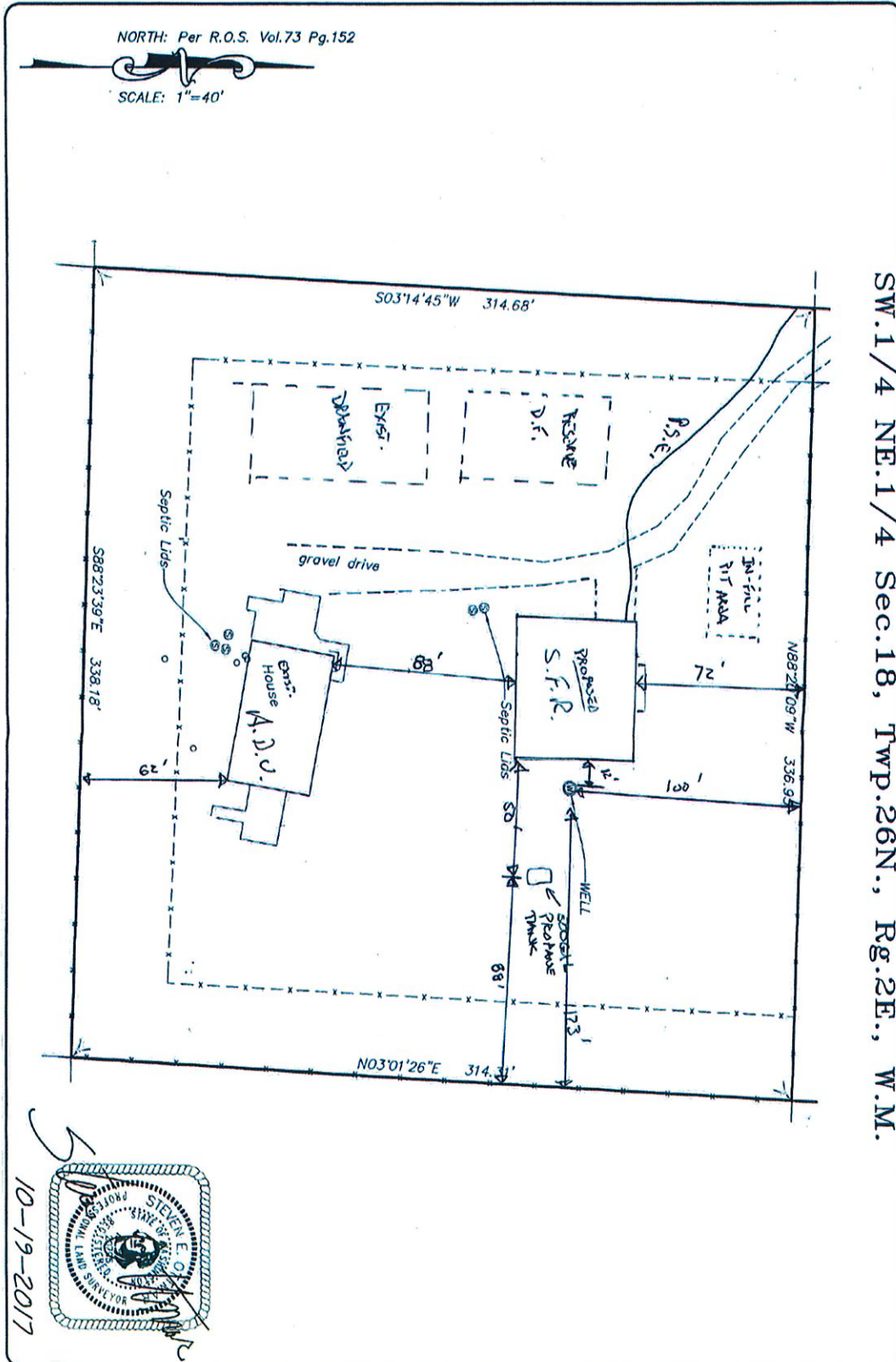
12/4/2017  
\_\_\_\_\_  
Date


  
\_\_\_\_\_  
Shawn Aire, Development Services and Engineering Supervisor

12/4/17  
\_\_\_\_\_  
Date

CC: Applicant/Owner: Kevin Gilman  
Interested Parties:  
LAMAR LEROY J & REGINA L TRUSTEES  
CAMPY JAMES & JILL  
WESLEY CRAIG & LAURA  
HITCHCOCK RODNEY & MAGGIE  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD File 17 03646  
DCD Building Permit File (17 03649)





 <b>AES</b> CONSULTANTS <small>P.O. BOX 930 • SILVERDALE, WA 98383 • (360)692-6400</small>	EXHIBIT MAP	DATE 10/19/17	CHECKED S.E.O.
	KEVIN GILMAN	DRAWN G.M.C.	JOB NO. 6019
Sheet 1 of 1			