



Notice of Hearing Examiner Decision

11/30/2021

To: Interested Parties and Parties of Record

RE: Project Name: TATUM - Conditional Use for Accessory Dwelling Unit
 Applicant: James Tatum
 3897 Beach Drive E
 Port Orchard, WA 98366
 Application: CUP-ADU
 Permit Number: 21-00116

The Kitsap County Hearing Examiner has APPROVED the land use application for 21-00116: TATUM - Conditional Use for Accessory Dwelling Unit – CUP-ADU, **subject to the conditions outlined in this Notice and included Decision.**

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

<https://spf.kitsapgov.com/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>

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 at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. If you wish to view the case file or have other questions, please contact Help@Kitsap1.com or (360) 337-5777.

CC: Applicant and/or Rep: James Tatum, jet20853@gmail.com
Owner: James & Yvonne Tatum
Engineer: N/A
Surveyor: N/A
Kitsap County:
Project Lead: Roxanne Robles
DCD DSE Manager: Scott Diener
Prosecutor's Office
Assessor's Office

DCD Director

DCD Assistant Director

Point No Point Treaty Council: Cynthia Rossi, crossi@pnptc.org; Thom Johnson, tjohnson@pnptc.org

Suquamish Tribe: Alison O'Sullivan, aosullivan@suquamish.nsn.us; Stephanie Trudel, strudel@suquamish.nsn.us

Kitsap Sun

Interested Parties:

None

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 21-00116
)	
James Tatum)	Tatum Accessory Dwelling Unit CUP
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Conditional Use Permit</u>)	AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to allow the conversion of an existing cottage and carport into a detached accessory dwelling unit, at 3897 Beach Drive East, is **APPROVED**. Conditions are necessary to address specific impacts of the proposal.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on November 4, 2021, using remote access technology. The record was left open until November 11, 2021, to allow any member of the public having difficulty connecting to the remote hearing to submit written comments in lieu of live testimony.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Roxanne Robles, County Senior Planner
James Tatum, Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated October 28, 2021
2. Required Permit Questionnaire – Conditional Use Permit – Accessory Dwelling Unit, received February 24, 2021
3. ADU Floor Plan (2 Sheets), received February 24, 2021
4. Three (3) ADU Photographs, received February 24, 2021
5. Email from Jeff Smith to James Tatum, dated February 1, 2021, with email string
6. Four (4) Photographs of Main Residence, received February 24, 2021

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7. Parcel Location Map, received February 24, 2021
8. Project Narrative, dated January 8, 2021
9. SEPA Environmental Checklist, dated January 18, 2021
10. Site Plan, dated January 29, 2021
11. Submittal Waiver, dated January 18, 2021
12. Notice of Application, dated May 5, 2021
13. Revised Determination of Nonsignificance, dated October 5, 2021
14. Notice of Public Hearing, issued October 20, 2021
15. Certification of Public Notice, dated July 22, and October 20 and 21, 2021
16. Staff Presentation
17. Hearing Sign-In, November 4, 2021.
18. Email from James Tatum to Roxanne Robles, dated November 2, 2021, with email string

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. James Tatum (Applicant) requests a conditional use permit (CUP) to convert an existing cottage and carport into a 534 square foot accessory dwelling unit on a 0.77-acre property that is currently developed with a 3,766 square foot single-family residence. The property is located at 3897 Beach Drive East.¹ *Exhibit 1, Staff Report, pages 1 and 2; Exhibits 2 through 4; Exhibit 6; Exhibit 8.*
2. Kitsap County (County) determined that the application was complete on February 26, 2021. On May 5, 2021, the County provided notice of the application consistent with the requirements of Kitsap County Code (KCC) 21.04.210 by publishing notice in the County's publishing newspaper of record and by mailing notice to property owners within 800 feet of the site and to reviewing departments and agencies. The County's notice materials stated that written comments on the proposal should be submitted prior to the November 4, 2021, open record hearing. On October 20, 2021, the County provided notice of the open record hearing associated with the application by publishing notice in the County's publishing newspaper of record and by mailing notice to property owners within 800 feet of the site. The next day, the Applicant posted notice of the hearing on-site. The County did not receive any comments on the proposal in response to its notice materials. *Exhibit 1, Staff Report, pages 1 and 6; Exhibit 12; Exhibit 14; Exhibit 15.*

¹ The property is identified by Kitsap County Assessor's Tax Account No. 172402-2-054-2008. *Exhibit 1, Staff Report, page 1; Exhibit 8.*

State Environmental Policy Act

3. The County acted as lead agency and analyzed the environmental impacts of the project as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The County consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, with a SEPA comment deadline of May 19, 2021. The County's notice materials stated that the County expected to issue a Determination of Nonsignificance (DNS) for the proposal. The County did not receive any comments on the environmental review of the proposal. The County reviewed the Applicant's environmental checklist and other information on file and determined that the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a DNS on July 22, 2021, which it later revised and reissued on October 5, 2021, with an appeal deadline of October 19, 2021. The DNS was not appealed. *Exhibit 1, Staff Report, page 2; Exhibit 13.*

Comprehensive Plan and Zoning

4. The property and all surrounding properties are designated "Rural Residential" by the County Comprehensive Plan. County staff identified the following Comprehensive Plan policies as relevant to the proposal:
 - Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, that cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service. [Land Use Policy 50]
 - Permit residential uses in rural areas consistent with the planned rural character of the surrounding area. [Land Use Policy 51]
 - 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 designations, zoning designations, and zoning code provisions. [Land Use Policy 53]
 - Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing. [Housing, Human Services Policy 5]
 - Adopt regulatory changes to allow non-traditional housing types. [Housing, Human Services Policy 7]
 - 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 11]

- Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply. [Housing, Human Services Policy 12]
- Identify and remove impediments to creating housing for harder to house populations. [Housing, Human Services Policy 13]
- Disperse affordable housing opportunities throughout the County. [Housing, Human Services Policy 14]

Exhibit 1, Staff Report, pages 2 through 5.

5. The subject property and all surrounding properties are zoned “Rural Residential” (RR). The RR zone “promotes low-density residential development consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services.” *KCC 17.130.010*. ADUs are allowed in the RR zone with a conditional use permit. *KCC 17.410.042*. ADUs in the RR zone are required to have front yard setbacks of 50 feet, and side and rear yard setbacks of 5 feet. *KCC 17.420.052*. In accord with these requirements, the proposed ADU structure would be set back at least 50 feet from the front property line to the south, 162 feet from the side property line to the west, 90 feet from the side property line to the east, and 30 feet from the rear property line to the north. The proposed ADU would be sited approximately 138 feet from the existing single-family residence. Additionally, ADUs are subject to the special-use provisions of *KCC 17.410.060.B.3*. The proposed ADU’s compliance with these special-use provisions is discussed in detail below. *Exhibit 1, Staff Report, pages 2, 3, and 7; Exhibit 10.*

Existing Property and Proposed Development

6. The 0.77-acre site is developed with a 3,766 square foot primary residence, a 200 square foot shed, and a 334 square foot cabin, all of which were built in 1942, as well as a detached 814 square foot garage built in 2010. The southeast corner of the site has a small hill, but the property is otherwise generally flat. The eastern portion of the site is developed with two detached garages and the central portion of the site is developed with the primary residence. The western portion of the site is a large lawn that slopes gently to the shoreline, 20 feet beyond Beach Drive East. The site is accessed from a shared driveway connecting to Beach Drive East, a County-maintained road designated as a minor arterial. The existing access is proposed to serve the ADU, and no new access is proposed. *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 3; Exhibit 12.*
7. The proposed ADU would use existing electrical service. Potable water would be supplied to the ADU by establishing a connection to the water supply line for the main residence, and sewage from the ADU would be directed to the existing grinder pump installed for the main residence. The ADU would include a kitchen, bedroom, bathroom, and living room. The existing attached garage would be reserved for the ADU, and

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would include a washer, dryer, and hot water heater. The ADU would include a main entrance and an entrance from the attached garage into the ADU. The ADU would be sited approximately 138 feet from the existing single-family residence and is similar in appearance to the primary residence. The roof pitch is the same, and both structures use the same wood siding. The Kitsap County Health District reviewed and approved the proposal without conditions. The Applicant would be required to submit documentation of Kitsap County Health District approval with the building permit application. The Kitsap County Fire Marshal's Office also reviewed and approved the proposal without conditions. *Exhibit 1, Staff Report, pages 1 through 10; Exhibit 3; Exhibit 12.*

Conditional Use Permit

8. The County zoning code makes some uses conditional in certain zoning districts. A *conditional use* is an activity specified by the zoning code “as a principal or accessory use that may be approved or denied based on consistency with specific criteria.” *KCC 17.110.175*. As noted above, the Applicant requests a CUP to convert an existing cottage and carport into an ADU, a conditional use in the RR zoning district. *KCC 17.410.042*. ADUs in the RR zone are required to satisfy the ADU special-use provisions of *KCC 17.410.060.B.3*. County staff reviewed the proposal and determined that it would satisfy these provisions. The ADU special-use provisions are listed below, together with County staff's analysis (in italics):
- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary. *The subject property is not located within an urban growth boundary.*
 - b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary. *The subject property is located outside of the urban growth boundary. The Applicant requests approval of a CUP to allow an ADU.*
 - c. Only one ADU shall be allowed per lot. *The Applicant proposes only one ADU. There are no other ADUs present or proposed on the property.*
 - d. Owner of the property must reside in either the primary residence or the ADU. *The owner currently resides in the existing single-family residence.*
 - e. The ADU shall not exceed 50 percent of the square footage of the habitable area of the primary residence or 900 square feet, whichever is smaller. Dimensions are determined by exterior measurements. *The existing residence is 2,700 square feet. 50 percent of 2,700 is 1,350 square feet; therefore, the ADU is limited to 900 square feet. The proposed ADU would measure 534 square feet.*
 - f. The ADU shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure. *The proposed single-family residence and the proposed accessory dwelling unit would be approximately 138 feet apart, satisfying this requirement.*
 - g. The ADU shall be designed to maintain the appearance of the primary residence. *The single-family residence and the ADU are similar in appearance. The roof pitch is the same, and both structures use the same wood siding.*

- h. All setback requirements for the zone in which the ADU would be located shall apply. *All setbacks required by the Rural Residential zone are met for the proposed accessory dwelling unit.*
 - i. The ADU shall meet applicable health district standards for water and sewage. *The application was routed to Kitsap County Health District and approved with no conditions.*
 - j. No mobile homes or recreational vehicles shall be allowed as an ADU. *There are no mobile homes or recreational vehicles present or proposed on the subject property.*
 - k. An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking. *The submitted site plan shows the proposed ADU would use the existing driveway utilized by the single-family residence. The driveway would provide an additional off-street parking space.*
 - l. An ADU is not permitted on the same lot where accessory living quarters exist. *There are no present or proposed accessory living quarters.*
- Exhibit 1, Staff Report, pages 6 through 8; Exhibit 3; Exhibit 4; Exhibit 6.*

Testimony

9. County Senior Planner Roxanne Robles testified generally about the proposal and how it would meet the specific requirements for approval of a conditional use permit to allow creation of an ADU from an existing structure. She explained that the Applicant requests a CUP to convert an existing cottage and carport into a detached ADU. Ms. Robles described the subject property, noting that it is a shoreline property located along Beach Drive East, northeast of the Port Orchard urban growth area. She stressed that there are no shoreline issues associated with proposed ADU conversion. Ms. Robles discussed the proposed site plan and indicated that the proposed ADU would be 534 square feet and would be located on a lot currently developed with a 3,766 square foot single-family residence and associated improvements. She stated that there were previous applications to remodel the primary home in 2004 by a previous owner, an application to decommission a 300-gallon fuel tank in 2018, and an application to complete the garage in 2019. Ms. Robles explained that approval from the Kitsap Public Health District would be necessary to ensure adequate sewer facilities for the ADU bathroom. She noted that the proposed ADU would utilize an existing structure on the property and would not add any new impervious surface area on-site, and, therefore, the County approved the Applicant's request for a waiver from the requirement to submit a stormwater worksheet for the project. Ms. Robles explained that she had issued a revised DNS for the proposal to ensure that it was issued after all review steps were completed, and that there were no changes from original DNS. She clarified that the ADU meets current setback requirements and that the setbacks associated with the existing residence fall under legal nonconforming use provisions because it was built in 1942. Ms. Robles noted that the Applicant had indicated that the ADU is habitable, but currently lacks infrastructure, such as a kitchen and bath. She stated that the Applicant seeks to use the ADU as a rental

property and explained that, if it is used as a vacation rental or bed and breakfast, the Applicant would need to obtain an administrative CUP. *Testimony of Ms. Robles.*

10. Applicant James Tatum testified that he was not aware of any requests for a floor plan of the primary residence. He clarified that the ADU has running water and sewer and is currently habitable. He testified that the ADU is connected into an existing sewer system, that he contacted the West Sound Utility district, and that they approved it. Mr. Tatum voiced his concern that not all of the recommended conditions would appear to apply specifically to his application. For example, he noted the condition regarding road access seems odd considering his proposal does not include modifying any access. Mr. Tatum also discussed an existing permit, number 19-00997, indicating that as it was approaching expiration, he contacted DCD and asked if he needed another extension of that permit given his ending ADU existing use permit. He testified that he should have extended the existing permit based on the proposed conditions. *Testimony of Mr. Tatum.*
11. In response to Mr. Tatum's testimony, Ms. Robles noted that the CUP is a land use decision having nothing to do with how the interior of the cottage is improved. Ms. Robles explained that a building permit is required for the ADU in addition to the land use permit and that, generally, existing permits do not expire for about a year after the expiration date so long as an applicant continues to work with applicable County staff. She added that any building permits being processed are not approved until after the ADU permit is approved and that the existing permit will suffice. Ms. Robles testified that, although several of the conditions do not currently apply to the project, they are standard for an ADU in Kitsap County and are meant to address certain requirements should the project go outside the initial scope, to guide future inspectors and to comply with best practices. *Testimony of Ms. Robles.*

Staff Recommendation

12. County staff recommends approval of the application, with conditions. *Exhibit 1, Staff Report, pages 10 through 14; Testimony of Ms. Robles.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for a conditional use permit. *KCC 2.10.070; 17.550.020.*

Criteria for Review

The Hearing Examiner may approve, approve with conditions, or deny a conditional use permit. Approval or approval with conditions may be granted by the Hearing Examiner only when all the following criteria are met:

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of [the zoning code];
3. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity; and
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.

KCC 17.550.030.A.

As a condition of CUP approval, the Hearing Examiner may:

1. Increase requirements in the standards, criteria, or policies established by [the zoning code];
2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;
3. Require structural features or equipment essential to serve the same purpose set forth in Chapter 17.420;
4. Include requirements to improve compatibility with other uses permitted in the same zone, protecting them from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. The hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by [the zoning code] as pertaining to any use nor otherwise reduce the requirements of [the zoning code] in matters for which a variance is the remedy provided;
5. Assure that the degree of compatibility with the purpose of [the zoning code] shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;
7. Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
8. Impose any requirement that will protect the public health, safety, and welfare.

KCC 17.550.030.B.

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“If the approval criteria are not met or conditions cannot be imposed to ensure compliance with the approval criteria, the conditional use permit shall be denied.” *KCC 17.550.030.C.*

In addition to the criteria listed above, ADUs are subject to the following special-use provisions of KCC 17.410.060.B.3:

- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary;
- b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary;
- c. Only one ADU shall be allowed per lot;
- d. Owner of the property must reside in either the primary residence or the ADU;
- e. The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by exterior measurements.
- f. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (e.g., garage);
- g. The ADU shall be designed to maintain the appearance of the primary residence;
- h. All setback requirements for the zone in which the ADU is located shall apply;
- i. The ADU shall meet the applicable health district standards for water and sewage disposal;
- j. No mobile homes or recreational vehicles shall be allowed as an ADU;
- k. An ADU shall use the same side-street entrance as the primary residence and shall provide additional off-street parking; and
- l. An ADU is not permitted on the same lot where an accessory living quarters exists.

The criteria for review adopted by the Kitsap County Board of Commissioners are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusion Based on Findings

1. **With conditions, the proposed ADU would be consistent with the special-use provisions of KCC 17.410.060.B.3.** The proposed ADU would be located within the Rural Residential (RR) zoning district, outside the boundary of an urban growth area, and would therefore be allowed with a conditional use permit. The Applicant proposes to create only one ADU, and there are no separate ADUs, accessory living quarters, mobile

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homes, or recreational vehicles currently located, or proposed to be located, on the property. The Applicant would continue to reside in the existing 3,766 square foot single-family residence on the property. The proposed ADU would measure 534 square feet, which is less than the 900 square foot maximum permitted for an ADU associated with a 3,766 square foot primary residence. The proposed ADU would be sited approximately 138 feet from the existing single-family residence and is similar in appearance to the primary residence. The roof pitch is the same, and both structures use the same wood siding. The Applicant also proposes to incorporate materials and color schemes on the proposed ADU that would match the existing primary structure, which County staff would review at the building permit stage. The proposed ADU would meet all applicable setback requirements for the RR zone and utilize the existing access serving the carport and cottage, both of which would be part of the proposed ADU. Potable water would be supplied to the ADU by establishing a connection to the water supply line for the main residence, and sewage from the ADU would be directed to the existing grinder pump installed for the main residence. The Kitsap County Health District has reviewed and approved the proposal without conditions. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with applicable statutes, ordinances, and regulations. *Findings 1, 5 – 12.*

2. **With conditions, the proposed project would be meet the criteria for CUP approval under KCC 17.550.030.A.** The County provided reasonable notice and opportunity to comment on the proposal. The County did not receive any comments on the proposal in response to its notice materials. The County analyzed the environmental impacts of the proposal, determined that the proposed use would not have a probable significant adverse impact on the environment, and issued a revised DNS, which was not appealed. The proposed ADU would be consistent with County Comprehensive Plan policies that permit low-density residential uses in rural areas and generally encourage diverse, affordable housing options suitable to meet the needs of county residents. The Kitsap County Health District reviewed and approved the proposal without conditions. As conditioned, the proposed ADU would comply with all applicable provisions of the County zoning code, including setback requirements for the RR zone and the specific ADU special-use provisions of KCC 17.410.060.B.3. The project's compliance with these special-use provisions would ensure that the project would not be materially detrimental to other uses or property in the vicinity and would be compatible with the existing character of the subject property and property in the vicinity. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with relevant federal, state, and local statutes, ordinances, and regulations. *Findings 1 – 12.*

DECISION

Based on the preceding findings and conclusions, the request for a conditional use permit to convert an existing cottage and carport into a detached accessory dwelling unit at 3897 Beach Drive East is **APPROVED**, subject to the following conditions:²

1. All required permits shall be obtained prior to commencement of land clearing, construction, and/or occupancy.
2. The accessory dwelling unit (ADU) is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the ADU building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
4. Only one ADU shall be permitted on the subject property.
5. 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. 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 534 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.
6. The ADU shall be located within 150 feet of the primary residence.
7. The ADU shall be designed to maintain the appearance of the primary residence.
8. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
9. No mobile home or recreational vehicle shall be allowed as an ADU.
10. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.

² This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by the County code.

11. An accessory living quarters or guest house is not permitted on the same lot unless the ADU is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code.
12. 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.
13. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
14. The recipient of any conditional use permit shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of, and agreement to abide by, the terms and conditions of the conditional use permit, and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the Department at the Applicant's expense.
15. The uses of the subject property are limited to the uses proposed by the Applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.
16. 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.
17. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #21-00116. 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.

18. This Conditional Use Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within four years of the Notice of Decision date or the resolution of any appeals.
19. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
20. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require a building permit application, addressing the requirements of Kitsap County Code Title 12.
21. Erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, February 4, 2021. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of building permit application.
22. New and/or replaced hard surfaces do not exceed the 2,000 square foot threshold; nor does the project exceed 7,000 square feet of disturbed area. While a formal plan is not required, the Applicant must consider all elements required of a stormwater pollution prevention plan and make allowances for managing erosion and sediment discharge on site. Per KCC Title 12, if the project exceeds either of the thresholds noted above, then additional review for stormwater management will be required.
23. If the project proposal is modified from that shown on the submitted site plan accepted for review January 27, 2021, Development Services and Engineering will require additional review and potentially new conditions.
24. A 250-foot native vegetation buffer must be maintained along the delineated wetland boundary.
25. At building permit application, submit KCPW Form 1601 for issuance of a concurrency certificate, as required by KCC Section 20.04.030, Transportation Concurrency.
26. The required building permit shall include plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Existing approaches may need to be improved to meet current standards.
27. 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 building permit. The need for and scope of bonding will be determined at that time.

DECIDED this 29th day of November 2021.

A handwritten signature in black ink, appearing to read "Andrew M. Reeves". The signature is fluid and cursive, with a large initial "A" and "R".

ANDREW M. REEVES
Hearing Examiner
Sound Law Center