



Notice of Administrative Decision

Date: 01/29/2024

To: FRIEDMAN JANE B, friedman.janeb@gmail.com
Interested Parties and Parties of Record:
HENDERSON SCOTT & KELSEY; Mayers, Marisel, davidmayers@prodigy.net

RE: **Permit Number:** 23-00617
Project Name: FRIEDMAN-Buffer Reduction-Type II
Type of Application: Critical Area Buffer Reduction (CABR)

The Kitsap County Department of Community Development has **APPROVED** the land use application for **Permit 23-00617: FRIEDMAN – CABR, subject to the conditions outlined in this Notice and included Staff Report.**

THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.

The written appeal shall be made on, or attached to, an appeal form titled: *'Appeal/Objection of an Administrative Decision'* found on DCD's website, through the Online Permit Application Portal: <https://app.oncamino.com/kitsapcounty/login>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC: Biologist: BGE Environmental, LLC, bgerobbyn@comcast.net
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer
Interested Parties: Marisel Mayers, davidmayers@prodigy.net;
Scott and Kelsey Henderson
Parks
Navy
DSE
Kitsap Transit
North Kitsap Fire District
North Kitsap School District

23-00617, FRIEDMAN
January 29, 2024

Puget Sound Energy
PUD #1 of Kitsap
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
WA Dept of Fish & Wildlife
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Wetland Review
WA State Dept of Transportation
WA State Dept of Natural Resources-SEPA
WA State Dept of Archaeology and Historic Preservation



Administrative Staff Report

Report Date: January 23, 2024

Application Submittal Date: February 8, 2023

Application Complete Date: March 6, 2023

Project Name: Friedman Critical Area Buffer Reduction

Type of Application: Critical Area Buffer Reduction (CABR)

Permit Number: 23-00617

Project Location

29700 Beach Drive NE
Poulsbo, WA 98370
Commissioner District 1

Assessor's Account

142701-1-055-2000

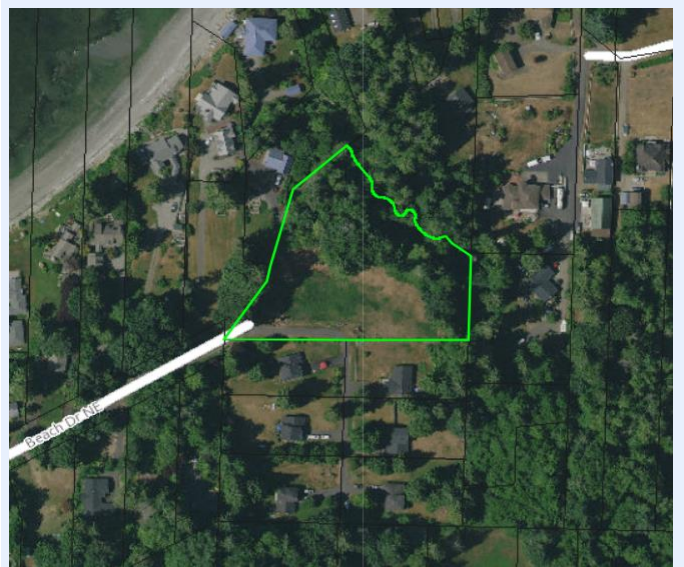
Applicant/Owner of Record

Jane Friedman
27070 Woodpecker Hill Road NE
Poulsbo, WA 98370

Decision Summary

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

VICINITY MAP



1. Background

The subject property is a two-acre platted parcel encumbered with critical areas: geologic hazards, wetlands, and a fish bearing stream.

2. Project Request

The submitted application seeks modification of standard buffers under the guidelines of Kitsap County Code 19.200.220(B)(2) and 19.300.315(A)(3).

The project establishes a buffer reduction from 110 ft to 82.5 ft for the onsite Category II wetland. This proposal is a twenty-five percent decrease and per Kitsap County Code 19.200.220.B.2.b. can be processed administratively.

On the northeastern portion of the property is a fish type stream which requires a 150 ft buffer. The application proposes to reduce the stream buffer width varying from 87 to 101 ft. Kitsap County Code 19.300.315.A.3.b allows for a Type II decision for stream buffer

reductions from 25-50%.

Upon construction completion, all degraded areas within the established buffer will be restored with native shrubs and groundcovers.

3. SEPA (State Environmental Policy Act)

The proposal is SEPA exempt per Kitsap County Code 18.04.090.A.1.b: Up to four residential dwelling units outside the boundaries of an urban growth area.

4. Physical Characteristics

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	NA	2.00 acres* Lot is existing, and project does not propose any newly created parcels
Maximum Density	1 du/5 acres	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140'	NA
Minimum Lot Depth	NA	NA
Maximum Height	35 feet	NA
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes: None

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50 feet	64 feet
Side (North)	20 feet	176 feet
Side (South)	20 feet	20 feet
Rear (East)	20 feet	218 feet

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	Single-family residence	RR

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Access

Access to the subject property is off Beach Drive NE.

6. Site Design

Site design is analyzed under Section 10.

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 in 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
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

8. Documents Consulted in the Analysis

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
Administrative CUP Application	February 8, 2023
Notice of Application	April 24, 2023
Critical Area Assessment and Mitigation Plan	December 8, 2023
Geotechnical Report	February 21, 2023
Civil Site Plan	December 8, 2023
Project Narrative	December 8, 2023
Vicinity Comparables	December 8, 2023
<u>Staff Communication</u>	<u>Dated</u>
Dev. Services & Engineering Memo	June 23, 2023

9. Public Outreach and Comments

Kitsap County prepared a notice of application consistent with Kitsap County Code (KCC) 21.04 published on April 24, 2023.

Kitsap County had two comments on the project. First, the Suquamish Tribe indicated the buffer reduction request could be minimized by shifting the building south-southwest

allowing for the drainfield to also potentially be moved. They also believed minimization could be achieved by moving the access toward the edge of the easement. However, because the easement serves more than 5 properties, the zoning setback is measured from the edge of the easement not allowing that possibility.

The second comment was from the previous owner. She was implying that the home could be built without a buffer reduction because when the permit was previously reviewed and approved it was not required (Permit # 21-02835). Staff clarified that the previous approval should have also required a CABR and it was missed in the review. Permit # 21-02835 was withdrawn before construction could begin.

10. Analysis

a. Planning/Zoning

The subject property is zoned Rural Residential. Kitsap County Code 17.410.042 permits single-family detached housing units.

Table 2 demonstrates that the proposed structure will be the required setbacks in Kitsap County Code 17.420.052.

Table 5 shows 3 parking spaces are required and 3 are proposed.

b. Lighting

Lighting was not analyzed for this proposal.

c. Off-Street Parking

Kitsap County Code 17.490.030 requires 3 parking spaces for single-family residences. The submitted site plan shows 3 proposed parking spaces meeting the parking requirements.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 per unit	3	3
Total			3

d. Signage

Signage was not proposed in this application.

e. Landscaping

Landscaping was not analyzed for this proposal per Kitsap County Code 17.500.010: Single-family lots shall be exempt.

Table 6 - Landscaping Table

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

Front improvements were not required for this proposal.

g. Design Districts/Requirements

The subject property is not within a designed district.

h. Development Engineering/Stormwater

The proposed stormwater facilities include dispersion for stormwater quantity control. Development Engineering reviewed and approved the concepts contained in the preliminary submittal and required 5 conditions.

i. Environmental

19.100.135 Variances.

A. 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 two acres. However, much of it is constrained by critical areas and other normal residential appurtenances (septic, drain field, easement, and required parking). Strict application of the standard buffers prohibits development when considering conformance to all Kitsap County titles. Residential properties have equal privileges for development. Please see special circumstances listed and described below. The application does not seek a variance citing other properties in the vicinity and was evaluated based on the subject property.

Special Circumstances:

1. Critical Areas

- a. Geologic Hazards. The eastern portion of the property contains geologic hazards (slopes greater than 15%). The application included a Geotechnical Report submitted prepared by Cobalt Geosciences dated August 7, 2020. The report recommended "that infiltration trenches be located at least 15 feet from structures, 10 feet from property lines, and at least 50 feet from the top of the steep slope hazard area." The geologic hazards and the associated 50-ft buffer/setback take up approximately an acre of the two-acre parcel, pushing development to the western portion of the parcel.*
- b. Fish Type Stream. There is a fish type stream on the northeastern portion of the property requiring a 150 ft buffer. The required stream buffer covers approximately 1.45 acres (72.5%) of the subject property. Relief from the stream buffer allows for more buildable area for the proposed single-family residence and associated appurtenances.*
- c. Wetland. Submitted with the application is a Critical Area Assessment and Mitigation Plan prepared by BGE Environmental LLC dated November 13, 2023. The assessment identified ravine-bound wetlands which were to be found to be Category II with a habitat 6 rating, under a moderate land intensity. The standard buffer for the type of wetland is 110 ft (KCC Title Table 19.200.220(D)). The assessment proposes to reduce the wetland buffer by 25% to a width of 82.5 ft. Kitsap County Code 19.200.220.B.2.b allows for an administrative reduction of the buffer (Type1) to 25% but not less than 30 feet. The standard wetland buffer also encumbers approximately an acre of the property.*

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 current applicant and the previous owner did not create the on-site critical areas.

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 proposed structure is set furthest from the ravine, stream, and wetland. Buffer complexity with the established buffer is native dominated and includes mature trees. The ravine is decadent in rank which restricts anthropogenic intrusions. Adverse impacts or otherwise detrimental consequences are unlikely and not anticipated.

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

Staff Comment: The proposal is for a 2,352 square foot home including garage. The applicant submitted a house size comparison to adjacent properties. The surrounding properties averaged 2,297 square footprint (excludes second stories). The application proposes generally what is in the surrounding area.

5. No other practicable or reasonable alternative exists.

Staff Comment: All other alternatives have been exhausted and no other feasible alternative exists.

1. *Zoning Variance. The option to reduce the setbacks was explored. One option was to reduce the setback on the south property line but it was determined that the home would be too close to the shared easement with the neighbors and may cause safety issues. Another option was to reduce the setback to the western property line. However, it could not be reduced due to the placement of the reserve drainfield which had to be placed 50 ft from the top of the slope.*

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

Staff Comment: Submitted with the application was a Critical Area Assessment and Mitigation Plan prepared by BGE Environmental LLC dated November 13, 2023. The assessment proposes a buffer restoration plan to the established critical area buffer. This assessment is approved by Kitsap County staff.

19.300.315.A.3: Provision for Decreasing Buffer (for Stream Buffers)

a. The department may grant an administrative reduction to buffer widths when the following are met:

- i. The applicant demonstrates that buffer widths cannot be met, according to the variance criteria in Section 19.100.135;

Staff Comment: The submitted applications shows if all the critical area buffers were applied (geologic hazards, stream, and wetlands) there would be no reasonable opportunity for development of the subject property.

- ii. The applicant submits a habitat management plan (HMP) that meets the requirements as described in Chapter 19.700 (Special Reports);

Staff Comment: Submitted with the application was a Critical Area Assessment and Mitigation Plan prepared by BGE Environmental LLC dated November 13, 2023. The assessment proposes a buffer restoration plan to the established critical area buffer. This assessment is approved by Kitsap County staff.

- iii. The HMP is reviewed and consultation with the Washington State Department of Fish and Wildlife determines that a reduction is the minimum necessary for the permitted use; and

Staff Comment: WDFW was notified through the Notice of Application of the application. No comments were received from WDFW.

- iv. The conditions are sufficient to assure no net loss of ecological functions of the affected fish and wildlife habitat conservation area.

Staff Comment: The submitted Critical Area Assessment and Mitigation Plan prepared by BGE Environmental LLC dated November 13, 2023 proposes restoration of the established wetland and stream buffer to full coverage of native dominate trees, shrubs, and groundcover. This mitigation counteracts the affects from the proposed single-family residences.

j. Access, Traffic and Roads

Kitsap County staff reviewed and approved the project for access, traffic and roads.

k. Fire Safety

Fire Safety will be analyzed under the building permit (22-03640) for the project.

l. Solid Waste

Kitsap County staff reviewed and approved the project for solid waste.

m. Water/Sewer

Sanitary sewage disposal is proposed to be provided by proposed septic disposal method. Property is served with water by a shared well.

n. Kitsap Public Health District

Health District has reviewed and approved water and onsite sewage.

11. Review Authority

The Director has review authority for this Critical Area Buffer Reduction application under KCC 21.04.100. The Director may approve, approve with conditions, or deny the request.

12. Findings

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 19 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. Decision

Based upon the analysis above and the decision criteria found in KCC Title 19 and noted earlier, the Department of Community Development recommends that the request be **approved**, subject to the following conditions:

a. Planning/Zoning

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

b. Development Engineering

4. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
5. 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 this permit application was deemed fully complete. 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 Code in effect at the time of SDAP application, or Building Permit if an SDAP is not required.
6. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

7. This CABR approval shall automatically become void if no building permit application is accepted as complete by the Department of Community Development within three years of the Notice of Decision date or the resolution of any appeals.
8. An 82.5-ft native vegetation buffer shall be retained along the perimeter of the wetland as depicted on the approved site plan and in accordance with the Critical Area Assessment by BGE Environmental LLC, dated November 17, 2023. In addition, a building or impervious surface setback line of 15 ft is required from the edge of the buffer. 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. Due to area constraints from the on-site stream and associated buffer, the application of a Critical Area Assessment completed by BGE Environmental, LLC, dated November 17, 2023, shall be implemented on-site to compensate for a buffer reduction at the minimum necessary to accommodate the proposed development. The minimum buffer applied on site is 87 -101 ft, as shown on the

approved site plan. This buffer reduction is not greater than 50% of the required buffer. In addition, a building or impervious surface setback line of 15 ft is required from the edge of the buffer per KCC 19.200.220.E

10. Buffer restoration shall occur as specified in the approved Critical Area Assessment and Mitigation Plan authored by BGE Environmental LLC dated November 17, 2023. Planting of native vegetation shall occur within the first dormant season once the permitted project has been constructed and approved. When planting is complete, the applicant shall submit an as-built plan to DCD for approval prior to requesting the final inspection. Any assignment of savings, financial surety or other like security for performance of the buffer mitigation plan shall be released if planting requirements are satisfied upon completion of the site inspection and as-built approval. Monitoring and maintenance of the planted area shall be conducted for a minimum of five years after DCD staff approves planting.
11. Monitoring and maintenance of the planted area shall be conducted for five years, and extended if necessary, after DCD staff approves planting. Monitoring includes live and dead vegetation counts and records of all maintenance activities. Maintenance activities can be defined as, but are not limited to, removal practices on invasive or nuisance vegetation and watering schedules. Monitoring information shall be summarized in a letter with photographs depicting conditions of the vegetation and overall site. Monitoring reports are due to Kitsap County Department of Community Development Services and Engineering Division annually. If more than 20 percent of the plantings do not survive within any of the monitoring years, the problem areas shall be replanted, and provided with better maintenance practices to ensure higher plant survival. The construction of the permitted project is subject to inspections by the Kitsap County Department of Community Development. Extensions of the monitoring period may be required if original conditions are not met. All maintenance and construction must be done in full compliance with Kitsap County Code, including the Kitsap County Critical Area Ordinance (Title 19 KCC). Any corrections, changes or alterations required by a Kitsap County Development Engineer Inspector shall be made prior to additional inspections. Any assignment of savings, financial surety or other like security for maintenance of the buffer mitigation plan shall only be released if monitoring requirements are satisfied in the final year of the monitoring term.
12. Prior to final inspection and occupancy, the common boundary between the stream and the wetland buffer and the adjacent land shall be permanently identified with critical area buffer signs. A total of 20 Critical Area Ordinance (CAO) signs shall be placed along the designated boundary spaced approximately 50 ft 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. Signs may be requested with any inspection prior to final, but not at final inspection. The consulting habitat biologist shall place the signs.

13. Minor pruning, removal, or elimination of danger trees in the buffer may be allowed, subject to approval by the Department. (360)337-5777.
14. There shall be no clearing of vegetation or grading in the buffer area, as is depicted on the approved site plan. Prior to any clearing or development, please contact Development Engineering staff at (360) 337-5777 to confirm buffer boundaries.
15. Project shall follow the recommendations of the submitted Geotechnical Report prepared by Cobalt Geosciences dated August 7, 2020.

d. Traffic and Roads

16. At building permit application, submit Kitsap County Public Works Form 1601 for issuance of a concurrency certificate, as required by Kitsap County Code 20.04.030, Transportation Concurrency.
17. 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 process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

e. Fire Safety

None

f. Solid Waste

None

g. Kitsap Public Health District

None

Report prepared by:



Katharine Shaffer, Planning Supervisor / Project Lead

1/21/2024

Date

Report approved by:



Scott Diener, Planning Manager

1/22/2024

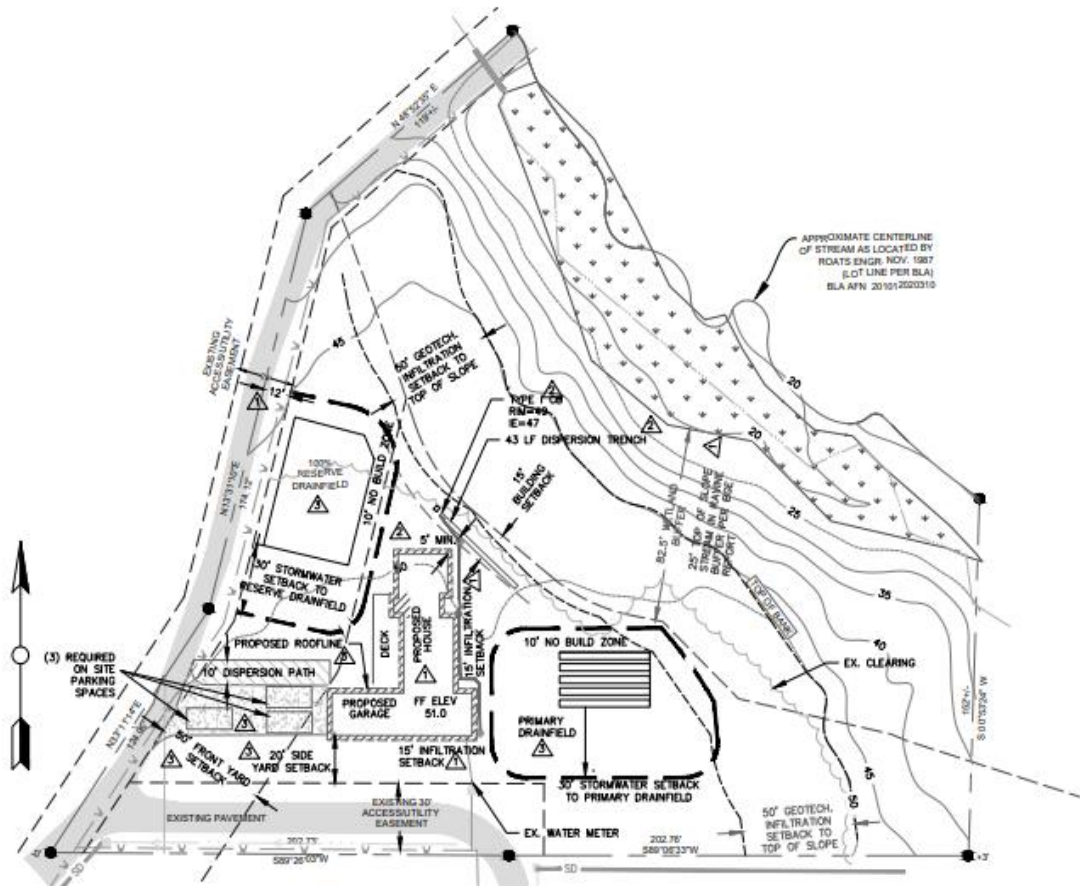
Date

Attachments:

Attachment A – Zoning Map

CC: Applicant/Owner: Jane Friedman, friedman.janeb@gmail.com
Biologist: BGE Environmental, LLC, bgerobbbyn@comcast.net
Interested Parties: Marisel Mayers, davidmayers@prodigy.net
Scott and Kelsey Henderson
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer

Site Plan



Zoning Map – Attachment A

