



Hearing Examiner Staff Report and Recommendation

Report Date: May 2, 2024
Hearing Date: May 9, 2024

Application Submittal Date: October 22, 2022
Application Complete Date: March 6, 2023

Project Name: Wintch CUP-ADU
Type of Application: Conditional Use Permit - Accessory Dwelling Unit (ADU)
Permit Number: 22-05273

Project Location

1333 Fern Ln. W.
Bremerton, WA 98312
Commissioner District 3

Assessor's Account

192401-4-013-1005

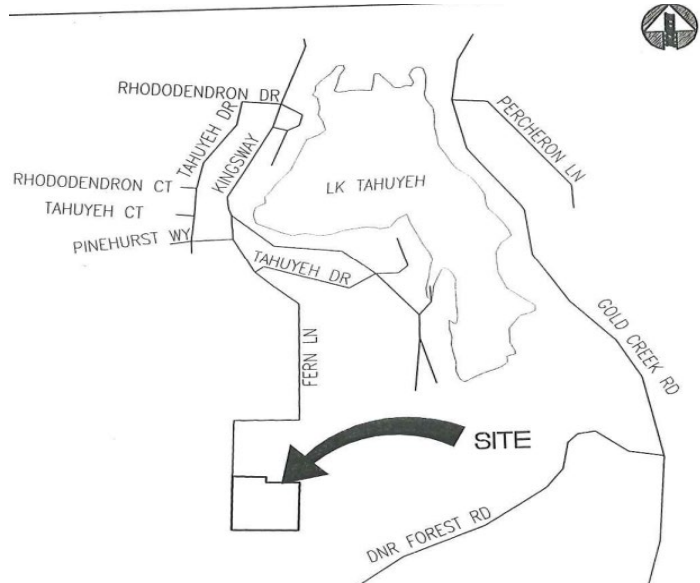
Applicant/Owner of Record

Joni and Jacob Wintch
1333 Fern Ln. W.
Bremerton, WA 98312

Recommendation Summary

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

VICINITY MAP



1. Background

Per Kitsap County Code (KCC) section 17.110.020, an Accessory Dwelling Unit (ADU) proposed outside of an Urban Growth Area (UGA) boundary requires a Conditional Use Permit (CUP). The project site is located outside of a UGA; therefore, a CUP approval is required. Proposal seeks approval for an after the fact 768 square foot detached accessory structure built in 1996, later converted by the previous owners as an ADU, to come into compliance with current Kitsap County Code (KCC). A site development activity permit for single family residence (SDAP-SFR) was approved November 23, 2005, issued May 9, 2008, and Closed Finaled October 13-14, 2008, under SDAP-SFR #05-27406, with a site plan showing both structures as existing.

2. Project Request

The applicants request approval for a Conditional Use Permit to allow an existing unpermitted ADU on their 9.06-acre parcel.

3. SEPA (State Environmental Policy Act)

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated March 22, 2023. A Determination of Nonsignificance (DNS) was issued on April 2, 2024. SEPA noted the following information.

CONDITIONS:

1. The project has been conditions to follow Kitsap County Title 12 for Stormwater controls.

The SEPA appeal period expired April 16, 2024. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

Average grades on the property at and near the location of the proposed development have slopes of approximately averaging 0 to 5% descending to the southwest, with descending slopes of 38% beyond.

The Assessor’s data shows structures on site to be a 2,828 square foot single-family residence with two decks totaling approximately 434 square feet, and a 528 square foot attached garage built in 1999 and a 768 sf General Purpose building built in 1996.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential (RR) Zone: RR	Standard	Proposed
Minimum Density	NA	NA, existing
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140*	NA
Minimum Lot Depth	140	NA
Maximum Height	35 feet	2 story, <35 feet
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA, existing

Applicable footnotes: NA

Staff Comment: LOT 6 OF LARGE LOT SUBDIVISION NO. 108, RECORDED OCTOBER 3, 1989, UNDER AUDITOR'S FILE NO. 8910030162, thereby considered to be a legally established parcel with no proposal to create any new lots.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50 feet	~232 feet
Side (North)	20 feet; 5 feet for accessory structures	~400 feet
Side (South)	20 feet; 5 feet for accessory structures	~140 feet
Rear (East)	20 feet; 5 feet for accessory structures	~400 feet

Staff Comment: Upon conversion from an accessory structure (detached garage) to an ADU, side and rear setbacks shall be required same as SFR setbacks. Zoning setbacks are met.

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single Family Residential (SFR)	Rural Residential (RR)

South	Forest Land	Rural Wooded (RW)
East	Green Mountain State Forest Undeveloped Land	Mineral Resource Overlay (MRO)/RW
West	SFR and Vacant/Undeveloped	RR

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District #401

5. Access

Existing vehicular access to the site is from Fern Ln W., defined as a local private right of way (ROW) and showing on Assessors maps as benefitting five or more lots.

6. Site Design

There is an existing shared driveway currently used for the SFR and the ADU. The existing ADU/Detached Garage is located approximately 250 feet westward of the primary residence.

7. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016, and as amended thereafter.

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

Land Use Goals and Policies

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)
Title 19	Critical Areas Ordinance
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 the following Exhibits.

Exhibit #	Document	Dated	Date Received
1	STAFF REPORT	05/02/2024	
2	Large Lot Plat Map (AFN 8910030162)	10/03/1987	
3	SDAP for Barn/Outbuilding (Permit # 05-27406)	07/2005 – 10/2005	07/01/2005
4	Permit Submission (Application)	10/26/2022	02/22/2023
5	ADU Elevations/Photos		02/22/2023
6	Building Site Plan		02/22/2023
7	Building Site Plan Insert		02/22/2023
8	Drainage Review		02/22/2023
9	Existing Home Pictures		02/22/2023
10	Existing SFR Floor Plans		02/22/2023
11	SEPA Checklist	04/30/2021	02/22/2023
12	Septic Design/Water Availability	12/14/2020	02/22/2023
13	Single Family Wetland Certification	01/11/2021	02/22/2023
14	Updated Stormwater Worksheet		02/22/2023
15	Notice of Application	03/22/2023	
16	Public Comment- Skokomish Tribe	03/28/2023	03/28/2023
17	Information Request	07/03/2023	
18	ADU Elevation		11/29/2023
19	ADU Floor Plan		11/29/2023
20	ADU Revision		11/29/2023
21	Geological Letter	11/06/2023	11/29/2023
22	Site Map		11/29/2023
23	Stormwater Conditions Memo	01/02/2024	
24	Staff Response to Skokomish Tribe	03/28/2024	

25	SEPA Determination	04/03/2024	
26	Notice of Public Hearing	04/24/2024	
27	Certification of Public Notice	04/29/2024	
28	Staff Presentation		
29	Hearing Sign In		

9. Public Outreach and Comments

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1	<p>As retribution for the unpermitted ADU / After the Fact Permitting, the landowner should be responsible for eradicating the butterfly bush on their property along with any species of the invasive knotweed complex (https://www.montana.edu/extension/invasiveplants/documents/publications/extension_publications/Knotweed%20complex_EB0196.pdf).</p> <p>Knotweed and butterfly bush are difficult to control, and the Tribe recommends the landowner work with Kitsap County Noxious Weeds or a local Regional Fisheries Enhancement Group to make sure best management practices are followed.</p>	16

Issue Ref. No.	Issue	Staff Response
1	Invasive Species	The Skokomish Tribes comments will be added to the file and included in staff's report as a recommendation.

10. Analysis

a. Planning/Zoning

Per KCC section 17.415.015.B., to encourage the provision of affordable housing, an ADU may be located in residential zones and be allowed as a conditionally permitted use in those areas located outside an urban growth boundary, subject to the following criteria (*italicized*). Staff comments are provided below:

- Only one ADU shall be allowed per lot;*

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

- Owner of the property must reside in either the primary residence or the ADU;*

Staff Comment: The owner will reside in the primary residence, as stated in the submission application.

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

Staff Comment: Applicant provided supporting documentation that the primary dwelling totals 2,828 square feet as habitable space. Fifty percent of the habitable area of the primary residence is 1,414 square feet, therefore, the ADU is limited to 900 square feet (the smaller value). Dimensions are determined by interior measurements. The floor plan for the ADU demonstrates the size as 768 square feet of habitable area on the second floor above the existing garage.

It should be mentioned that KCC17.110.319 defines “Habitable area” as the entire area of a dwelling unit or living quarters used for living, sleeping, eating and/or cooking. Storage areas and garages are excluded from calculations of habitable area. A “Habitable floor” means any floor usable for living purposes including working, sleeping, eating, cooking, or recreating uses, or any combination of these uses. A floor used only for storage purposes is not a “habitable floor” per KCC17.110.320.

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

Staff Comment: The structure proposed for the ADU is existing, and is a conversion of an existing detached structure, approximately 255 feet apart, therefore meeting the criteria in KCC 17.415.015 B.4.

5. *The ADU shall be designed to maintain the appearance of the primary residence;*

Staff Comment: The existing SFR and the proposed 768 square foot ADU shall be similar in design, appearance and character, and added as a condition of approval at the end of this report. The narrative provided by the applicant states the proposed ADU is in an existing structure which was permitted and built prior to construction of the primary residence. The existing permitted structure is a two story, two car garage/ out building with an unpermitted apartment on the second floor. It is made to look like a barn, the primary residence is a farmhouse and they do not plan to change the appearance of the existing permitted building. Staff finds the design criteria is met.

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

Staff Comment: The proposal meets all required setbacks for a lot this size, within the Rural Residential (RR) zone.

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

Staff Comment: The Kitsap County Health District reviewed and approved the ADU for OSS October 21, 2020, and water December 14, 2020.

8. *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.

9. *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 shows the proposed ADU will use the existing driveway utilized by the single-family residence.

10. *An ADU is not permitted on the same lot where an accessory dwelling unit, attached (ADU-A), exists.*

Staff Comment: A condition is added upon approval only one ADU is permitted. Floor plans for the primary dwelling were submitted and show that there is not an attached ADU.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

The proposal allows for an additional parking space for the ADU.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached/detached)	During subdivision, 2 per unit + 0.5 per unit on street or set aside; for historical lots or lots with no	3	Site allows for at least 3 spaces.

Accessory Dwelling Unit (ADU)	standing requirement, 3 per unit. 1 additional space	1	2
Total		4	5

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) 17.500.025		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

f. Frontage Improvements

Not applicable; there are no frontage improvement requirements for an ADU, However, there are access requirements that limit access to one road approach off a County road. This is addressed under the access heading.

g. Design Districts/Requirements

The subject property is not located within a design district, therefore the ADU is not applicable to design district requirements.

h. Development Engineering/Stormwater

Development Engineering accepts the concepts contained in this preliminary submittal and requires the conditions at the end of this report, as an element of the land use approval.

i. Environmental

No new clearing limits outside the existing development. Conversion of the use from barn/outbuilding to ADU within the existing structure and existing footprint as seen on approved site plans for the Site Development Activity Permit (SDAP-SFR) #05-27406. Environmental concerns are addressed and conditioned at the end of this report (Section C).

j. Access, Traffic and Roads

Development Services and Engineering reviewed the proposal for compliance with traffic and road standards and recommended approval with no conditions at this time.

k. Fire Safety

The Kitsap County Fire Marshall's staff reviewed and approved the proposal. Customer has elected to install automatic sprinkler system to mitigate for not having fire department access. Automatic sprinkler system approval will be required on the building permit and is added as a condition at the end of this report.

l. Solid Waste

Solid Waste review was not required for this proposal.

m. Water/Sewer

Sewer is not available at this site therefore no review was needed.

n. Kitsap Public Health District

The Kitsap County Health District reviewed and approved the ADU for OSS October 21, 2020, and water December 14, 2020.

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.

Staff comments: The proposal supports the intent to increase affordable housing options in Kitsap County while limiting the density in the rural areas to ensure the preservation of those areas. The applicants are bringing the ADU into compliance with current county code. There will be 2 legally existing dwelling units rather than an unpermitted use. This proposal meets all the required regulations applicable per KCC17.415.015 (B). The proposal is consistent with the existing residential use of the property and the surrounding properties. The design, size, and placement of the proposed ADU effectively utilizes the existing features of the property while complementing the surrounding neighborhood characteristics.

13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 17.550.030.A, the Department of Community Development recommends the Conditional Use Permit for an ADU request for Wintch 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. If archaeological resources are uncovered during excavation, developers and property owners must immediately stop work and notify Kitsap County, the Office of Archaeology and Historic Preservation and affected Indian tribes.
3. The ADU is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
4. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the ADU building,

regardless of whether a building permit is required, shall be reviewed by the DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.

5. Only one ADU shall be permitted on the subject property.
6. The owner of the property must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time.
7. The ADU'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 768 square feet. 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.
8. The ADU shall be designed to maintain the character and appearance or an alternate design to align with the aesthetics of the primary residence.
9. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
10. No mobile home or recreational vehicle shall be allowed as an ADU.
11. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
12. An Accessory Living Quarters (ALQ) or Guest House (GH) is not permitted on the same lot unless the ADU is removed, and the GH complies with all requirements imposed by the KCC.
13. A property with a primary residence and an ADU cannot be segregated to create two separate legal lots unless it complies with all subdivision, zoning and density requirements in place at the time of a complete subdivision application.
14. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
15. The recipient of any CUP 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 CUP and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the DCD 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 KCC. 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. 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 CUP approval shall automatically become void if no development permit application is accepted as complete by the DCD 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 CUP.

b. Development Engineering

21. Building permits submitted for this development shall include construction plans and profiles for all roads, driveways, storm drainage facilities and appurtenances. No construction shall be started prior to said plan acceptance.
22. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Building Permit is deemed

fully complete. If development meets the thresholds for engineered drainage design, 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 Building Permit Application.

23. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Engineering will require additional review and potentially new conditions.

c. Environmental

N/A

d. Traffic and Roads

24. 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.

e. Fire Safety

25. Automatic sprinkler system approval is required before signing off on framing inspection for the building permit.

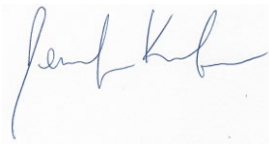
f. Solid Waste

26. None at this time

g. Kitsap Public Health District

27. None at this time

Report prepared by:



Jenny Kreifels, Staff Planner / Project Lead

April 30, 2024

Date

Report approved by:



April 30, 2024

Katharine Shaffer, Planning Supervisor

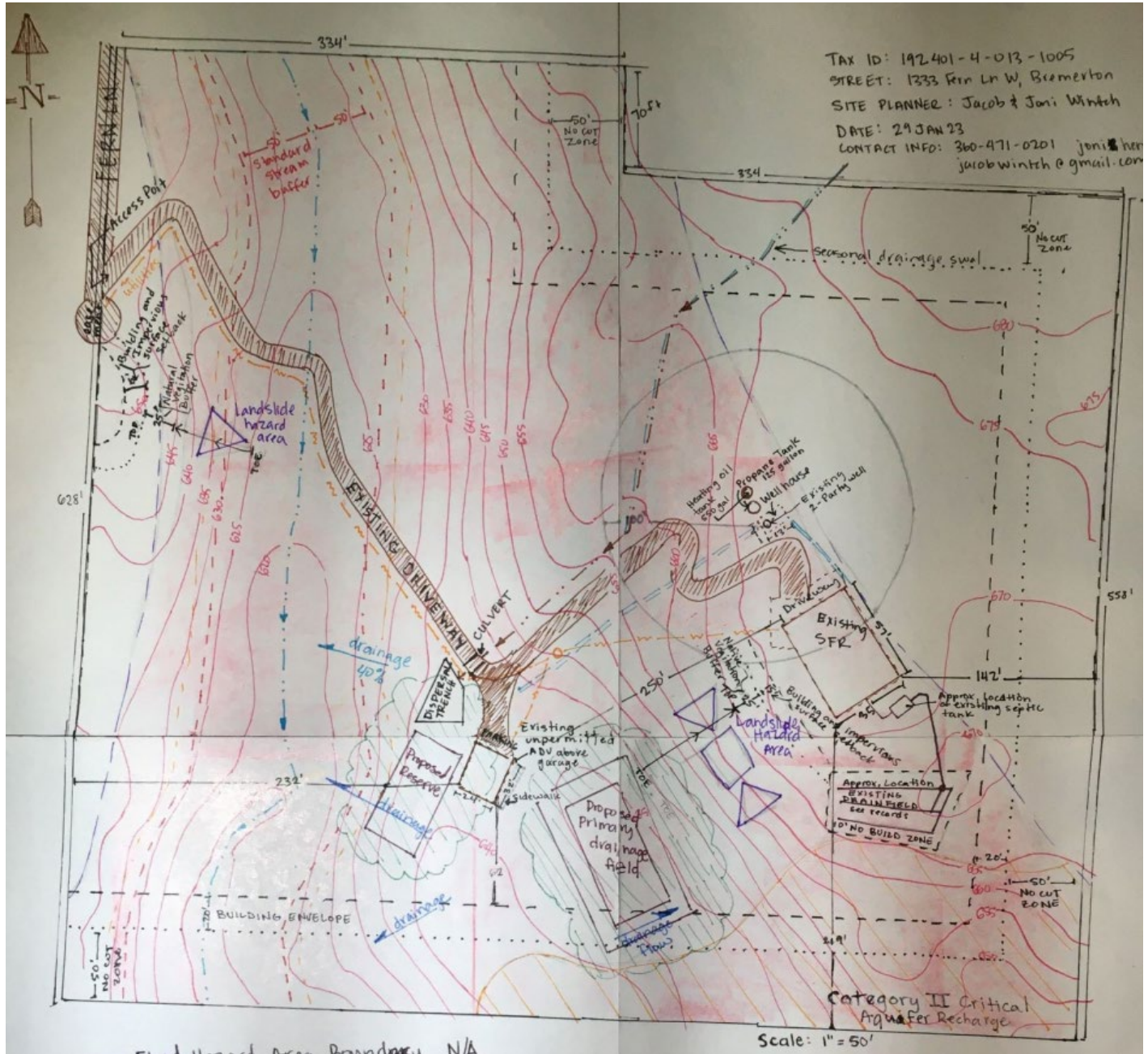
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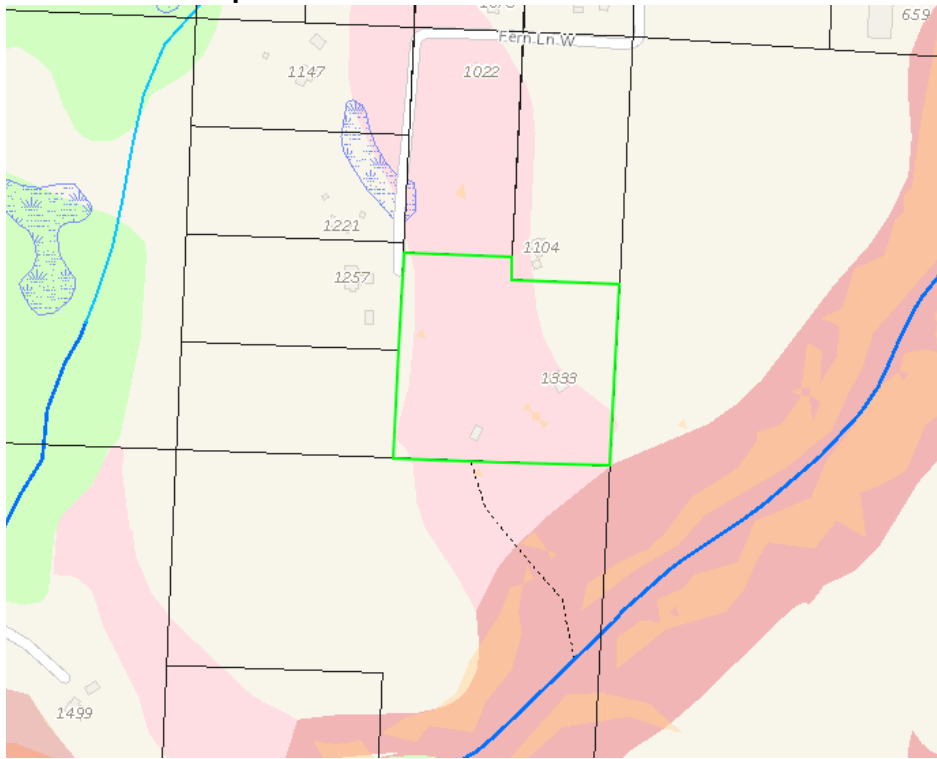
- Attachment A – Site Plan
- Attachment B – Critical Areas Map
- Attachment C – Zoning Map

CC: Owners: Jacob and Joni Wintch, jacobwintch@gmail.com
Applicant: Joni Wintch, jonihen3@yahoo.com
Skokomish Tribe, apapiez@skokomish.org
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Jenny Kreifels

Site Plan



Critical Areas Map



Zoning Map

