



Administrative Staff Report

Report Date: May 22, 2020

Application Submittal Date: January 7, 2020

Application Complete Date: January 31, 2020

Project Name: WNEK - Moderate Home Business
Type of Application: HOME BUSINESS
Permit Number: 20-00064

Project Location

1719 STANTON WAY NW
BREMERTON, WA 98311
Commissioner District 3

Assessor's Account

4973-000-008-0106

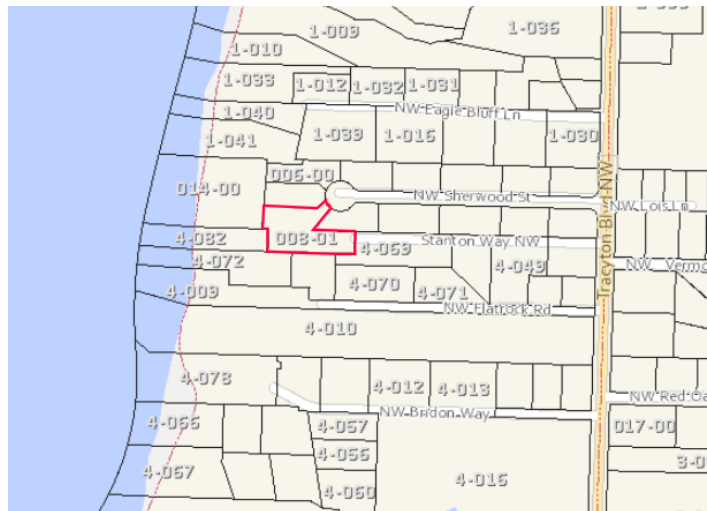
Applicant/Owner of Record

WNEK MICHAEL & CAROL
1665 NW SHERWOOD ST
BREMERTON WA 98311

Decision Summary

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

VICINITY MAP



1. Background

In 2017, Kitsap County’s Department of Community Development (hereafter, “the Department”) approved, with conditions, a Moderate Home Business permit (Permit 16 03513) for Michael Wnek’s (hereafter, "the Applicant") engineering office, Wnek Engineering. The business has since occupied a mobile home on the subject property. In late 2019, various complaints were received by the Department, alleging violations of the permit’s conditions of approval. The Department opened a code enforcement case (CC19 0245) in November 2019 to investigate the complaints. The Department found the property in violation and directed the Applicant to apply for a new home business permit in order to allow modified conditions of approval to be placed on the permit to mitigate neighborhood concerns. Kitsap County Code does not have a method for amending prior Home Business permits; therefore, approval of a new home business permit will revoke and replace the previous approval.

2. Project Request

The Applicant is proposing a 45-ft x 25-ft, two-story accessory structure which will accommodate the business on the second floor with a ground floor garage. This structure will replace the existing mobile home on site. Normal office hours will remain and be permitted Monday through Friday 8:00 AM to 5:00 PM; however, the applicant proposed business hours of operation from 7:00 AM to 8:00 PM, 7 days per week to allow flexibility for employee overtime, janitor services, and computer maintenance. The proposal includes four (4) parking stalls for the business on a gravel parking area with a proposed access from both NW Sherwood Street (County maintained right-of-way) and Stanton Way NW (private easement).

3. SEPA (State Environmental Policy Act)

Pursuant to WAC 197-11 and KCC 18.04.090, this project is exempt from SEPA review.

4. Physical Characteristics

This irregularly shaped parcel is located off NW Sherwood Street and Stanton Way NW in Central Kitsap County, Commissioner District #3. The owner completed a Boundary Line Adjustment in 2016 resulting in the current lot configuration. According to the Assessor's database, the site is 0.83 acres and is occupied by two residential structures: stick-built single-family residence and a mobile home, which is currently occupied by the home business. The site is mostly cleared and slopes down gradually from east to west toward the shoreline, with slopes averaging at approximately eight percent (8%).

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	NA	NA. Request is not for a land division
Maximum Density	1 dwelling unit per 5 acres	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140 feet	NA
Minimum Lot Depth	140 feet	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 (East)	50 feet	161 feet

Side (North)	5 feet for accessory structures	118 feet
Side (South)	5 feet for accessory structures	5 feet
Rear (West)	5 feet for accessory structures	80 feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Residential (RR)
South	Single-family residence 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	City of Bremerton
Power	Puget Sound Energy
Sewer	On-site septic
Police	Kitsap County Sherriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District (401)

5. Access

The site gains access from both NW Sherwood St (County maintained ROW) and Stanton Way NW (private easement).

6. Site Design

The business will be located within a proposed detached accessory structure on the southern portion of the lot. This structure will replace the existing mobile home. Associated parking for the business will be adjacent to the accessory structure in a gravel parking area.

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 59

Allow or conditionally allow home-based cottage-type businesses and industries in the rural areas that do not negatively affect rural level of service or rural character.

Economic Development Goal 1

Promote a healthy and diverse economy that provides for a strong and diverse tax base, encourages business formation, retention, and expansion; creates industrial and professional business and employment opportunities to attract new business to the County.

Economic Development Policy 3 Provide a diverse mix and appropriate range of commercial, industrial and business and uses that will encourage economic activity capable of providing living-wage jobs and reasonably scaled to the needs of the community.

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

Applicant Submittals

Dated or date stamped

- | | |
|---------------------------------------|------------------|
| 1. Home Business Application | January 8, 2020 |
| 2. Building Plans | January 8, 2020 |
| 3. Concurrency Test | January 8, 2020 |
| 4. Drainage Plans | January 8, 2020 |
| 5. Geologic Assessment | January 8, 2020 |
| 6. Parking Analysis | January 8, 2020 |
| 7. Project Narrative | January 8, 2020 |
| 8. Stormwater Worksheet | January 8, 2020 |
| 9. Health District Building Clearance | January 29, 2020 |
| 10. Water Availability Letter | January 29, 2020 |

- | | |
|-----------------------------------|------------------------|
| 11. Emails from various neighbors | November - March, 2020 |
| 12. Signed Letter from Neighbors | December 13, 2020 |
| 13. Revised Building Plans | April 22, 2020 |
| 14. Revised Site Plan | April 22, 2020 |
| 15. Revised Drainage Plans | April 22, 2020 |
| 16. Driveway Extension Plan | April 22, 2020 |

Staff Communication

Dated

- | | |
|---|--------------------|
| 17. Dev. Services & Engineering Memo | January 29, 2018 |
| 18. Emails from Public Works Traffic | |
| 19. Email from DCD Staff regarding catch basin interception | May 23 to 30, 2017 |

9. Public Outreach and Comments

This project is a Type 1 decision, which does not require a Notice of Application or public comment period per KCC Title 21 Land Use and Development Procedures. However, multiple comments were received by the Department as part of the related code compliance case, summarized below:

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1	In various emails and a letter dated 12/13/2019, multiple neighbors expressed concern that the current business is in violation of various conditions of approval and urged the Department to exercise its authority to revoke the permit.	11, 12
2	Neighbors expressed concern that the existing mobile home does not meet building code for business occupancy.	11, 12
3	Emails from Patsy Doran and Sean Grief expressed concern that employees and/or patrons of the business are parking on private property, public right-of-way (ROW), and in an easement area shared by the neighboring community.	11
4	Neighbors expressed concern over traffic increase and vehicle speed on Stanton Way and NW Sherwood St. A request was received for speed bumps to be installed on NW Sherwood Street.	11
5	Neighbors expressed concern that the use of Stanton Way NW for home business use is a violation of the recorded easement agreement.	11
6	An email from Jim West requested that the business be limited to two employees.	11

7	Neighbors expressed concern that the Applicant has conducted certain site development activities (installing storm drainage facilities and driveways) without the required permits.	11
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Issue Ref. No.	Issue	Staff Response
1	Operating outside of the original conditions of approval and revocation of permit.	The Department opened a code compliance case (CC 19 0245) to investigate possible violations and determined that the business/property was in violation. Though Kitsap County Code Title 17 gives the Department the authority to revoke a home business permit when conditions of approval are not met, it is the Department's approach to first engage in steps toward compliance. The Department has required the Applicant to apply for a new home business permit, on which additional conditions of approval will be applied, to mitigate neighborhood concerns and ensure continued compliance.
2	Mobile home not meeting building code.	The applicant is proposing to remove the mobile home and replace it with a new stick-built structure. The Department is requiring the Applicant to discontinue the business use of the mobile home within 30 days of the approval of this home occupation permit (Condition 21).
3	Parking on private property and public ROW	The permit has been conditioned to require all business activity and off-street parking to be contained on the Applicant's property (Condition 1).
4	Traffic and Speeding	Additional conditions have been placed on this approval to address traffic issues (Conditions 4, 20). Kitsap County Public Works will not require this project to install speed bumps. Additional details are provided in Section 10.j. of this report.
5	Overuse of private easement (Stanton Way)	A condition restricting all business-related traffic to NW Sherwood St has been added (Condition 21). The applicant agreed to this condition of approval in a telephone conversation on March 30, 2020. Additional details are provided in Section 10.j. of this report.

		It should be noted that the Department cannot prevent the Applicant from accessing their property if legal access is, or has been established, via a private easement, or otherwise. It should also be noted that the Department does not have authority over private property and easement disputes.
6	Limiting the business to two employees	Per KCC 17.410.060.B.1.c.v, moderate home businesses are allowed up to five employees. All normal activity associated with those five employees is considered acceptable under current code parameters. The Department has determined that limiting the business to two employees is not a reasonable condition and will continue to allow up to five employees, or independent contractors, including the owner (Condition 9).
7	Site development without required permits.	Staff have reviewed the project and has approved the proposed site plan with two conditions (Conditions 18 and 19). The neighborhood comments regarding the unpermitted work to intercept storm water for private irrigation was reviewed by the department in 2017 and no permit was required at that time. Further details are provided in Section 10.h of this report.

10. Analysis

a. Planning/Zoning

A home business within the Rural Residential (RR) zone requires an administrative conditional use permit as specified in Kitsap County Code (KCC) Table 17.410.042.128, subject to footnotes 1 and 53. Footnote 1 indicates a home business is subject to compliance with Section 17.410.060 provisions applying to special uses. Footnote 53 further details that home businesses are subject to the requirements of Section 17.410.060(B). KCC 21.04.100 includes a specialized permit for home businesses, processed as a Type 1 application.

Moderate home businesses are required to meet the provisions in KCC 17.410.060.B.1.c. Moderate home business shall be permitted in RW, RP, and RR zones, subjects to the following standards:

- i. Business uses shall be incidental and secondary to the dominant residential use;*

Staff Comment: The dominant use of the property is the single-family residence.

ii. The residential character of the building shall be maintained and the business shall be conducted in such a manner as to moderate any outside appearance of a business;

Staff Comment: The proposed structure resembles a residential garage and all business activities will be conducted within this structure. No outdoor storage or outdoor activities are proposed.

iii. The residence shall be occupied by the owner of the business;

Staff Comment: The owner of the business will reside in the single-family residence located on the same parcel as the detached structure that will serve as the office.

iv. The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes;

Staff Comment: The Department received various complaints that the existing home business was in violation of this standard. The Department has reviewed the complaints and placed additional conditions on the approval, to mitigate neighborhood concerns. See Section 9 of this report for additional details.

v. No more than five employees (or independent contractors) are allowed;

Staff Comment: No more than five employees, including the owner, are proposed or authorized.

vi. Nonilluminated signs not exceeding four square feet are permitted, subject to a sign permit approved by the director; and

Staff Comment: No signage is proposed for this home business.

vii. In order to ensure compatibility with the dominant residential purpose, the director may require:

(a) Patronage by appointment.

Staff Comment: The Director will require patronage to be by appointment only, and as agreed to by the applicant, only at off-site locations. (Condition 4).

(b) Additional off-street parking.

Staff Comment: The proposal meets the minimum parking requirements. A detailed parking analysis is provided in Section 10.c of this report. No additional parking beyond the code minimum is proposed or required.

(c) *Screening of outside storage.*

Staff Comment: No outside storage is proposed or authorized.

(d) *A conditional use permit (required for engine or vehicle repair or servicing).*

Staff Comment: Not applicable

(e) *Other reasonable conditions.*

Staff Comment: All business-related traffic will be restricted to NW Sherwood St. (Condition 21).

In response to the Applicant's request for expanded business hours, the Department will continue to allow normal business hours from 8:00 AM to 5:00 PM, Monday through Friday. Employee overtime, janitor services, and employee maintenance must occur during this time, and no business activity, except by the owner alone, may occur outside this approved window of time.

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

Per KCC 17.490.020.B, in the event several uses occupy a single parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

Per KCC 17.490.030, professional office uses require 1 parking space per every 300 square feet floor area ($1125/300 = 3.75$), or 4 parking spaces (rounded up). The single-family residence requires 3 additional off-street parking spaces. The project requires a total of seven (7) off-street parking spaces on the parcel (See Table 5 below). The submitted site plan shows adequate off-street parking on existing driveways and a new gravel parking area.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
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Professional Office	1 per 300 square feet of gross floor area	4	4
Single Family Residence	3 per unit	3	3
Total		7	7

d. Signage

No signage is required or proposed.

e. Landscaping

Per KCC 17.500.010, single-family lots shall be 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	NA	NA
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

f. Frontage Improvements

No frontage improvements are proposed or required.

g. Design Districts/Requirements

The property is not within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed the proposal and recommends approval with two conditions (Condition 19 and 20).

The Department received complaints that the Applicant had constructed a private irrigation system without permits. In 2017, the Applicant informed the Department about this plan and it was determined that no permit was required. On May 1, 2020, the Department conducted an inspection and verified that the existing conditions matched the proposal from 2017. No further action is required regarding this issue.

i. Environmental

A geologic assessment by Resolve Environmental & Geotechnical, Inc., dated January 9, 2019, was submitted to address shoreline slopes. The project meets the required top of slope buffers and setbacks per KCC 19.400. No design or engineering recommendations were made.

The site is located over 200 feet away from the shoreline of Dyes Inlet and is not subject to KCC Title 22 Shoreline Master Program.

j. Access, Traffic and Roads

The site has two access points: NW Sherwood St (a County maintained ROW) and Stanton Way NW (a private easement). The original home business approval did not place restrictions on access. Multiple neighbors have expressed concern over increased traffic, speeding, damage to property, and unauthorized parking. Neighbors have also expressed concern that the use of Stanton Way for business activity violates the private easement agreement. The Department also received a request to require speed bumps on Sherwood St.

In a phone conversation on May 31, 2020, the Applicant recognized that the business activity had grown to provide shared office space for other business associates. Condition 11 has been added to ensure that the home business approval is for the use of Wnek Engineering employees and contractors only and approval is not transferrable to any other businesses. In the same phone conversation, the Applicant agreed to patronage by appointment only, at an offsite location (Condition 4).

In response to the request for speed bumps, the Department contacted Public Works to analyze the project. Public Works will not condition the permit to require speed bumps but has provided a method to initiate the process. A traffic study is required to determine if the street is eligible for speed bumps under the County's policy. A request from the homeowner's association (if one exists) or a petition from the neighborhood must be submitted to Public Works to initiate the traffic study.

In response to the violation of the easement agreement, the Department does not have authority over private easement agreements. The Applicant agreed verbally, on March 30, 2020, to divert all business-related traffic away from the private road. This has been added as a condition of approval (Condition 19).

k. Fire Safety

The Department has reviewed and approved the proposal with conditions (Condition 22, 23).

l. Solid Waste

The home business will use the same solid waste service as the primary residence.

m. Water/Sewer

The site has existing connections to water service and no sewer connection is proposed, the site is served by an on-site septic system.

n. Kitsap Public Health District

The Kitsap Public Health District has reviewed and approved the project with no conditions. An approved Building Site Application has been submitted with the application.

11. Review Authority

The Director has review authority for this Home Business application under KCC Section 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Director. The Director may approve, approve with conditions, or deny a Home Business application.

12. Findings

1. The proposal, as modified by the decision, 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, through imposed conditions outlined in this report.
3. The proposal, as modified by the decision, 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 KCC17.410.060 (B)(1)(c), the Department of Community Development that the Moderate Home Business request for Wnek Engineering be approved, subject to the following 25 conditions:

a. Planning/Zoning

1. All business activity, including parking, shall be contained on the subject parcel;
2. The hours of operation shall be 8:00 AM - 5:00 PM, Monday through Friday. This window of time shall also be for employee overtime, janitor services, and computer maintenance;
3. A minimum of four off-street parking spaces shall be provided for the business;

4. All patronage shall be by appointment only, at an offsite location;
5. Business uses shall be incidental and secondary to the dominant residential use;
6. The residential character of the building shall be maintained and the business shall be conducted in such a manner as to moderate any outside appearance of a business;
7. The residence shall be occupied by the owner of the business;
8. The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes;
9. No more than five employees (or independent contractors) are allowed;
10. Nonilluminated signs not exceeding four square feet are permitted, subject to a sign permit approved by the director;
11. The home business permit is not transferable to any individual, future property owner, other business, or location;
12. The business shall comply with all applicable Health District requirements;
13. The use of the subject property is limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of 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;
14. The decision set forth herein is based upon representations made and exhibits contained in the file. Any substantial 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;
15. 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 precedent 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;
16. Any violation of the conditions of approval shall be grounds to initiate revocation of this moderate home business permit;
17. This Home Business 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 resolutions of any appeals;

b. Development Engineering

18. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12; and demonstrates the required level of drainage review is Simplified Drainage-Engineered. Provided the plans submitted for the required

- building permit do not substantively differ from those submitted for this permit, the requirement for engineered drainage plans is waived; applicant shall submit with the building permit the information required for Simplified Drainage review and a geologic report containing supportive drainage recommendations;
19. If the project proposal is modified from that shown on the submitted site plan accepted for review 4/22/2020, Development Services and Engineering will require additional review and potentially new conditions;

c. Traffic and Roads

20. The primary access for business activities shall be from NW Sherwood Street;

d. Building and Fire Safety

21. Wnek Engineering shall discontinue the use of the mobile home on the property for other than a single-family residence within 30 days of the approval of the home occupation permit. Failing to discontinue, other than for a single-family use, may result in additional enforcement action including additional legal action and assessment of penalties;
22. A building permit is required for the home business/office use structure;
23. A demolition permit is required for the removal of the mobile home;
24. Accessory structures that exceed 3600 square feet shall be provided with fire flow;
25. Approved fire apparatus access shall be provided when a home-based business includes any one of the following:
- a. 6 or more employees; at any time (including the owner/operator). The submitted application is approved for a total of 5 employees including the owner.
 - b. Serves customers on-site. The Home Business is not approved for on-site client visits.
 - c. Is categorized as an A, E, F, H, I, M or S use; as defined in the International Building Code (IBC)

Report prepared by:



5/22/2020

Tasha Santos / Project Lead

Date

Report approved by:



for

5/22/2020

Shawn Alire / Supervisor

Date

Attachments:

Attachment A – Site Plan

CC: Mike and Carol Wnek - mike@wnekeng.com

Interested Parties:

Sean Greif sgreif@orminc.com

Jim West jbandsp@hotmail.com

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DCD Staff Planner: Tasha Santos lsantos@co.kitsap.wa.us

DCD Code Compliance: Kim Dunn kdunn@co.kitsap.wa.us

Site Plan

