



## Hearing Examiner Staff Report and Recommendation

**Report Date:** March 29, 2021  
**Hearing Date:** April 8, 2021

**Application Submittal Date:** May 7, 2020  
**Application Complete Date:** August 27, 2020

**Project Name:** KILLON - Convert Single-Family Unit into Accessory Dwelling Unit  
**Type of Application:** Conditional Use Permit  
**Permit Number:** 20-01888

### Project Location

230 SW DOGWOOD RD  
PORT ORCHARD, WA 98367  
Commissioner District 2

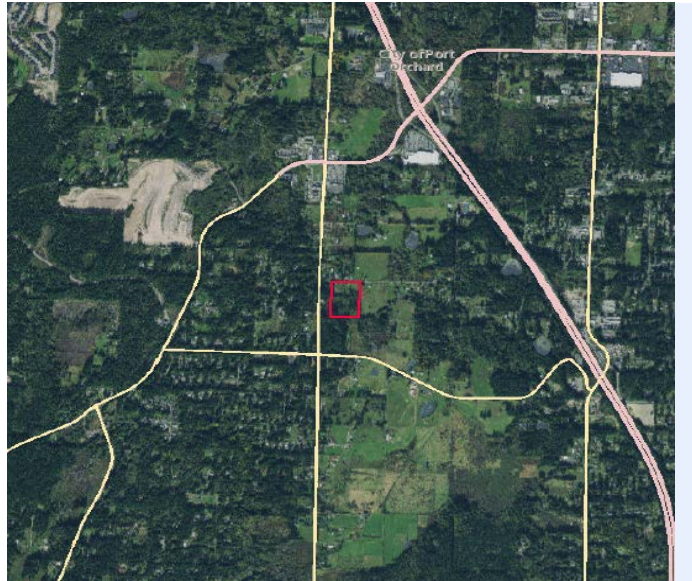
### Assessor's Account #

142301-2-010-2006

### Applicant/Owner of Record

KILLON MICHAEL  
230 SW DOGWOOD RD  
PORT ORCHARD, WA 98367

### VICINITY MAP



### Recommendation Summary

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

#### 1. Background

The applicant is requesting to convert an existing single-family residence into 420 square foot Accessory Dwelling Unit (ADU) with an unfinished daylight basement which will be accessory to a 1,744 square foot primary dwelling unit, consistent with Kitsap County Code (KCC) 17.410.060 Provisions to Special Uses. The existing single-family residence (SFR) and new primary residence is served by an on-site well for potable water and an onsite septic system for sewage disposal.

#### 2. Project Request

The applicant is requesting approval of a Conditional Use Permit to convert an existing 420 square foot (sf) single-family residence into an ADU. The ADU will be served by a private well and on-site septic system.

#### 3. 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 15, 2020 (Exhibit 17). A Determination of Nonsignificance (DNS) was issued on March 25, 2021 (Exhibit 19). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions at the end of this report:

COMMENTS:

The SEPA comment period occurred concurrent with the Notice of Application dated September 15, 2020. There were no comments received.

CONDITIONS:

1. The proposal to retain the existing dwelling as an accessory dwelling unit and construct a primary dwelling will create only moderate impacts.
2. The project will be conditioned for stormwater controls pursuant to KCC Title 12.
3. The proposal contains wetland and a seasonal creek and will be conditioned for critical area buffers and setbacks per KCC Title 19.200 and 19.300.

The SEPA appeal period expired April 8, 2021. No appeals were filed; therefore, the SEPA determination is final.

**4. Physical Characteristics**

The subject property is 10.29 acres in size with structures, fenced pastures and livestock pens located on the north side of the property. Kitsap County resource maps show the western half of the subject property as an erosion and seismic hazard area. The eastern side of the property includes hydric soils and wetland. The site includes open pasture/lawn area on most of the property with some conifers at the south end of the property and some trees and shrubs along the south property line. The property includes typical rural uses such as pastureland south of the dwelling.

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

Comprehensive Plan: Rural Protection Zone: Rural Protection (RP)	Standard	Proposed
Minimum Density	Not Applicable	NA
Maximum Density	1dwelling unit (DU) per 10 acres	Special provisions apply to an ADU
Minimum Lot Size	10 acres	
Maximum Lot Size	NA	NA
Minimum Lot Width	140 feet	569 feet/existing
Minimum Lot Depth	140 feet	795 feet/existing
Maximum Height	35 feet	2-stories, <35 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes: None

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (North)	50 feet	55 feet
Side (West)	20 feet	158 feet
Side (East)	20 feet	307 feet
Rear (South)	20 feet	693 feet

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

Surrounding Property	Land Use	Zoning
North	Single-family residence-farm	Rural Protection (RP)
South	Undeveloped	RP
East	single-family residences	RP
West	Single-family residence -farm	RP

**Table 4 - Public Utilities and Services**

	Provider
Water	Private
Power	Puget Sound Energy
Sewer	Private
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #400

## 5. Access

Access to the property is from SW Dogwood Road which has a functional classification as a local access road. The roadway only provides access to local traffic and intersects to the west with Sidney Road SW, which has higher functional classification as a minor arterial.

## 6. Site Design

Consistent with KCC Title 17 Zoning for permitted uses, the parcel would be developed with an existing single-family dwelling and small outbuildings, and detached garage, and new ADU. KCC 17.410.060. There will be at least 4 parking spaces next to the SFR and next to the ADU.

## 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:

The following Comprehensive Plan goals and policies are most relevant to this application:

*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 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 designations, zoning designations, and zoning code provisions.*

*Housing and Human Services Policy 5*

*Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing.*

*Housing and Human Services Policy 7*

*Adopt regulatory changes to allow non-traditional housing types.*

*Housing and 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 and Human Services Policy 12*

*Identify and remove regulatory barriers that limits access to or the provision of a diverse affordable housing supply.*

*Housing and Human Services Policy 14*

*Disperse affordable housing opportunities throughout the County.*

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 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**

A complete index of exhibits is in the project file. To date, the index to the record consists of Exhibits 1-26.

Exhibit #	Document	Dated	Date Received
1	Permit Questionnaire		05/22/2020
2	ADU Elevation Photos		05/22/2020
3	Authorization Form		05/22/2020
4	BSA Application – ADU		05/22/2020
5	Concurrency Test		05/22/2020
6	Health District Approval		05/22/2020

7	SFR Plans		05/22/2020
8	Water Availability Letter		05/22/2020
9	SEPA Checklist		06/11/2020
10	Stormwater Worksheet		06/11/2020
11	ADU Floor Plan – Revised		06/18/2020
12	Geo Site Plan		06/18/2020
13	Geologic Letter		06/18/2020
14	Revised Project Narrative		06/18/2020
15	Wetland Report		07/29/2020
16	Updated Site Plan		08/17/2020
17	Notice of Application	09/15/2020	
18	Notice of Public Hearing	03/24/2021	
19	SEPA Determination of Non-Significance	03/25/2021	
20	2020 Site Imagery Map	03/29/2021	
21	2020 Comprehensive Plan Map	03/29/2021	
22	Critical Areas Map	03/29/2021	
23	Utilities Map	03/29/2021	
24	Site Zoning Map	03/29/2021	
25	Certification of Public Notice	03/29/2021	
26	Staff Report	04/01/2021	

**9. Public Outreach and Comments**

Pursuant to KCC Title 21 Land Use and Development Procedures, the Department gave proper public notice for the Conditional Use Permit through the Notice of Application with the notification of property owners located up to 800 feet around the site. After the issuance of the Notice of Application, the Department did not receive written responses from neighbors opposed to the Conditional Use Permit as of March 25, 2021.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
	NA	

Issue Ref. No.	Issue	Staff Response
	NA	

**10. Analysis**

**a. Planning/Zoning**

An Accessory dwelling unit is defined under KCC 17.110.020. Accessory Dwelling Unit means separate living quarters detached from the primary residence. No mobile home or recreational vehicle shall be considered an accessory dwelling unit. This definition excludes guest houses. An accessory dwelling unit within the RP zone requires a Conditional Use Permit as specified in KCC 17.410.042(A) Rural, resource, and urban residential zones use table subject to footnote 1. Footnote 1 indicates an ADU is subject to compliance with Section KCC 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 within residential zones. Criteria from KCC 17.410.060(B)(3) are listed below, with a staff response 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.

*Staff Response: 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 through a conditional use permit is required for this ADU.*

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

*Staff Response: 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 the KCC.*

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

*Staff Response: Only one ADU is proposed for the subject lot. Building permit 20-01750 is issued for a replacement residence that includes an attached garage. The applicant has submitted a building permit 20-01887 to convert the existing dwelling into ADU.*

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

*Staff Response: The owner of the property, Michael Killon will live onsite in the new house.*

- 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. Dimensions are determined by exterior measurements.

*Staff Response: The application for building permit BP# 20-01887 shows an existing house with 612 sf on the main floor and 432 sf on the unfinished basement. Consistent with the 17.410.060 the unfinished daylight base will not be converted toward the habitable area calculations as outlined in International Residential Code.*

- 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).

*Staff Response: The ADU building is proposed to be located approximately 10 feet from the primary residence based on the application (Exhibit 1).*

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

*Staff Response: The primary residence and ADU are planned to be similar in appearance. The applicant is proposing new siding, windows, roofing and paint for the ADU, to match the new house.*

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

*Staff Response: The front yard setback, along the north property line is over 55 feet. The east side yard setback is shown as over 307 feet, and the west side yard setback is over 158 feet. The rear yard setback, along the south property line, is over 607 feet. All required zoning setbacks as delineated for the ADU comply with the KCC.*

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

*Staff Response: The Health District approved the Building Site Application (BSA) for the ADU with one condition on 05/22/2020 (Exhibit 4).*

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

*Staff Response: The applicant has proposed a stick built ADU and primary SFR.*

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



*Staff Response: There is one access point to the property from SW Dogwood Road. The garage, ADU and the new primary residence will have parking and use the same existing access from the north property line.*

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

*Staff Response: Based on the SFR floor plan the structure does not have accessory living quarters.*

**b. Lighting**

Not applicable; there are no lighting requirements for an ADU.

**c. Off-Street Parking**

Three parking spaces are required for the single-family residence and one additional parking space is required for the ADU.

*Staff Response: There will be 4 parking spaces provided in front of the primary residence next to the ADU. The proposal is consistent with off-street parking standards per KCC 17.490.030.*

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Primary Residence & ADU	3 Historical Lot 1-Accessory Dwelling	3 1	4
Total			4

**d. Signage**

Not applicable; there is no signage requirements for an ADU, and none is proposed.

**e. Landscaping**

Not applicable; there are no landscaping requirements for an ADU.

**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site		
Required Buffer(s)		

17.500.027		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

**f. Frontage Improvements**

Not applicable; there are no frontage improvement requirements for an ADU. However, there are access requirements that limit access to one road approach. This is addressed below under the access heading.

**g. Design Districts/Requirements**

Not applicable; the subject property is not located within a design district.

**h. Development Engineering/Stormwater**

The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require the ADU building permit site plan to demonstrate compliance with Minimum Requirements.

**i. Environmental**

The project is required to be reviewed pursuant to the Kitsap County Critical Areas Ordinance, KCC Title 19. The critical areas are regulated under the KCC Title 19 (CAO) include geologically hazardous areas, frequently flooded areas, critical aquifer recharge area, wetlands, and Fish and Wildlife habitat conservation areas and wetlands. The Kitsap County resource maps show that the project may create potential impacts to an adjacent stream and wetland.

A wetland consultant prepared a wetland report and determined a forested wetland is located on the southern portion of the property and continues off-site to the south and east. The wetland has been identified as a mosaic system which was previously used for agricultural activities. The wetland contains a Type-N stream is a tributary to the Blackjack Creek that runs south to northeast and terminates east of the site. Existing wetland is a Category-III wetland, located in the southeast region of the property and covers approximately 4 acres. The standard buffer width is 110 feet and the Type-N stream requires 50-foot buffer with a 15-foot construction setback.

**j. Access, Traffic and Roads**

Access to the site is by a driveway approach onto the County maintained road called

**k. Fire Safety**

Not applicable; the building permit for the ADU will be evaluated to ensure compliance with fire safety requirements in the International Residential Code (IRC) and International Fire Code (IFC).

**i. Solid Waste**

Waste Management is the local service provider. Solid waste generated by the ADU is expected to be picked up as part of the typical residential solid waste collection.

**m. Water/Sewer**

The property and dwellings will be served by a private two-party well and by an on-site sewage disposal system.

**n. Kitsap Public Health District**

Kitsap Public Health District (KPHD) has reviewed the application and recommends approval onsite septic and potable water from an existing two party well. KPHD approved the BSA on July 24, 2017.

**11. Review Authority**

The Hearing Examiner has review authority for this Conditional Use Permit application under KCC, Sections 17.550.020 and 21.04.100. The 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 KCC, Chapter 2.10.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply with all of the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

**13. Recommendation**

Based upon the analysis above and the decision criteria found in KCC 17.550.030.A, the Department of Community Development recommends that the Conditional Use Permit request for the Killon ADU be **approved**, subject to the following 26 conditions:

**a. Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The accessory dwelling unit (ADU) is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the accessory dwelling unit (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.
4. Only one accessory dwelling unit (ADU) shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the accessory dwelling unit (ADU) and only one of the structures may be rented at any one time.
6. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the primary residence or 900 sf, whichever is smaller. The proposed size of the ADU is 420 sf (Exhibit 1).
7. The accessory dwelling unit (ADU) shall be located within 150 feet of the primary residence.
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 or converted 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 an 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 20-01888 Killon ADU CUP. 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 four 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.

**b. Development Engineering**

21. New and/or replaced hard surfaces do not exceed the 2,000 square foot threshold; nor does the project exceed 7,000 square feet of disturbed area. While a formal plan is not required, the applicant must consider all elements required of a stormwater pollution prevention plan and make allowances for managing erosion and sediment discharge on site. Per KCC Title 12, if the project exceeds either of the thresholds noted above, then additional review for stormwater management will be required.
22. If the project proposal is modified from that shown on the submitted site plan accepted for review August 24, 2020, Development Services and Engineering will require additional review and potentially new conditions.

**c. Environmental**

23. Permit approval 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.
24. Permit approval subject to chapter 19.150.170 of Kitsap County Code, which states that critical area ordinance (CAO) buffers 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.
25. A 110-foot native vegetation buffer must be maintained along the delineated wetland boundary as depicted on the approved site. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the buffer.

**d. Traffic and Roads**

None

**e. Fire Safety**

None

**f. Solid Waste**

None

**g. Kitsap Public Health District**

26. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

**Report prepared by:**



\_\_\_\_\_  
Jeff Smith, Staff Planner / Project Lead

03/31/2021

\_\_\_\_\_  
Date

**Report approved by:**



\_\_\_\_\_  
Scott Diener, Department Manager / Supervisor

03/31/2021

\_\_\_\_\_  
Date

**Attachments:**

Attachment A – Site Plan

Attachment B – Site Plan and Delineation

Attachment C – Zoning Map, etc.

CC: Michael Killon, 230 SW Dogwood RD, Port Orchard, WA 98367

Patrick Healy, [healey\\_construction@yahoo.com](mailto:healey_construction@yahoo.com)

Interested Parties: None

Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Jeff N. Smith

**Site Plan**





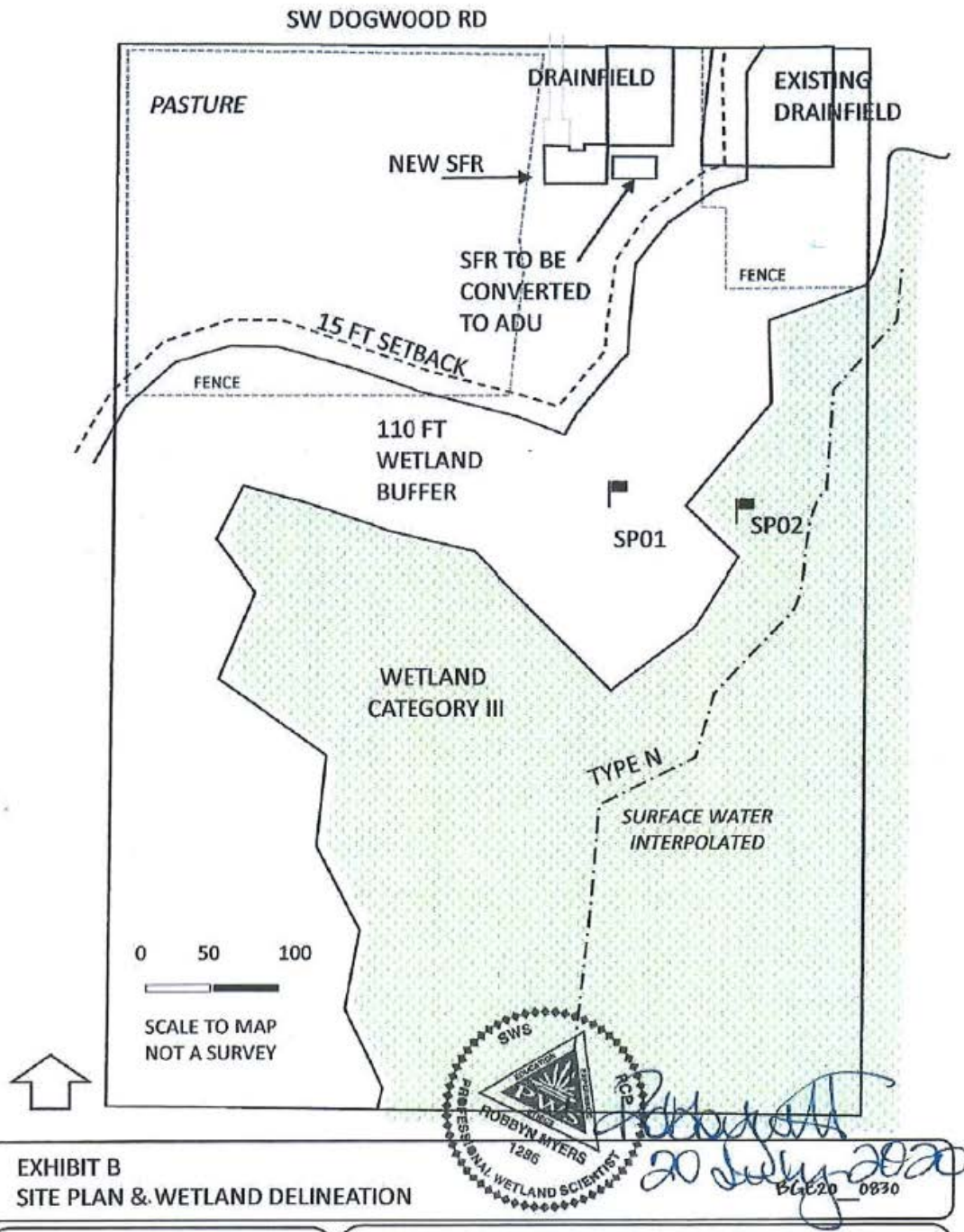
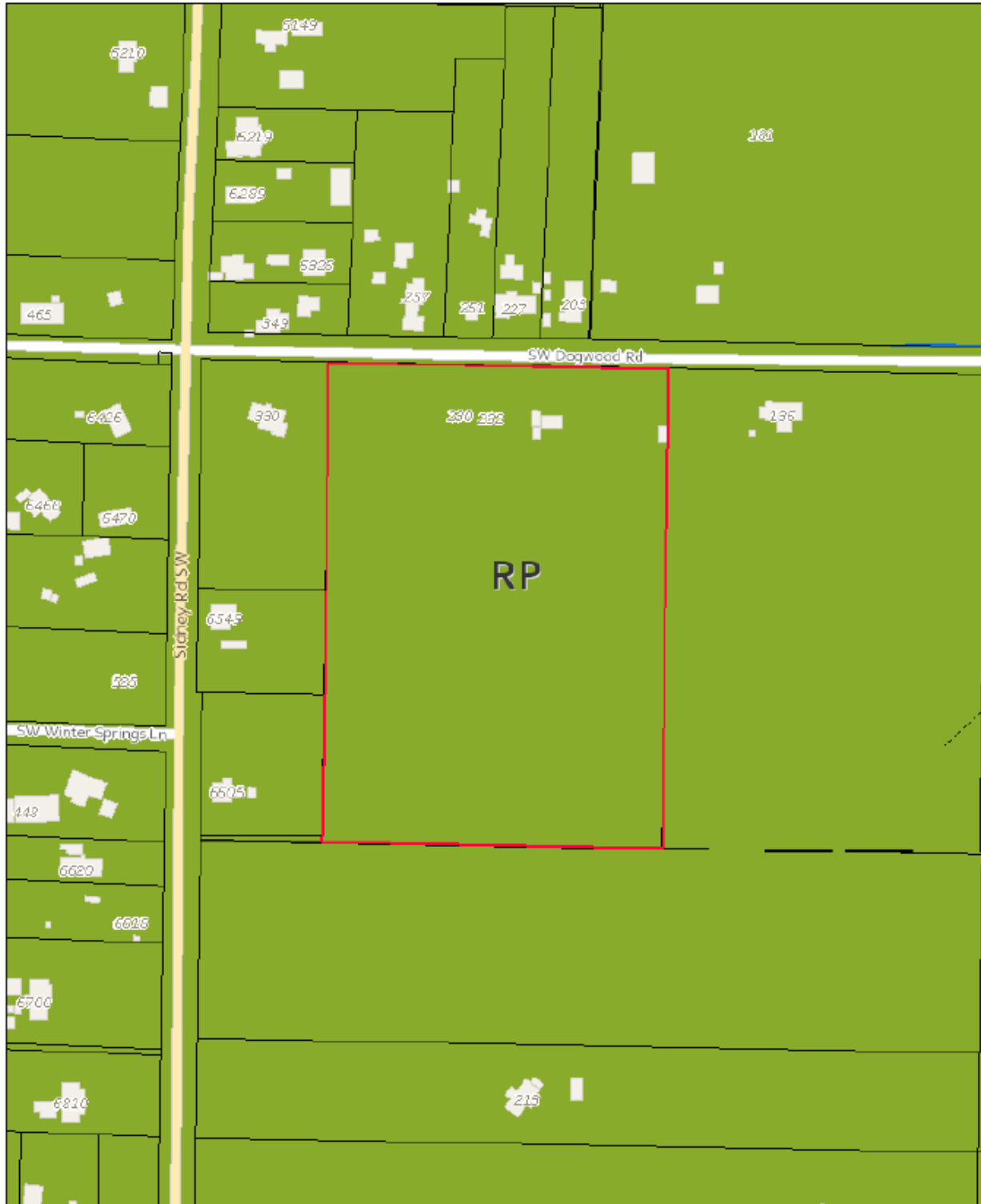


EXHIBIT B  
SITE PLAN & WETLAND DELINEATION

MCPHERSON / KILLON  
230 SW DOGWOOD RD  
142301-2-010-2006

**BGE Environmental, LLC**  
Wetland Consulting & Land Use Planning



**Comments**

Parcel No: 142301-2-0-10-2005 TaxPayer: MCPHERSON TODD LAW & S Site Address: MULTIPLE ADDRESSES ON FILE

\*\* This map is not a substitute for field survey \*\* Map Scale: 1 inch = 200 feet

Kitap Co. Parcel Search Application

