



Hearing Examiner Staff Report and Recommendation

Report Date: August 17, 2021
Hearing Date: August 26, 2021

Application Submittal Date: June 19, 2020
Application Complete Date: July 9, 2020

Project Name: Roth – Critical Area Buffer Reduction for Single Family Residence
Type of Application: Critical Area Variance (Type III)
Permit Number: 20-02620

Project Location

13031 NW Taterbug Court, Bremerton
Commissioner District 3 (South)

Assessor's Account

052401-1-045-1009

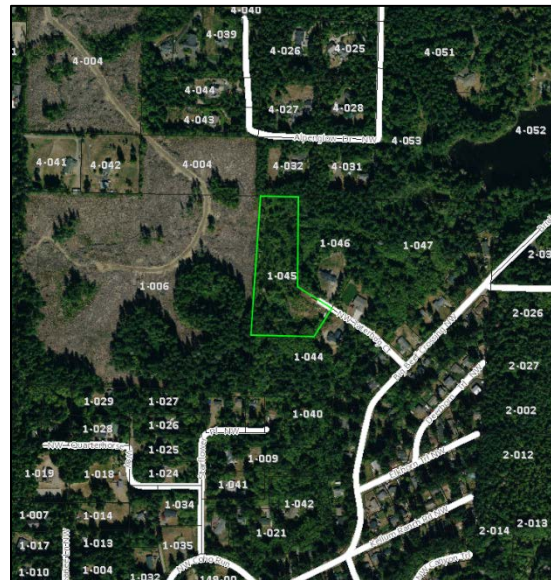
Applicant/Owner of Record

Madalyn Roth & Justin Hutchinson
5180 Daisy Street
Port Orchard, WA 98367

Recommendation Summary

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

VICINITY MAP



1. Background

Madalyn Roth & Justin Hutchinson (hereafter, the Applicant) proposes to reduce a standard fish-bearing stream buffer by 35% to allow for one single-family home on a portion of the lot that is constrained by the stream and associated seasonal wetlands. A Critical Area Variance may be granted when criteria in KCC 19.100.135 are met.

The property is currently vacant and undeveloped; however, 2020 aerial imagery shows some cars and storage sheds on the southeast portion of the site close to NW Taterbug Court.

2. Project Request

The proposal is for the review and approval of a Critical Area Variance. The Critical Area Variance is to allow the reduction of the standard fish-bearing stream buffer from 150 feet to 97 feet (35% reduction). The request is to allow for the future construction of a single-family home on a portion of the lot which is constrained by the stream and associated

seasonal wetlands. The request is subject to a Type III process with Hearing Examiner approval.

3. SEPA (State Environmental Policy Act)

The project is SEPA Exempt under KCC 18.04 State Environmental Policy Act.

4. Physical Characteristics

The subject site is an L-shaped 5.01-acre lot. The site is current vacant and undeveloped except for a few vehicles and storage sheds visible in aerial imagery. The property is generally flat, sloping gently to the southeast and bisected by a fish-bearing stream. There is a flat area in the southwestern portion of the site which is seasonally inundated.

The site is forested with evergreen trees on the northern and western portions, and deciduous trees and shrubs throughout the rest of the site. The southeastern portion of the lot, where the proposed single-family home, garage, and driveway are proposed, appears to have been cleared between 2018 and 2019.

The lot to the west was recently logged, and the remaining surrounding areas are wooded with rural residential property and sporadic single-family residences.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 dwelling unit/10 acres	
Minimum Lot Size	10 acres	N/A
Maximum Lot Size	NA	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	N/A
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes: None

Staff Comment: The proposal meets applicable standards for the RR zone.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (East)	50 feet	127 feet

Side (North)	20 feet 5 feet for accessory structures	20 feet
Side (South)	20 feet 5 feet for accessory structures	145 feet
Rear (West)	20 feet 5 feet for accessory structures	225 feet

Applicable footnotes: None

Staff Comment: None

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Residential (RR)
South	Single-family residences	Rural Residential (RR)
East	Single-family residences	Rural Residential (RR)
West	Single-family residences	Rural Residential (RR)

Table 4 - Public Utilities and Services

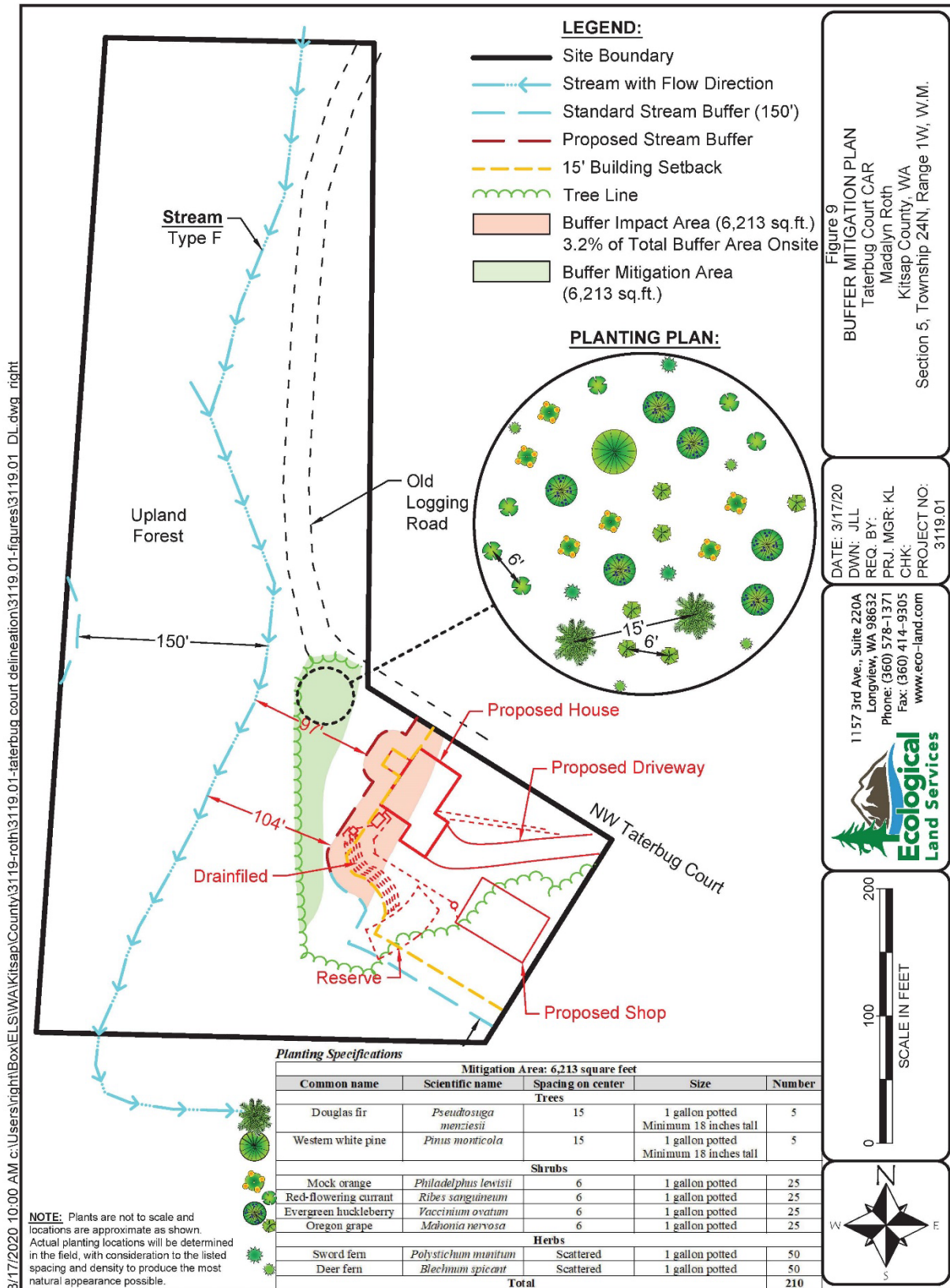
	Provider
Water	Kitsap Public Utility District No. 1
Power	Puget Sound Energy
Sewer	Onsite septic
Police	Kitsap County Sherriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District #401

5. Access

NW Taterbug Court terminates at the southeast corner of the property and will provide primary access. A driveway is proposed to provide access to the proposed single-family home.

6. Site Design

The image on the next page shows the proposed single-family home, driveway, septic drainfield and mitigation area. The proposed shop is no longer part of the proposal.



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 amended April 27, 2020.

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.

Environment Policy 18.

Compensatory mitigation shall be the last option of resort in mitigation sequencing, following documentation of avoidance and minimization of any impact to the natural environment that triggers compensatory mitigation. Replacement of altered or displaced natural environments (including critical areas and buffers) must be mitigated either on-site, within the watershed, or service area as defined through an approved mitigation bank or in-lieu fee program.

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
Title 19	Critical Areas
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 1-15.

Exhibit #	Document	Dated	Date Received
1	Required Permit Questionnaire		06/29/2020
2	Critical Ares Report & Habitat Management Plan		06/29/2020
3	Drainage Plans		06/29/2020
4	Drainage Report		06/29/2020
5	Stormwater Worksheet		06/29/2020
6	Notice of Application	07/23/2020	
7	Updated Project Narrative		11/18/2020
8	Septic Design Letter		11/18/2020
9	Site Plan Detail		11/18/2020
10	Revised Site Plan		11/18/2020
11	Septic Designer Comment Email		08/02/2021
12	Notice of Public Hearing	08/11/2021	
13	Certification of Public Notice	08/16/2021	
14	Staff Report	08/19/2021	
15	Staff Presentation	8/26/2021	

9. Public Outreach and Comments

A Notice of Application was distributed pursuant to 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 17.130.010 the Rural Residential zone promotes low-density residential development and agricultural activities that are consistent with rural character. The request is for a critical area variance to construct a 1,721 square foot single-family residence and is consistent with the zoning.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Per KCC 17.490.030, a single-family dwelling requires 3 parking spaces. The proposal provides adequate parking per the table below.

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 home	3	3 proposed.
Total	3	3	3

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

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 the land use proposal and finds the concept supportable in its approach to civil site development. Further review will occur with associated site development or building permits. Condition #4 has been added in relation to stormwater design requirements.

i. Environmental

Critical Area Variance Criteria

Per KCC 19.100.135, a variance in the application of the regulations or standards of this title to a particular piece of property may be granted by Kitsap County, when it can be shown that the application meets all of the following criteria:

1. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance.

Staff Comment: The subject property is 5.01 acres and development is constrained by a fish-bearing stream which bisects the property and a seasonally-inundated depression in the southwest corner. The request states that the proposed single-family dwelling and associated septic system must be placed in the proposed location in the southeast corner of the lot to avoid pumping septic effluent across the stream.

2. The special circumstances referred to in subsection (A)(1) of this section are not the result of the actions of the current or previous owner.

Staff Comment: The site conditions were not created by the applicant nor previous owner, and the lot is currently undeveloped. The environmental constraints requiring a variance are not the result of the applicant's actions.

3. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this title.

Staff Comment: The request is to reduce the 150-foot buffer to 97 feet to

accommodate the patio of the proposed home, and a reduction to 104 feet to accommodate the septic drainfield. The standard buffer will be retained elsewhere on the site. The 5.01-acre site will remain largely unimpacted by the proposed development. 6,213 square feet of standard buffer area will be impacted by the proposed single-family dwelling and associated septic system. The proposal includes 6,213 square feet of mitigation plantings to offset development within the standard buffer.

4. The granting of the variance is the minimum necessary to accommodate the permitted use.

Staff Comment: The proposed single-family home development could not be achieved using buffer averaging. An administrative 25% buffer reduction would also not create a large enough area to accommodate the proposed single-family home. The request is to reduce the 150-foot buffer to 97 feet to accommodate the patio of the proposed home, and a reduction to 104 feet to accommodate the septic drainfield. The standard buffer will be retained elsewhere on the site.

5. No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150.)

Staff Comment: The proposed 35% variance to allow for a home in the southeast portion of the lot is a preferable alternative to other options, as it will avoid direct stream impacts. The septic designer verified that the proposed location of the septic system is the only practicable option (Exhibit 11) and avoids pumping septic effluent across the stream. A variance request for a home at another location on the property could result in a greater impact to habitat function and water quality.

6. A mitigation plan (where required) has been submitted and is approved for the proposed use of the critical area.

Staff Comment: The submitted Critical Areas Report and Habitat Management Plan (Exhibit 2) characterizes the stream buffer functions as well as upland areas outside of the buffer. The report states that avoidance is not possible and lists various minimization methods. The Report states the project will result in 6,213 square feet in buffer reduction and the applicant will provide an equivalent amount of native planting as compensation for the impacts. The mitigation plan is approved for the proposed buffer reduction and this permit is conditioned to adhere to the recommendations of the Report.

Stream:

A Critical Areas Report and Habitat Management Plan (Exhibit 2) was provided by Ecological Land Services, dated March 17, 2020 that identified the following critical areas on site:

CRITICAL AREA	CATEGORY	REQUIRED BUFFER	PROPOSED IMPACT
Unnamed Stream	F	150 feet	Reduce portions of the buffer to 97 feet and 104 feet (6,213 square feet of buffer reduction).

j. Access, Traffic and Roads

No comments at this time.

k. Fire Safety

No comments at this time.

l. Solid Waste

No comments at this time

m. Water/Sewer

Potable water is proposed to be provided by the Kitsap Public Utility District; sanitary sewage disposal is proposed to be provided by an on-site septic system. Prior to site development activity the applicant must provide approval for the septic system from Kitsap County Health Department.

n. Kitsap Public Health District

No comments at this time.

11. Review Authority

The Hearing Examiner has review authority for this Critical Area Variance application under KCC Sections 19.100.135 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, remand, 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 and the zoning standards for the Rural Residential (RR) zone in Title 17.

2. The proposal meets the criteria for a critical area variance in KCC 19.100.135, as analyzed in section 10.i of this report.

13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 19.100.135, the Department of Community Development recommends that the Critical Area Variance for the Roth Critical Area Variance be **approved**, subject to the following 16 conditions:

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. 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.
3. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #20-02620. 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.

b. Development Engineering

4. Building permit applications are subject to Kitsap County Code Title 12 Stormwater Drainage and shall include a stormwater design in compliance with the provisions of the Kitsap County Stormwater Design Manual.

c. Environmental

5. The applicant shall record a Notice to Title for the proposed preservation area in the northwest of the site. The Notice to Title shall be submitted with the associated building permit and is required prior to approval of the building permit.
6. Prior to occupancy, the common boundary between the wetland buffer and the adjacent land shall be permanently identified with critical area buffer signs. Critical Area Ordinance (CAO) signs shall be placed along the designated boundary spaced approximately 50-feet apart, visual from sign to sign. Signs must be attached to existing trees with diameter breast height greater than 4

- inches. Alternative methods include 4x4 posts, metal posts or split rail fencing.
7. Stage construction equipment in the previously cleared area in the west of the proposed building. Avoid staging further within the critical area buffer.
 8. Permit application approval is 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.
 9. Clearing and tree removal within the established wetland buffer shall be the minimum necessary to support the proposed improvements. Clearing limits must be clearly shown on the site plan with the associated building permit and clearing outside of the approved limits will require prior County approval.
 10. Unless otherwise allowed through this variance, a 150-foot native vegetation buffer must be maintained along the boundary of the unnamed stream as depicted on the approved plans. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the buffer, unless otherwise approved by this variance.
 11. The variance to the stream buffer shall be the minimum necessary to accommodate the proposed development and in no case may exceed 35% of the required buffer.
 12. The project shall adhere to the mitigation measures and recommendations within the approved Critical Areas Report and Habitat Mitigation Plan dated March 2020.

d. Traffic and Roads

13. At building permit application, submit KCPW Form 1601 for issuance of a concurrency certificate, as required by KCC Section 20.04.030, Transportation Concurrency.

e. Fire Safety

14. None at this time.

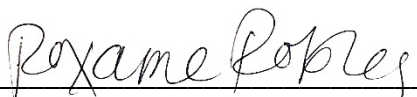
f. Solid Waste

15. None at this time.

g. Kitsap Public Health District

16. None at this time.


Report prepared by:



Roxanne Robles / Project Lead

August 11, 2021
Date

Report approved by:


Scott Diener, DSE Manager

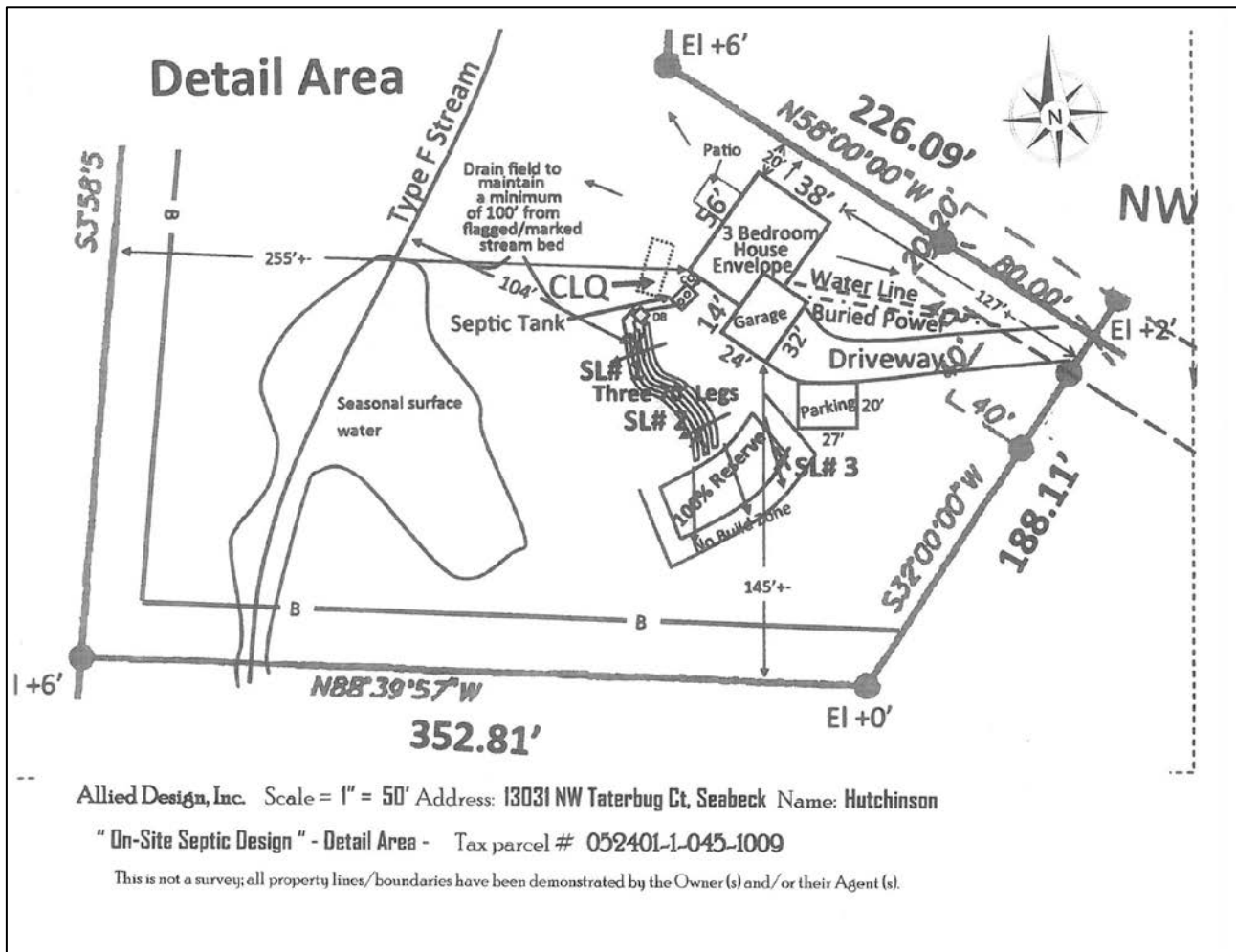
August 17, 2021
Date

Attachments:

Attachment A – Zoning Map

CC: Madalyn Roth: madalynaroth@gmail.com
Ecological Land Services: Joanne Bartlett: Joanne@eco-land.com
Interested Parties: N/A
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Roxanne Robles

Site Plan



Attachment A – Zoning Map

