



## Hearing Examiner Staff Report and Recommendation

**Report Date:** May 21, 2020  
**Hearing Date:** May 28, 2020

**Application Submittal Date:** August 16, 2019  
**Application Complete Date:** February 14, 2020

**Project Name:** COLBO – Accessory Dwelling Unit (ADU)  
**Type of Application:** Conditional Use Permit (CUP) - ADU  
**Permit Number:** 19-03787

### Project Location

4594 HARPER HILL RD SE  
PORT ORCHARD, WA 98366  
Commissioner District #2

### Assessor's Account #

032302-4-009-2007

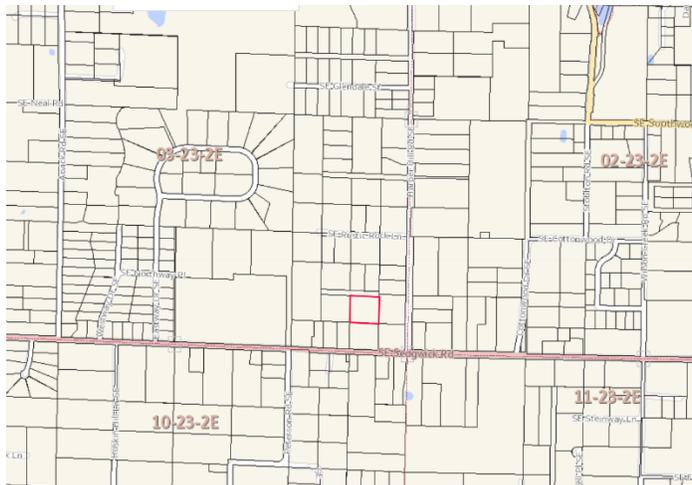
### Applicant/Owner of Record

GREGG COLBO  
4594 HARPER HILL RD SE  
PORT ORCHARD, WA 98366

### Recommendation Summary

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

### VICINITY MAP



### 1. Background

Greg Colbo (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 an 860 square foot Accessory Dwelling Unit (ADU). The property will be served by an onsite septic system and water is provided by Manchester Water. An expanded driveway and parking area are 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 February 26, 2020 (Exhibit 13). A Determination of Nonsignificance (DNS) was issued on May 13, 2020 (Exhibit 21). The SEPA appeal period will expire May 27, 2020. If no appeals are filed, 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 2.29 acres. The site slopes gradually from west to east at an approximately 7% grade. The site is developed with a single-family residence and associated septic system.

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

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 dwelling unit per 5 acres	
Minimum Lot Size	5 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	<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 (North)	50 feet	50 feet
Side (East)	5 feet for accessory structures	55.5 feet
Side (West)	5 feet for accessory structures	> 200 feet
Rear (South)	5 feet for accessory structures	> 200 feet

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

Surrounding Property	Land Use	Zoning
North	Private easement developed with a private access road	Rural Residential (RR)
South	Single-family residences and undeveloped land	Rural Residential (RR)
East	Single-family residences	Rural Residential (RR)
West	Undeveloped land	Rural Residential (RR)

**Table 4 - Public Utilities and Services**

	Provider
Water	Manchester Water
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 access via a private easement road extending from Harper Hill Rd SE, which is a County maintained public right of way (ROW).

**6. Site Design**

The proposal includes a new 24-ft x 33-ft detached accessory dwelling unit, an expanded driveway and a new onsite septic system. The proposed development occurs in parcel's northeastern quadrant.

**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 in the project file. To date, the index to the record consists of Exhibits 1 through 30.

Exhibit #	Document	Dated	Date Received
1	Authorization Form		09/27/2019
2	Concurrency Test		09/27/2019
3	SEPA Checklist		09/27/2019
4	SWPPP Narrative		09/27/2019
5	Elevations – SFR		10/17/2019
6	Health District Building Site Application		10/17/2019
7	Health District Site Plan		10/17/2019
8	Project Narrative		10/17/2019
9	Floor Plan – SFR		10/21/2019
10	SWPPP Drawing		11/04/2019

11	Water Availability Letter		12/23/2019
12	Notice of Complete	02/14/2020	
13	Notice of Application	02/26/2020	
14	Information Request	04/02/2020	
15	Floor Plan and Elevations – ADU		05/04/2020
16	Applicant Response to Info Request		05/04/2020
17	Permit Questionnaire		05/04/2020
18	Stormwater Worksheet		05/04/2020
19	Zoning Detail Site Plan		05/04/2020
20	Notice of Public Hearing		05/13/2020
21	SEPA Determination of Non-Significance (DNS)		05/13/2020
22	Aerial Map	05/18/2020	
23	Critical Aquifers Map	05/18/2020	
24	Assessor’s Map	05/18/2020	
25	Zoning Map	05/18/2020	
26	Critical Areas Map	05/18/2020	
27	Certification of Public Notice	05/18/2020	
28	Preliminary Conditions Memo – Vickery	05/19/2020	
29	Staff Report		
30	Staff Presentation		

**9. Public Outreach and Comments**

A Notice of Application (Exhibit 13) was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. No formal written comments were received. The Department receive one phone call from a neighbor in support of the project.

**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 proposed ADU is 860 square feet. The existing residence is 1724 square feet, according to the Assessor's Database. 50 percent of 1724 is 862 square feet; therefore, the ADU is limited to 862 square feet (the smaller value). The proposed ADU is 860 square feet, meeting 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 50 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 Exhibits 5 and 15. Both structures are stick built structures with a similar pitched, gable roof. Both structures feature horizontal wood siding and similar windows. Condition 6 has been added to this approval to ensure the structures will remain similar in appearance.

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

Staff Comment: All setbacks required by the Rural Residential 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 included a Building Site Application (BSA) approved by the health district for water and sewage disposal.

*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 19) shows a proposed expanded driveway extending from the existing driveway. No new access is proposed. The new driveway will provide two additional off-street parking spaces.

*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 9).

**b. Lighting**

Lighting was not analyzed as part of this proposal. Lighting must be consistent with Kitsap County Code 17.420.

**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)	3 for single family residence	3	3
	1 additional space for accessory dwelling units.	1	1
Total	1	4	4

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

**f. Frontage Improvements**

At this time, no frontage improvements are required or proposed. Any future improvements are subject to Department review and approval; additional permitting may be required.

**g. Design Districts/Requirements**

The subject site 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 accepts the concepts contained in this preliminary submittal and requires six conditions (Exhibit 28, Conditions 19 through 24).

**i. Environmental**

No mapped or suggested critical areas exist on site or in the vicinity (Exhibits 23 and 26).

**j. Access, Traffic and Roads**

Development Services and Engineering has reviewed the proposal for compliance with traffic and road standards and has recommended approval, with three conditions (Conditions 25 through 27).

**k. Fire Safety**

The Kitsap County Fire Marshall's Office reviewed and approved the proposal with one condition (Condition 28).

**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 from Kitsap County's Health Department (Exhibit 6). Potable water will be provided by Manchester Water District; sanitary sewage disposal is proposed to be provided by a new on-site septic system. Modifications have been made to the approved site plan, including the driveway layout and building footprint. None of the modifications encroach closer to the approved septic system; however, an approved BSA that matches the CUP approved site plan shall be submitted with the building permit (Condition 29).

**n. Kitsap Public Health District**

Kitsap County Health District as reviewed and approved the proposal.

**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 Colbo Accessory Dwelling Unit (ADU) be **approved**, subject to the following 29 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.
6. 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 860 square feet (Exhibit 15). 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.
7. The accessory dwelling unit shall be located within 150 feet of the primary

residence.

8. The accessory dwelling unit 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.
11. The accessory dwelling unit 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 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.
13. 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.
14. The accessory dwelling unit 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. 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 Permit #19-03787. 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. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require a building permit application that includes a storm drainage design meeting the requirements of Simplified Drainage Review and addressing stormwater Minimum Requirements #1-5, as outlined in the Kitsap County Stormwater Drainage Manual.
22. On-site Stormwater management, 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, February 14, 2020.

23. In order to meet Fire Marshal emergency vehicle access requirements, improvement of the private road providing access to this parcel may be required; depending on the scope of the improvements, this activity may require the road improvement and stormwater mitigation design be prepared by a civil engineer and may require a Site Development Activity Permit. 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, February 14, 2020. If established thresholds are met to require engineering, the submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.
24. In order to meet Fire Marshal emergency vehicle access requirements, improvement of the private road providing access to this parcel may be required; the road improvements and associated stormwater mitigation shall be completed and achieve approval of all required inspections prior to requesting final inspection for the Accessory Dwelling Unit building permit.
25. Any project that includes off site improvements that create additional impervious surface such as lane widening, sidewalk or shoulder installation or intersection channelization shall provide stormwater mitigation in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, February 14, 2020.
26. If the project proposal is modified from that shown on the submitted site plan dated May 1, 2020, Development Services and Engineering will require additional review and potentially new conditions.

**c. Traffic and Roads**

27. 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.
28. All rights of access for adjoining properties currently in existence shall be preserved. Any amendment to the existing easement rights of adjoining property owners shall be properly executed and recorded prior to permit issuance.
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.

**d. Fire Safety**

30. Building permits will not be issued until the following condition is met:

Customer to provide proof of adequate emergency vehicle access. IF access does not meet adopted code, an automatic sprinkler system shall be an acceptable alternative.

Fire apparatus access roads are required and must be maintained in accordance with IFC 503 Amended by Kitsap County Code. Any proposed revision to these roads must be submitted to, reviewed and approved by the Kitsap County Fire Marshal's Office. Access roads shall comply with the following:

- i. Unobstructed width of 20 feet and height of 13 feet 6 inches.
- ii. Shall be designed and maintained to support a 60,000-pound fire apparatus and be provided with an all-weather driving surface.
- iii. Dead end access roads exceeding 150 feet in length shall be provided with an approved turnaround.
- iv. Inside turning radius shall be a minimum of 25 feet
- v. Access roads shall extend to within 150 feet of all portions of the exterior walls of the first story of the structure as measured by an approved route around the exterior of the structure or facility.

**e. Health District**

31. An approved Building Site Application (BSA) site plan that matches the approved Conditional Use Permit site plan (attached) is required to be submitted with the building permit for the Accessory Dwelling Unit (ADU).

**Report prepared by:**



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Tasha Santos / Project Lead

5/20/2020

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Date

**Report approved by:**



Shawn Alire, Department Supervisor

5/20/2020

Date

**Attachments:**

Attachment A – Site Plan

CC: Owner: Greg Colbo – 4594 Harper Hill Road SE, Port Orchard, WA 98366  
Project Representative: Jayson Miller - [jayson@tnmillerremodeling.com](mailto:jayson@tnmillerremodeling.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](mailto:lsantos@co.kitsap.wa.us)

Site Plan

