



Hearing Examiner Staff Report and Recommendation

Report Date: April 15, 2020
Hearing Date: April 23, 2020

Application Submittal Date: 05/16/2019
Application Complete Date: 01/09/2020

Project Name: HENDERSON - Accessory Dwelling Unit (ADU)
Type of Application: Conditional Use Permit (CUP)
Permit Number: 19-02197

Project Location

4457 SE SALMONBERRY RD
PORT ORCHARD, WA 98366
COMMISSIONER DISTRICT 2

Assessor's Account

062302-1-002-2007

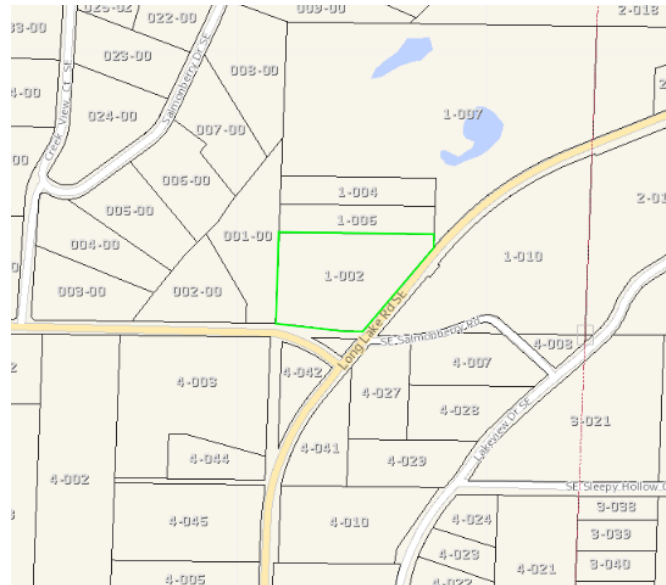
Applicant/Owner of Record

LEVI JAMES & IVY LEE HENDERSON
4457 SE SALMONBERRY RD
PORT ORCHARD, WA 98366

Recommendation Summary

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

VICINITY MAP



1. Background

Levi Henderson (hereafter, “the Applicant”) proposes to construct a detached Accessory Dwelling Unit (ADU). Per KCC 17.410.060.B.3.b, ADUs proposed outside of the urban growth boundary (UGA) shall be subject to a conditional use permit (CUP). The subject site is located outside of the UGA; therefore, CUP approval is required.

2. Project Request

The applicant has requested approval for a Conditional Use Permit (CUP) that would allow the construction of a 900 square foot Accessory Dwelling Unit (ADU). The property will be served by an onsite septic system and two-party well. An expanded driveway and parking area is proposed to serve the ADU. The ADU meets all applicable provisions applying to special uses per KCC 17.410.060 as well as criteria for CUP approval per KCC 17.550.030.A.

3. SEPA (State Environmental Policy Act)

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 January 21, 2020 (Exhibit 12). A Determination of Nonsignificance (DNS) was issued on March 6, 2020 (Exhibit 14). The SEPA appeal period expired March 20, 2020. No appeals were filed; therefore, the SEPA determination is final.

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.

4. Physical Characteristics

According to the Kitsap County Assessor, the subject site is 5.08 acres. The southeast portion of the site is developed with a replacement single-family residence (approved under Kitsap County Permit 17-01123), an accessory structure/shop, septic system, and a 2-party well. There is a Category IV wetland on the northwest portion of the site. Wetland characteristics and requirements are discussed further in Section 10.i of this report.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Protection Zone: Rural Protection (RP)	Standard	Proposed
Minimum Density	N/A	Subject site is an existing lot.
Maximum Density	1 dwelling unit/10 acres	
Minimum Lot Size	10 acres	N/A
Maximum Lot Size	N/A	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	One Story, < 35 feet
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (South)	Minimum 50 feet	101 feet
Front (East)	Minimum 50 feet	>300 feet
Side (West)	Minimum 5 feet for Accessory Structures	130 feet
Side (North)	Minimum 5 feet for Accessory Structures	>200 feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family Residence	Rural Protection (RP)
South	Undeveloped Land, Public Facility	Rural Protection (RP)
East	Single-family Residence	Rural Protection (RP)
West	Single-family Residence	Rural Protection (RP)

Table 4 - Public Utilities and Services

	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	Private Septic
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

5. Access

The site gains via SE Salmonberry Road which is a County maintained right of way. The access has existed prior to the realignment of SE Salmonberry Road and was again reviewed and approved when the replacement SFR was constructed under building permit 17-01123.

6. Site Design

A site plan has been submitted that shows an existing four-bedroom home, an existing accessory structure (shop), the proposed ADU, associated septic system and drain fields, and a private 2-party well.

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:

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, 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, 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:

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 1-31.

Exhibit #	Document	Dated	Date Received
1	Permit Questionnaire		12/18/19
2	Elevations – ADU		12/18/19
3	Floor Plans – ADU		12/18/19
4	Health District Approval		12/18/19
5	SEPA Checklist		12/18/19
6	Floor Plans – SFR		12/19/19
7	Project Narrative		12/19/19
8	Stormwater Worksheet		12/19/19
9	Elevations – SFR		12/20/19
10	Site Plan		12/20/19

11	Notice of Complete Application	01/09/20	
12	Notice of Application	01/20/20	
13	Stormwater Preliminary Conditions Memo – Vickery	02/20/20	
14	SEPA Determination of Non-Significance	03/06/20	
15	Information Request	03/10/20	
16	Concurrency Test		03/17/20
17	Revised Elevations – ADU		03/17/20
18	Revised Elevations – SFR		03/17/20
19	Response Letter		03/18/20
20	Submittal Waiver		03/18/20
21	Wetland Certifications		03/18/20
22	Notice of Public Hearing	04/08/20	
23	Certification of Public Notice	04/08/20	
24	Zoning Map		
25	Critical Area Map		
26	Aquifer Recharge Area Map		
27	Comprehensive Plan Map		
28	Aerial Map		
29	Assessor Map		
30	Staff Report		
31	Staff Presentation		

9. Public Outreach and Comments

A Notice of Application (Exhibit 12) was distributed pursuant to KCC Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. No comments were received by the department.

10. Analysis

a. Planning/Zoning

Per KCC 17. 410.060.B.3, 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, subject to the following criteria (*italicized*). Staff comments are provided below:

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

Staff Comment: The subject property is not located within the urban growth boundary.

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

Staff Comment: The subject property is located outside of the urban growth boundary. This application is a Conditional Use Permit for an Accessory Dwelling Unit.

c. Only one ADU shall be allowed per lot;

Staff Comment: This application proposes only one ADU. There are no other ADUs present or proposed.

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

Staff Comment: The owner currently resides in the existing single-family residence.

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

Staff Comment: The existing residence is 2,190 square feet. 50 percent of 2190 is 1095 square feet; therefore, the ADU is limited to 900 square feet (the smaller value). The proposed ADU is 900 square feet, satisfying this requirement.

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

Staff Comment: The proposed single-family residence and the proposed accessory dwelling unit are approximately 149 feet apart, satisfying this requirement.

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

Staff Comment: The single-family residence and the ADU are similar in appearance. Please see Exhibit 2 and 9. The roof pitch is the same and both structures propose the same lap siding. The submitted elevations did not include proposed color. However, the Department does recognize that color may have been selected at this point. The color will be reviewed at the time of building permit.

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

Staff Comment: All setbacks required by the Rural Protection zone are met for the proposed accessory dwelling unit. Please see Table 2.

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

Staff Comment: The application was routed to Kitsap County Health District and was approved with two conditions (Condition 30 and 31).

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

Staff Comment: There are no mobile homes or recreational vehicles present on the subject property or proposed in this application.

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

Staff Comment: The submitted site plan (Exhibit 10) shows the proposed ADU will use the existing driveway that the single-family residences. The driveway will provide an additional off-street parking space.

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

Staff Comment: There are no present or proposed accessory living quarters. Please see the single-family residence floor plan (Exhibit 6).

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	1 additional space for accessory dwelling units.	1	1
Total	1	1	1

d. Signage

No signage is proposed or required.

e. Landscaping

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

Table 6 - Landscaping Table

	Required	Proposed
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Required Landscaping (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s)	NA	NA
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

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 reviewed land use proposal and finds the concept supportable in its approach to civil site development. Development Services and Engineering provided a preliminary comment memo, dated February 21, 2020, and accepts the concepts contained in this preliminary submittal with five conditions (Exhibit 13, Conditions 20 through 24).

i. Environmental

Soundview Consultants provided a single-family wetland certification, dated August 19, 2019, and site plan, dated August 26, 2019, to meet the requirements of KCC 19.200. (Exhibit 21). A 7,432 square-foot Category IV wetland was identified on the northeastern portion of the parcel. Per KCC19.200.210.C, Category IV wetlands under 7,500 square-feet are exempt from buffer requirements. Two off-site wetlands were identified, described as Wetland B and Wetland C. Wetland B is a Category II depressional wetland with a habitat score of 7, which requires a 110-foot buffer per KCC 19.200.220. The proposal is outside of the buffer area. Wetland C is a Category III wetland, with a buffer that is functionally interrupted by Salmonberry Road. No other mapped critical areas exist in the project area.

j. Access, Traffic and Roads

Per, KCC 17.410.060.B.3, the single-family residence and ADU must use the same access, and no additional access is allowed. No additional accesses from SE Salmonberry road are proposed as part of this application. The proposed ADU driveway extends from an existing driveway on-site. Development Services and Engineering has reviewed the proposal for compliance with traffic and road standards and has recommended approval, with four conditions (Conditions 26 through 29).

k. Fire Safety

The Kitsap County Fire Marshall's Office reviewed and approved the proposal with no conditions.

l. Solid Waste

The proposed ADU will use the same solid waste services as the existing single-family residence.

m. Water/Sewer

The application included an approved Building Site Application that shows approval for water and sewer from Kitsap County's Health Department, Exhibit 4. However, it was noted that the upper terminal of the well does not meet minimum construction standards, as the well casing does not extend at least 6-inches above surrounding grade. This must be corrected prior to final permit approval. It was also noted that the septic/waterline crossing must be sleeved per IAW KPHD policy #26. Conditions have been added to this permit (Condition 30, 31) and will be verified at the time of building permit.

n. Kitsap Public Health District

Kitsap County Health District as reviewed and approved the proposal with conditions. (Exhibit 4, Condition 30 and 31).

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 Henderson Accessory Dwelling Unit (ADU) be **approved**, subject to the following 31 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 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 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 and only one of the structures may be rented at any one time. The accessory dwelling unit's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 900 square feet (Exhibit 3). 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.
6. The accessory dwelling unit shall be located within 150 feet of the primary residence.
7. The accessory dwelling unit shall be designed to maintain the appearance of the primary residence.
8. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
9. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit.
10. The accessory dwelling unit shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
11. An accessory living quarters or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code.
12. A property with a primary residence and an accessory dwelling unit 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.

13. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
14. 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.
15. 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.
16. 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.
17. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #19-02197. 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.
18. 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.
19. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

b. Development Engineering

20. Construction plans and profiles for all roads, storm drainage facilities and appurtenances shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
21. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require a Stormwater Site Plan and a Construction Stormwater Pollution Prevention Plan be submitted with the required building permit.
22. At the time of submittal of a building permit, soil amendment is required for all disturbed areas not covered by hard surface.
23. 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 areas. 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.
24. If the project proposal is modified from that shown on the site plan submitted December 20, 2019, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

25. The project is subject to the recommendations provided in the wetland certification prepared by Soundview Consultants, dated August 19, 2020 and site plan dated August 26, 2020.

d. Traffic and Roads

26. 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.
27. The property owners shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas.
28. Submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Existing approaches may need to be improved to meet current standards.
29. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process (or building permit if no SDAP is required). The need for and scope of bonding will be determined at that time.

e. Fire Safety

No conditions.

f. Solid Waste

No conditions.

g. Kitsap Public Health District

30. The septic/waterline crossing must be sleeved in accordance with KPHD policy #26.

31. The upper terminal of the well does not meet minimum construction standards. The well casing does not extend at least 6-in above surrounding grade. Positive drainage away from the wellhead must be maintained. The building permit for the accessory dwelling unit (19-02196) cannot be approved until these conditions are met.

Report prepared by:



4/13/2020

Latasha Santos, Staff Planner / Project Lead

Date

Report approved by:



4/13/2020

Shawn Alire, Department Supervisor

Date

CC: Levi Henderson, lhenderson@bjcgroup.com
Interested Parties: None
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Tasha Santos, lsantos@co.kitsap.wa.us

Site Plan

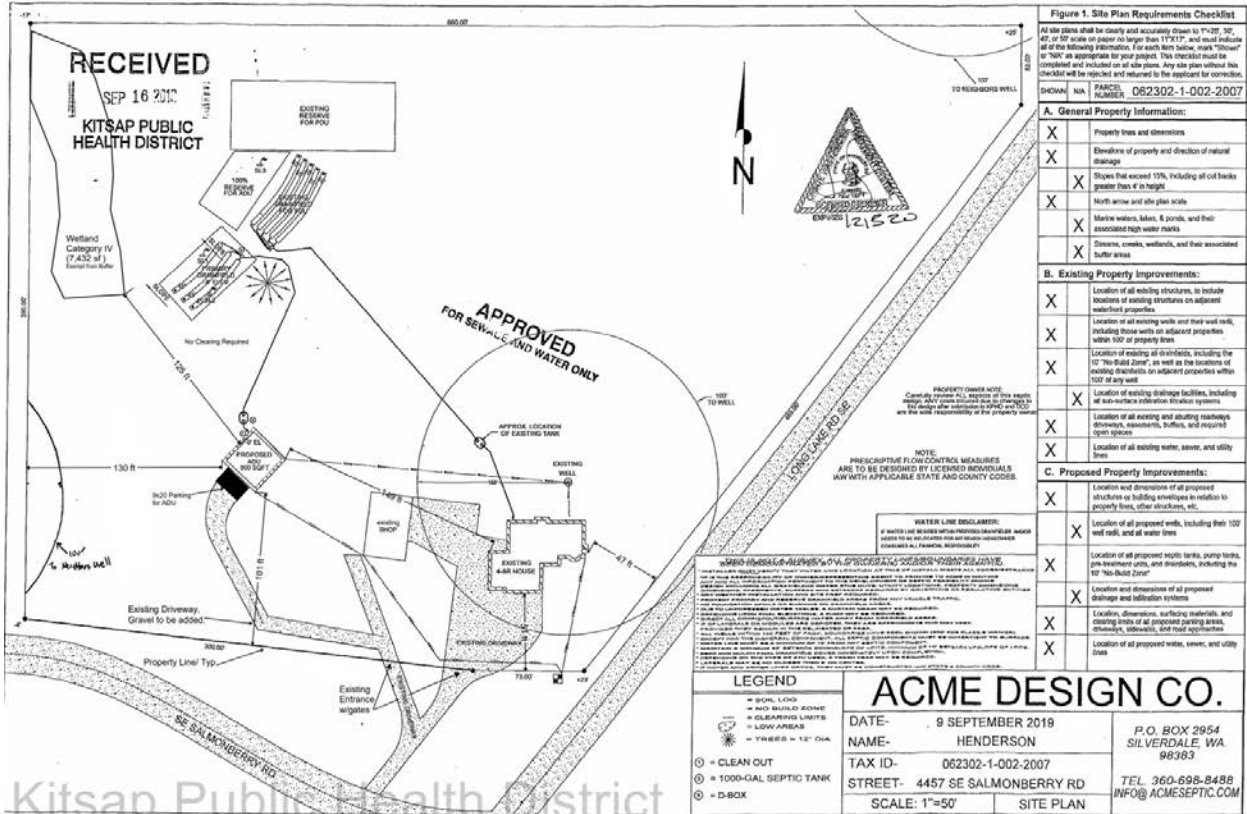


Figure 1. Site Plan Requirements Checklist

All site plans shall be clearly and accurately drawn to 1/4"=20', 1/8"=40', or 1/32"=100' scale or larger or larger than 1/4"=20', and must include all of the following information. For each item below, mark "shown" or "not" as appropriate for your project. This checklist must be completed and included on all site plans. Any site plan without this checklist will be rejected and returned to the applicant for correction.

SHOWN	PARCEL NUMBER	062302-1-002-2007
A. General Property Information:		
X		Property lines and dimensions
X		Elevations of property and direction of natural drainage
X		Slopes that exceed 10%, including all of banks greater than 4' in height
X		North arrow and site plan scale
X		Marked waters, lakes, & ponds, and their associated high water marks
X		Ditches, creeks, wetlands, and their associated buffer areas
B. Existing Property Improvements:		
X		Location of all existing structures, to include locations of existing structures on adjacent watershed properties
X		Location of all existing wells and their well walls, including those wells on adjacent properties within 100' of property line
X		Location of existing all in-leets, including the 10' "No-Build Zone", as well as the locations of existing drainages on adjacent properties within 100' of any well
X		Location of existing drainage facilities, including all sub-surface infiltration drainage systems
X		Location of all existing and abutting roadways, driveways, easements, buffers, and required open spaces
X		Location of all existing water, sewer, and utility lines
C. Proposed Property Improvements:		
X		Location and dimensions of all proposed structures or building envelopes in relation to property lines, other structures, etc.
X		Location of all proposed wells, including their 100' well walls, and all water lines
X		Location of all proposed septic tanks, pump tanks, pre-treatment units, and drainages, including the 10' "No-Build Zone"
X		Location and dimensions of all proposed drainage and infiltration systems
X		Location, dimensions, surfacing materials, and clearing limits of all proposed parking areas, driveways, easements, and their easements
X		Location of all proposed water, sewer, and utility lines