



## Notice of Hearing Examiner Decision

02/03/2023

To: Interested Parties and Parties of Record

RE:           Project Name: La Deaux Accessory Dwelling Unit (ADU)  
                  Applicant: Leon L, III & Emma L La Deaux  
                                  13427 Burchard Dr SW  
                                  Port Orchard, WA 98367  
                  Application: Conditional Use Permit (CUP-ADU)  
                  Permit Number: #22-01784

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #22-01784 La Deaux Accessory Dwelling Unit – Conditional Use Permit (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://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 by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact [help@kitsap1.com](mailto:help@kitsap1.com) or (360) 337-5777.

CC:   Owner/Applicant: LA DEAUX LEON LAWRENCE III & EMMA LOUISE,  
          [ladeaux@gmail.com](mailto:ladeaux@gmail.com)  
          Engineer: CWA CONSULTANTS, P.S., [chuck@cwaconsultants.net](mailto:chuck@cwaconsultants.net)  
          Health District  
          Public Works  
          Parks Navy  
          DSE  
          Kitsap Transit  
          South Kitsap Fire District

South Kitsap School District  
Puget Sound Energy  
Water Purveyor  
Sewer Purveyor  
Point No Point Treaty Council  
Suquamish Tribe  
Port Gamble S'Klallam Tribe  
Squaxin Island Tribe  
Puyallup Tribe  
WA Dept of Fish & Wildlife  
WA State Dept of Ecology-SEPA  
WA State Dept of Transportation  
Interested Parties:  
None

**BEFORE THE HEARING EXAMINER  
FOR KITSAP COUNTY**

In the Matter of the Application of	)	No. 22-01784
	)	
<b>Emma Louise and Leon Lawrence</b>	)	<b>La Deaux Accessory Dwelling Unit</b>
<b>La Deaux</b>	)	<b>CUP</b>
	)	
	)	
	)	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 construction of a detached, 840-square-foot accessory dwelling unit on a 2.75-acre property, located at 9684 Orchard Avenue SE, in the Olalla area of unincorporated Kitsap County, 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 January 12, 2023, utilizing a hybrid approach allowing for participation in person or through remote access technology. The record was left open until January 19, 2023, to allow any member of the public having difficulty participating at the hearing through remote access technology to provide written comments in lieu of live testimony. No additional comments were submitted, and, accordingly, the record closed on January 19, 2023.

Testimony:

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

Joshua Bennett, County Associate Planner  
Emma La Deaux, Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated January 5, 2023
2. Submission Form, dated April 13, 2022
3. Health District Building Site Application, dated June 1, 2022
4. SEPA Checklist, dated March 25, 2022
5. ADU and SFR Floor Plans, dated March 23, 2022
6. Engineered Calculations, November 23, 2021

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7. Water Availability Letter, dated December 12, 2021
8. Stormwater Worksheet, received May 11, 2022
9. Stormwater Pollution Prevention Plan, dated May 31, 2022
10. Notice of Application, dated August 12, 2022
11. Stormwater Conditions Memo, dated August 26, 2022
12. Site Plan, dated October 22, 2022
13. SEPA Determination of Nonsignificance, dated December 5, 2022
14. Notice of Public Hearing, dated December 28, 2022
15. Certification of Public Notice, dated January 3, 2023
16. Staff Presentation, dated January 12, 2023
17. Hearing Sign-In Sheet, dated January 12, 2023

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. Emma Louise and Leon Lawrence La Deaux (Applicant) request a conditional use permit to allow construction of a detached, 840-square-foot accessory dwelling unit on a 2.75-acre property. The Applicant would also construct a new single-family residence. The property is located at 9685 Orchard Ave SE, in the Olalla area of unincorporated Kitsap County.<sup>1</sup> *Exhibit 1, Staff Report, page 1; Exhibit 5; Exhibit 12.*
2. Kitsap County (County) determined that the application was complete on May 12, 2022. On August 12, 2022, 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 or emailing 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 could be submitted up until seven days before the date of the open record hearing associated with the application. On December 28, 2022, the County published notice of the open record hearing associated with the application in the County's publishing newspaper of record and mailed notice to interested parties and property owners within 800 feet of the site. Notice of the hearing was posted on the property the same day. The County's notice materials stated that written comments on the proposal could be submitted as early as possible prior to open record hearing associated with the application. The County did not receive any comments on the proposal in response to its notice materials. *Exhibit 1, Staff Report, pages 1, 2, and 6; Exhibit 10; Exhibit 14.*

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<sup>1</sup> The property is identified by Kitsap County Assessor's Tax Account No. 282302-1-010-2001. *Exhibit 1, Staff Report, page 1.*

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 August 26, 2022. 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 Determination of Nonsignificance (DNS) on December 5, 2022, with an appeal deadline of December 19, 2022. The DNS was not appealed. *Exhibit 1, Staff Report, page 2; Exhibit 10; Exhibit 14; Exhibit 13; Exhibit 15.*

Comprehensive Plan and Zoning

4. The property is 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 4 and 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 five feet. *KCC 17.420.052*. The Applicant’s site plan shows that the structure would comply with these setback requirements. Additionally, at the time of the application, ADUs were subject to the special-use provisions of *KCC 17.410.060*. The proposed ADU’s compliance with these special-use provisions is discussed in detail below. *Exhibit 1, Staff Report, pages 2 and 3; Exhibit 15.*

Existing Property, Proposed Development, and Critical Areas

6. The subject site is 2.75 acres in size. The western portion of the site is to be developed with a primary dwelling, attached garage, driveway and detached ADU. Potable water would be provided by a private well. Sanitary sewage disposal would be provided by an individual on-site septic system. The primary and reserve septic system would be to the east of the proposed development. Access to the property would be provided by a private driveway intersecting Orchard Ave SE. There is a high erosion hazard located on the east side of the parcel, but all proposed development would be located more than 200 feet from development, outside any critical area buffer requirements. The proposed stormwater mitigation methods include a rain garden for rooftop run-off, and sheet flow dispersion for driveway run-off. The proposed development would be conditioned to obtain required building permits to meet the provisions of Title 12 KCC. County Development Services and Engineering reviewed and approved the proposal without conditions, provided that the design of stormwater infiltration facilities complies with the King County Stormwater Manual. The Kitsap County Public Health District reviewed and approved the proposal without conditions. The Kitsap County Fire Marshal’s Office also reviewed and approved the proposal without conditions. *Exhibit 1, Staff Report, pages 2, 9, and 10; Exhibit 5; Exhibit 12.*

### Conditional Use Permit

7. 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 construct an ADU, which is listed as a conditional use in the RR zoning district. *KCC 17.410.042*. At the time the application was submitted on April 13, 2022, ADUs in the RR zone were required to satisfy the ADU special-use provisions of KCC 17.410.060 (subsequently repealed).<sup>2</sup> 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 would reside 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 proposed ADU is 840 square feet. The proposed single-family residence is 1,836 square feet. Fifty percent of the primary residence is 918 square feet. The ADU is limited to 900 square feet (the smaller value).*
  - 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 proposed ADU are approximately 10 feet apart.*
  - g. The ADU shall be designed to maintain the appearance of the primary residence. *The proposed single-family residence and the proposed ADU would be similar in appearance. The structure and siding of the ADU would match the aesthetic of the proposed house.*
  - h. All setback requirements for the zone in which the ADU would be located shall apply. *The proposed ADU would meet all setback requirements applicable to the RR zone.*
  - i. The ADU shall meet applicable health district standards for water and sewage. *The application was reviewed and approved by Kitsap County Health District.*

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<sup>2</sup> Under the County vesting rules, applications for permits vest the time a complete application is submitted, and an initial deposit fee paid. *KCC 21.04.150.A*.

- 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 additional parking required for the ADU would be located on an additional 500-square foot extension of the existing driveway.*
    - l. An ADU is not permitted on the same lot where an accessory living quarter exists. *There are no present nor proposed accessory living quarters.*
- Exhibit 1, Staff Report, pages 6 through 8.*

#### Testimony

- 8. County Planner Joshua Bennett testified generally about the proposal and how it would meet the specific requirements for approval of a conditional use permit to allow construction of an ADU. He noted that the proposed ADU would be located on a lot that does not have a primary residence, but that the Applicant would construct a 1,836 square foot primary residence. He explained that access would be through the existing driveway off Orchard Avenue. He testified that the project was vested to the version of the code that was in effect prior to adoption of the current code. Mr. Bennet explained that the County inadvertently indicated in its Staff Report for the proposal that the subject property is an historic lot. This is not the case and, accordingly, the historic lot setback rules are inapplicable to the property. He also testified that some proposed conditions from the Stormwater Conditions Memo did not make it into the recommended conditions in the Staff Report. He said the missing conditions should be added as conditions of approval. *Testimony of Mr. Bennett.*
- 9. Applicant Emma La Deaux testified that, currently, there is no single-family residence on the property, although some of the materials prepared by County staff erroneously state that there already is a residence on-site. Ms. La Deaux testified that the ADU will be built in conjunction with development of a single-family residence. She testified that the ADU was originally intended for her mother- and father-in-law, but sadly, the permitting process has taken so long that her father-in-law passed away in July 2022, before the ADU could be built. *Testimony of Ms. La Deaux.*

#### Staff Recommendation

- 10. County staff recommends approval of the application, with conditions. Ms. La Deaux testified that she could comply with the proposed conditions in the Staff Report and the Stormwater Conditions Memo. *Exhibit 1, Staff Report, pages 10 through 13; Exhibit 11; Testimony of Mr. Bennett; Testimony of Ms. La Deaux.*



## CONCLUSIONS

### Jurisdiction

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

### Vesting

The project vests to the version of the code that was in effect on the date the application was submitted, April 13, 2022. *KCC 21.04.150.A.*

### 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.*

“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, at the time the application was submitted and vested to the code, ADUs were 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; and
- k. An ADU shall use the same side-street entrance as the primary residence and shall provide additional off-street parking.

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No. 22-01784*

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 construct only one ADU, and there are no other ADUs, accessory living quarters, mobile homes, or recreational vehicles currently located or proposed to be located on the property. The Applicant would reside in the proposed single-family residence. The proposed ADU would measure 840 square feet, which is less than the 900 square foot maximum permitted size for an ADU. The proposed ADU would be sited ten feet from the proposed single-family residence and would be designed to have a similar appearance by matching the aesthetic of the primary house. The proposed ADU would meet all applicable setback requirements for the RR zone, utilize the same driveway that would serve the single-family residence, and provide an additional off-street parking space. The proposed ADU would be served by an on-site well and an on-site septic system. County Development Services and Engineering reviewed and approved the proposal for compliance with traffic and road standards and recommended approval, with conditions that the Hearing Examiner adopts as conditions of conditional use permit approval. The Kitsap County Health District has reviewed and approved the proposal without conditions. The Kitsap County Fire Marshal's Office also 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 – 3, 7 – 10.*
  
2. **With conditions, the proposed project would 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 Determination of Nonsignificance on December 5, 2022. That determination was not appealed. The proposed ADU would be consistent with the 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 former code 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 – 10.*

### DECISION

Based on the preceding findings and conclusions, the request for a conditional use permit to allow construction of a detached, 840-square-foot accessory dwelling unit on a 2.75-acre property, located at 9684 Orchard Avenue SE, in the Olalla area of unincorporated Kitsap County, is **APPROVED**, subject to the following conditions:

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. 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.
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 DCD 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.
6. 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 876 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.
7. The ADU shall be located within 150 feet of the primary residence.
8. The ADU shall be designed to maintain the appearance 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 ALQ or 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.
21. Required building permits shall include construction plans and profiles for all new or revised roads, driveways, storm drainage facilities and appurtenances. No construction shall be started prior to said plan acceptance.
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 via subsequent permit application.
23. 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 this permit application was 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.
24. If the project proposal is modified from that shown on the submitted site plan approved for this permit, Development Services and Engineering will require additional review and potentially new conditions.
25. The 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 or state rights-of-way. Approaches to county rights of way shall be designed in accordance

with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Approaches to state rights of way shall be designed in accordance with current WSDOT standards. Existing approaches may need to be improved to meet current standards.

26. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process (or building permit if no SDAP is required). The need for and scope of bonding will be determined at that time.
27. 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.
28. The access being utilized for the proposed ADU will serve three homes. When access serves more than two homes, it shall meet the requirements for fire apparatus access or a residential sprinkler will be required (for the ADU). A fire sprinkler permit is required for the approval of this project. The sprinkler system is to be submitted under a separate permit. The installation/approval of the fire suppression system will meet the exceptions for access.

DECIDED this 3<sup>rd</sup> day of February, 2023



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ALEX SIDLES  
Hearing Examiner  
Sound Law Center