



## Kitsap County Department of Community Development

### Hearing Examiner Staff Report and Recommendation

**Report Date:** April 21, 2022  
**Hearing Date:** April 28, 2022

**Application Submittal Date:** March 24, 2021  
**Application Complete Date:** May 5, 2022

**Project Name:** Heppenstall Accessory Dwelling Unit

**Type of Application:** Conditional Use Permit

**Permit Number:** 21-01733

#### **Project Location**

11300 Helena Trail SW  
Port Orchard, WA 98367  
Commissioner District #2

**Assessor's Account #**  
4747-000-023-0003

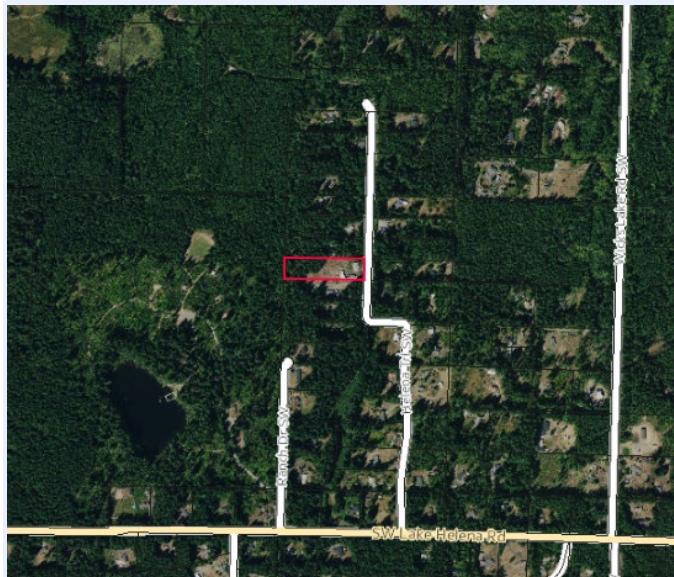
#### **Applicant/Owner of Record**

Scott Heppenstall  
11300 Helena Trail SW  
Port Orchard, WA 98367

#### **Recommendation Summary**

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

#### **VICINITY MAP**



#### **1. Background**

The applicant is seeking Conditional Use Permit approval to install an 874 square foot manufactured home for an Accessory Dwelling Unit (ADU). The Conditional Use Permit will be accessory to an existing 2,226 square foot primary dwelling. The subject property is located on Helena Trail SW with nearest intersection south of the project at Helena Trail SW and SW Helena Road. The barn will be partially removed to make room for an extended driveway, the northmost 20' x 20' stall will be disassembled. The existing detached garage will remain. The existing driveway will be extended through what is now the north end of the barn and will provide access and parking to the ADU.

#### **2. Project Request**

The applicant is requesting approval the Conditional Use Permit to install Manufactured Home for use as Accessory Dwelling Unit

#### **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 June 17, 2021 (Exhibit 13). A Determination of Nonsignificance (DNS) was issued on April 12, 2022 (Exhibit 16). SEPA noted the following information/SEPA mitigation conditions have been imposed:

COMMENTS:

1. The proposal is conditioned to follow the requirements of Kitsap County Code (KCC) Title 17, Zoning, specifically all requirements for Accessory Dwelling Units in KCC 17.410.060.B.3.
2. The project will be conditioned for stormwater controls pursuant to KCC Title 12 and critical areas per KCC Title 19.

The SEPA appeal period expired April 25, 2022. No appeals were filed; therefore, the SEPA determination is final.

**4. Physical Characteristics**

The subject property is approximately a 2.37 -acre parcel zoned Rural Residential. The existing parcel is occupied by an existing single-family residence and a garage with an attached carport and existing Special Care Manufactured Home, per KCC17.105.90. The parcel contains a Geologic hazard Area and a stream with fish habitat. The western portion of the property is adjacent to a fish stream located within a ravine. The ravine is classified by the County resource maps as a Moderate Erosion Hazard area with moderate slopes. The project is located outside the top-of-slope setback and stream buffer up to 320 feet away from the critical area. The applicant intends to follow the requirements for Fish and Wildlife Habitat Conservation Area to maintain a 150-foot buffer and maintain the required minimum 25-foot top of slope buffer for the Geological Hazard requirements with a 15-foot construction setback pursuant to KCC 19.300.315 and 19.400.425 respectively, whichever is greater.

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

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	Not Applicable	NA
Maximum Density	1-dwelling unit (DU) per 5 acres	Special provisions apply to an ADU
Minimum Lot Size	5 acres	2.73 acres
Maximum Lot Size	NA	NA
Minimum Lot Width	140 feet	167 feet
Minimum Lot Depth	140 feet	625 feet
Maximum Height	35 feet	1 story, <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 (East)	50'	115'
Side (North)	20'	145'
Side (South)	20'	20'
Rear (West)	20 '	360'

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

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Residential (RR)
South	Single-family residence	RR
East	Single-family residence	RR
West	YMCA of Pierce County Camp	RR

**Table 4 - Public Utilities and Services**

	Provider
Water	Washington Water Service
Power	Puget Sound Energy
Sewer	Onsite Septic
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #400

## **5. Access**

The project receives access directly from Helena Trail SW that is classified as a County maintained local access road, which is accessed by SW Helena Road which is classified as a County maintained major collector road.

## **6. Site Design**

Consistent with KCC Title 17 Zoning for permitted uses, the parcel would be developed with a single-family dwelling and a new ADU, reviewed for consistency with KCC 17.410.060 Provisions for Special Uses. There will be off-street parking next to the primary unit and next to the ADU, consistent with KCC 17.490 Off-Street Parking and Loading.

## **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 as amended

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

### *Land Use Policy 50*

*Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.*

### *Land Use Policy 51*

*Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.*

### *Land Use Policy 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 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
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 located in the project file. To date, the index to the record consists of Exhibits 1-19.

Exhibit #	Document	Dated	Date Received / Accepted
1	STAFF REPORT	04/21/2022	
2	ADU Elevation Example		04/23/2021
3	ADU Floor Plan		04/23/2021
4	Barn Elevations		04/23/2021
5	Concurrency Test		04/23/2021
6	Detached Garage Elevations		04/23/2021

7	Project Narrative		04/23/2021
8	Required Permit Questionnaire		04/23/2021
9	SEPA Checklist	03/25/2021	
10	SFR Elevations		04/23/2021
11	SFR Floor Plan – Scaled	03/25/2021	04/23/2021
12	Stormwater Worksheet		04/23/2021
13	Notice of Application	06/17/2021	
14	Civil Engineer Comment Memo	09/25/2021	10/26/2021
15	Site Plan with Corrected Setbacks		03/04/2022
16	SEPA Determination of Non-Significance (DNS)	04/12/2022	
17	Notice of Public Hearing	04/13/2022	
18	Staff Presentation		
19	Hearing Sign-In Sheet		

## **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 concerned about the Conditional Use Permit, as of April 18, 2022.

## **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 Rural Residential 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 17.410.042.*

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

*Staff Response: The applicant has applied for the Accessory Dwelling unit building permit (# 21-01742) and one ADU is proposed for the subject lot.*

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

*Staff Response: The owner of the property, Scott Heppenstall will live onsite in the primary dwelling unit.*

- e. The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or 900 square feet (sf), whichever is smaller. Dimensions are determined by exterior measurements.

*Staff Response: The application shows a dwelling as the primary unit with 2,226 sf of floor area. Consistent with the above requirement in KCC 17.410.060 the applicant is proposing an 874 sf ADU.*

- 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: Based on the application the ADU building is proposed to be located approximately 146 feet from the primary residence within the 150-foot requirement (Exhibits 15).*

- 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 similar siding, windows, roofing and paint for the ADU and the primary dwelling. (Exhibits 02 and 10).*

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 220 feet. The south side yard setback is shown as 20 feet, and the north side yard setback is over 115 feet. The rear yard setback, along the west property line, is over 320 feet (Exhibit 15). 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.

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

*Staff Response: The applicant has proposed a manufactured home ADU and primary dwelling which is a manufactured home. Manufactured homes are not classified as a mobile home if manufactured after 1976.*

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 Helena Trail SW. The ADU and the new primary residence will have parking and use the same existing access from the east property line.*

l. 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 will not have accessory living quarters (Exhibit 11).*

**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 on historic lots and one additional parking space is required for the ADU.

*Staff Response: There are 5 parking spaces provided near the primary residence and one space next to the ADU. The applicant is proposing gravel parking which is*

*required to be dust free. 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		5 Historical Lot 1-Accessory Dwelling)
Total			6

**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	NA	
Required Buffer(s) 17.500.025		
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**

Development Services and Engineering has reviewed the land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans accepted for review May 4, 2021, and as revised by additional materials accepted for review November 3, 2021 to Kitsap County Development Services and Engineering.

**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) that 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 on the west side of the project site includes moderate geologic hazard areas pursuant to KCC 19.400 and a Type-F stream which is regulated per the requirement in KCC 19.300 Fish and Wildlife Conservation Areas. The proposed ADU is over 300 feet away from the critical areas and all existing natural vegetation adjacent to fish stream will be rationed.

**j. Access, Traffic and Roads**

Access to the site is directly from an approach on a County maintained road. Adequate vehicular access exists via Helena Trail SW and will serve both the primary and accessory dwelling units. It is anticipated that the additional trips associated with the ADU will not create significant impacts to the rural local road network.

**k. Fire Safety**

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).

**l. 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 Washington Water Service 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. KPHD approved the BSA on May 11, 2021.

**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 Heppenstall Accessory Dwelling Unit be **approved**, subject to the following 25 conditions:

### **a. Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The 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 ADU shall be permitted on the subject property.  
Condition
5. The owner of the property must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time.
6. The ADU's habitable area shall not exceed 50% of the primary residence or 900 sf, whichever is smaller. The proposed size of the ADU is 874 sf (Exhibit 8).
7. The ADU shall be located within 150 feet of the primary residence.
8. The 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 ADU.
11. The 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 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 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. 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 21-01773 Heppenstall 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**

*STORMWATER*

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 November 3, 2021, Development Services and Engineering will require additional review and potentially new conditions.

**c. Environmental**

23. Subject to the conditions of the Geotechnical report associated with this permit and on file at the Department of Community Development.
24. A non-clearing native vegetation buffer shall be maintained from the toe of the slope to 25 feet beyond the top of the slope as depicted on the approved site plan. 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**

25. The applicant shall comply with all applicable Kitsap Public Health District requirements.

**Report prepared by:**



---

Jeff Smith Planner / Project Lead

April 21, 2022

---

Date

**Report approved by:**



---

Samantha Long, Department Manager/ Supervisor

April 21, 2022

---

Date

**Attachments:**

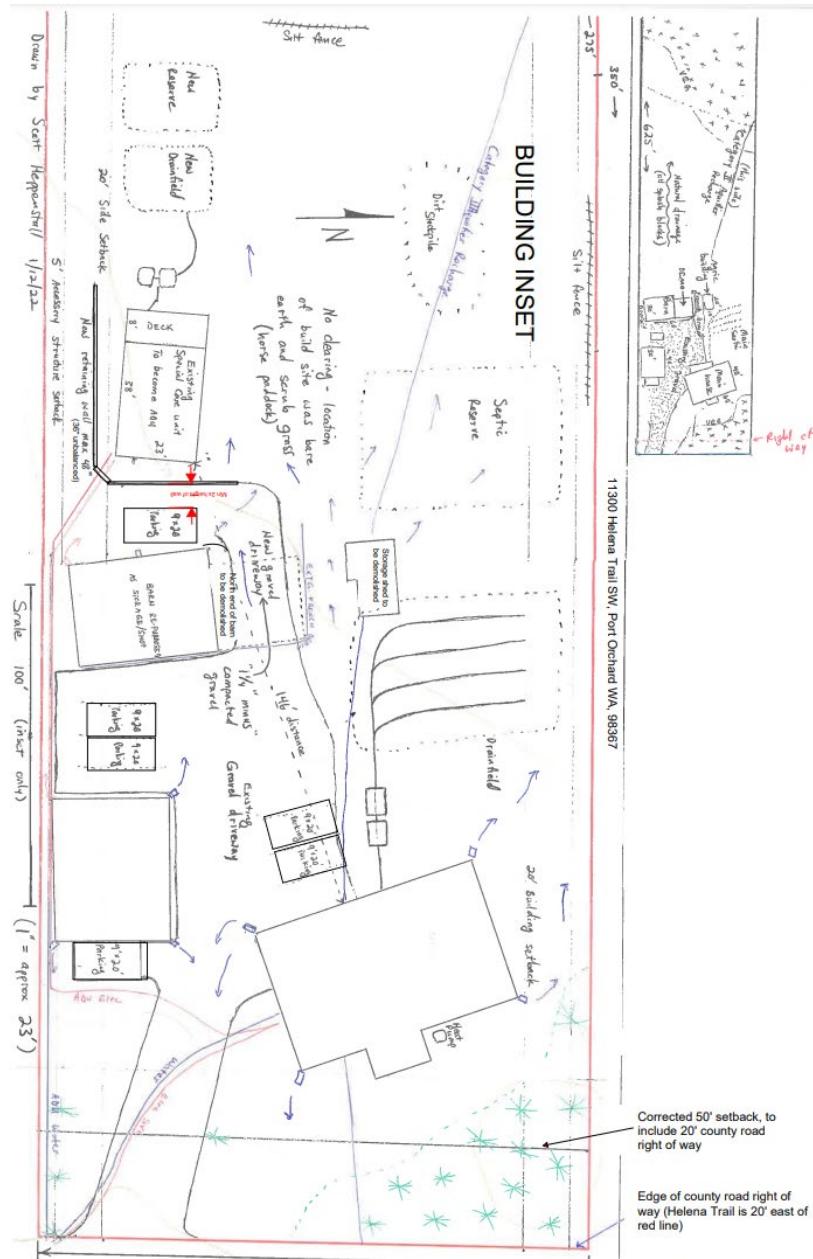
- Attachment A – Site Plan
- Attachment B – Floor plans
- Attachment C – Zoning Map

CC: Applicant/Owner email

Interested Parties: None

Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Jeff Smith

## Site Plan

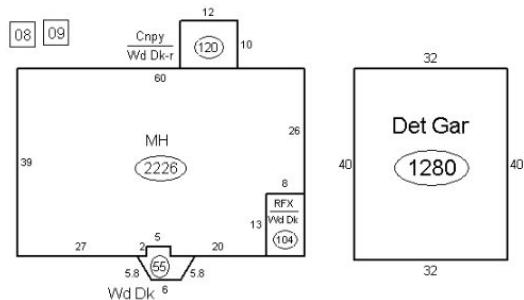


## Floor Plans



Parcel #: 4747-000-023-0003

11300 HELENA TRL SW  
PORT ORCHARD, WA 98367



**Zoning Map**



## Comments

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

Kitsap Co. Parcel Search Application



Printed April 18, 2022