



Notice of Hearing Examiner Decision

08/10/2023

To: Interested Parties and Parties of Record

RE: Project Name: Lafayette Investment Group Accessory Dwelling Unit (ADU)
Applicant: Lafayette Investment Group LLC
23 Via Soria
San Clemente, CA 92673
Application: Conditional Use Permit (CUP-ADU)
Permit Number: 22-04411

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #22-04411 Lafayette Investment Group 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 or (360) 337-5777.

CC: Applicant/Owner: LAFAYETTE INVESTMENT GROUP LLC, 23 VIA SORIA SAN CLEMENTE, CA 92673, Rick Hanley, rebuy88@yahoo.com
Authorized Agent: Enloe Custom Construction, enloecustom@gmail.com
Designer: Selby Design Ltd, pt.selby@yahoo.com
Health District
Public Works
Parks
Navy

DSE / PEP
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 Ecology-Wetland Review
WA State Dept of Ecology - Shoreline
WA State Dept of Transportation
Interested Parties: None

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 22-04411
)	
Lafayette Investment Group, LLC)	Lafayette Accessory Dwelling Unit
)	
)	
<u>For Approval of a Conditional Use Permit</u>)	FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to convert a portion of an existing, detached garage into an approximately 898-square-foot accessory dwelling unit (ADU), on an irregularly shaped 0.90-acre property developed with an existing single-family residence, at 5960 Watauga 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 June 22, 2023.

Testimony:

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

Katharine Shaffer, County Planning Supervisor
Richard Hanley, Applicant Representative

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated June 15, 2023
2. Site Plan, received September 30, 2022
3. Permit Questionnaire Form, received September 30, 2022
4. SEPA Environmental Checklist, dated May 31, 2022
5. ADU Floor Plans, received September 30, 2022
6. SFR Floor Plan, received September 30, 2022
7. Water Availability Submittal Waiver, received September 30, 2022
8. Stormwater Worksheet, received September 30, 2022
9. Site Photographs
10. Utility Information (Water Bill), dated January 25, 2022
11. Notice of Application, dated November 15, 2022

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12. Revised Site Plan, dated March 24, 2023
13. Photographs of Garage, received April 20, 2023
14. Property/Site Tax (IRS) Documentation, received April 28, 2023
15. Kitsap Public Health District Materials, received May 1, 2023
16. Stormwater Memorandum, dated May 26, 2023
17. Determination of Nonsignificance, dated June 6, 2023
18. Notice of Public Hearing, dated June 7, 2023
19. Certification of Public Notice, dated June 14, 2023
20. Staff Presentation
21. Hearing Sign-In Sheet

The Hearing Examiner enters the following findings and conclusions based upon the admitted testimony and exhibits:

FINDINGS

Application and Notice

1. The Lafayette Investment Group, LLC (Applicant) requests a conditional use permit (CUP) to allow the conversion of a portion of an existing, detached garage into an 898-square-foot accessory dwelling unit (ADU), on an irregularly shaped 0.90-acre property. The property is currently developed with an existing, 2,673-square foot single-family home along with a detached garage (with attached carport). The Applicant would, essentially, convert the existing carport area into the ADU while retaining the remainder of the garage. The property is located at 5960 Watauga Beach Drive E, in the Port Orchard area of unincorporated Kitsap County.¹ *Exhibit 1, Staff Report, pages 1 and 2; Exhibits 2 through 5; Exhibit 12; Exhibit 20.*
2. Kitsap County (County) determined that the application was complete on October 28, 2022. On November 15, 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 June 7, 2023, the County mailed notice of the open record hearing associated with the application to interested parties and property owners within 800 feet of the site, published notice in the County's publishing newspaper of record, and posted notice on the property. The County did not receive any comments in response to the provided notice. *Exhibit 1, Staff Report, pages 1 and 6; Exhibit 11; Exhibit 18; Exhibit 19; Exhibit 20.*

¹ The property is identified by Kitsap County Assessor's Tax Account No. 092402-1-029-2002. *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. No comments specific to SEPA were received. 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 June 6, 2023, with an appeal deadline of June 20, 2023. The DNS was not appealed. *Exhibit 1, Staff Report, page 2; Exhibit 4; Exhibit 11; Exhibit 17; Exhibit 19.*

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 2 through 4.

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*.
6. ADUs in the RR zone are generally required to have front yard setbacks of 50 feet, and side and rear yard setbacks of 5 feet. *KCC 17.420.052*. Under *KCC 17.420.060.A.42.b*, however, any single-family residential lot of record that has smaller dimensions than required by the zoning code, or is less than one acre, may use the residential zoning classification that most closely corresponds to the lot dimensions for the purpose of establishing required setbacks from property lines. The subject property is irregularly shaped, resembling a trapezoid, and measures approximately 0.90 acres, which is less than the 1-acre minimum lot size for the RR zoning district. County staff determined that the dimensions of the lot most closely correspond with the lot dimensions associated with properties in the Urban Restricted (UR) zone and, therefore, the setback requirements of the UR zone should apply. Structures in the UR zone are required to have front yard setbacks of 20 feet, side setbacks of 5 feet, and rear yard setbacks of 10 feet. In accord with these setback requirements, the proposed ADU would be set back approximately 250 feet from the front property line to the east, 7.5 feet from the side property line to the south, and 34 feet from the rear property line.

The existing garage structure (with the attached carport) is approximately 3.5-feet from the side property line to the south and, as such, the ADU being converted from the carport would not meet the 5-foot side setback requirement of the UR zoning district. County staff determined, however, that the garage/carport structure was legally established when it was permitted and constructed in 2005, and—consistent with *KCC 17.420.060.a*—conversion of a portion of the garage structure (i.e., the carport) is permissible as such work would not involve expansion of the legally nonconforming building. Essentially, because the ADU is being ‘constructed’ within the existing footprint of the preexisting, legally nonconforming carport area (attached to the detached

garage), the deficiency associated with the southern side property line setback is inapplicable.

Additionally, detached ADUs located outside an urban growth area (UGA) are subject to the special use provisions of KCC 17.415.015. The proposed ADU's compliance with these special use provisions is discussed in detail below. *Exhibit 1, Staff Report, pages 1 through 7.*

Existing Property, Critical Areas, and Proposed Development

7. As noted above, the approximately 0.90-acre property is currently developed with an existing 2,673 square-foot single-family residence and a detached garage (that includes an attached carport). The subject parcel is trapezoidal in shape and contains moderate slopes in some places. County staff determined, however, that all work would occur outside any buffers that would be required in relation to such slopes and, accordingly, no further geotechnical analysis is necessary. In addition, while the property faces toward Puget Sound (to the east) it does not fall within the shoreline jurisdiction. *Exhibit 1, Staff Report, pages 2 through 7.*
8. The proposed ADU would be located approximately 79 feet from the primary residence. Access to the ADU would be provided by the existing driveway, which connects to Watauga Beach Drive E, a public road. One additional parking space would be provided for the ADU, such that four parking spaces will be available on the paved area near the existing residence. The primary residence is already served by West Sound Utilities, which would also provide water and sewer service to the ADU.

The Kitsap County Public Health District reviewed and approved the proposal. The Kitsap County Fire Marshal's Office reviewed and approved the proposal without required conditions. County Development Services and Engineering reviewed the proposal, including revised project plans submitted by the Applicant, and approved it with conditions relating to stormwater management and general site development, noting that the proposal is supportable in its approach to civil site development. *Exhibit 1, Staff Report, pages 1 through 8; Exhibit 2; Exhibit 3; Exhibit 7; Exhibit 12; Exhibit 15; Exhibit 16; Exhibit 20.*

Conditional Use Permit

9. 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 Rural Residential zoning district. *KCC 17.410.042.* County staff

reviewed the proposal and determined that it would satisfy the criteria for a CUP under KCC 17.550.030.A, noting:

- The proposal is consistent with the Comprehensive Plan.
- 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 the Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions.
- The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
- 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.

Exhibit 1, Staff Report, page 10.

10. ADUs in the RR zone are required to satisfy the ADU special use provisions of KCC 17.415.015.B. The ADU special use provisions are listed below, together with County staff's analysis (in italics):
- Only one ADU shall be allowed per lot. *Only one ADU is proposed and there are no existing ADUs on the subject property.*
 - The owner of the property must reside in either the primary residence or the ADU. *The property is owned by the Lafayette Investment Group LLC. Richard Hanley plans to reside in the existing primary residence. Mr. Hanley has provided IRS document showing that he is a member of the investment group (Exhibit 14). Also submitted is a utility bill from West Sound Utility on the subject property showing Mr. Hanley's name on it (Exhibit 10).*

Mr. Hanley has told staff his plans are to move from California back to Washington once the ADU permit is approved.
 - 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 interior measurements. *The existing primary residence is 2,673 square feet allowing up to a 900-square-foot ADU. The proposed ADU is 898 square feet meeting the sizing requirement.*
 - The ADU shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure. *The proposed ADU is approximately 79 feet from the primary residence.*

- The ADU shall be designed to maintain the appearance of the primary residence. *The ADU and the primary residence are similar in appearance. Both structures will have the same siding and roof pitch.*
- All setback requirements for the zone in which the ADU would be located shall apply. *The existing carport/garage is considered legal nonconforming meaning the structure received a building permit previously under the regulations in place at the time of construction. The structure was legal established and permitted in 2005, Permit 05-24283. Kitsap County 17.420.060.a allows “building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel; providing, that no structure or portion of such addition may further project beyond the established building line.” Because the proposed ADU is going the same footprint as the legally established carport/garage, the ADU may use the 3’ 6’’ existing setback.*
- The ADU shall meet applicable health district standards for water and sewage disposal. *The Kitsap County Health District approved the site for additional sewage and water supply.*
- No mobile homes or recreational vehicles shall be allowed as an ADU. *The proposed ADU is “stick-built” and not a mobile home or recreational vehicle.*
- An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking. *The proposed ADU will use the same driveway entering the property that the primary residences uses. In addition, parking for the ADU and primary residences meet the requirements of Kitsap County Code 17.490.030 which requires 4 total spaces.*
- An ADU is not permitted on the same lot where another accessory dwelling unit, including attached ADU (ADU-A), exists. *No other ADUs are present or proposed.*

Exhibit 1, Staff Report, pages 6 through 8.

Testimony

11. County Planning Supervisor Katharine Shaffer 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. She noted that the proposed ADU would be located on a lot that is developed with an existing 2,673 square-foot residence. She described the subject property, noting that the development would occur away from any critical areas, well outside any possible buffers.

Ms. Shaffer explained that the existing garage/carport structure does not meet one of the required side setbacks under the zoning code but that the County determined the structure constitutes a legally nonconforming structure as it was previously permitted.

Accordingly, she confirmed that the Applicant would be able to build the ADU on/within the same building footprint as the existing carport (attached to the detached garage) so long as the ADU does not thereby increase the nonconformity. *Testimony of Ms. Shaffer.*

12. Applicant Representative Richard Hanley testified that he plans on living in the primary residence and that the ADU would provide a place for family to stay. He clarified that the proposal entails keeping the existing detached garage and replacing the carport attached to it (the garage) with the ADU. Mr. Hanley also noted that he reviewed the conditions of approval recommended by the County and has no concerns with them. *Testimony of Mr. Hanley.*

Staff Recommendation

13. Ms. Shaffer testified that County staff recommend approval of the conditional use permit application, with conditions. *Exhibit 1, Staff Report, pages 10 through 13; Testimony of Ms. Shaffer.*

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.

“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 17.415.015.B:

1. Only one ADU shall be allowed per lot;
2. Owner of the property must reside in either the primary residence or the ADU;

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3. The ADU shall not exceed fifty percent of the square footage of the habitable area of the primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by interior measurements;
4. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (e.g., garage);
5. The ADU shall be designed to maintain the appearance of the primary residence;
6. All setback requirements for the zone in which the ADU is located shall apply;
7. The ADU shall meet the applicable health district standards for water and sewage disposal;
8. No mobile homes or recreational vehicles shall be allowed as an ADU;
9. An ADU shall use the same side-street entrance as the primary residence and shall provide additional off-street parking; and
10. An ADU is not permitted on the same lot where an accessory dwelling unit, attached (ADU-A), 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 17.415.015.B.** 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 primary residence on the property. The proposed ADU would measure 898 square feet, which is below the maximum permitted for an ADU associated with a 2,673 square foot primary residence. The proposed ADU would be sited approximately 79 feet from the single-family residence and would be designed to maintain the appearance of the single-family residence. The proposed ADU would meet all applicable setback requirements for the RR zone except in one instance: the existing garage/carport structure was legally permitted and established in 2005, and maintained a 3.5-foot setback from the southern (side) property line. While a 5-foot setback is now required under the municipal code, County staff determined that the structure constitutes a legal, nonconforming structure and that the Applicant may maintain the existing 3.5-foot setback so long as the nonconformity is not increased. The Hearing Examiner concurs with this assessment.

The ADU would be accessed by the existing driveway serving the single-family residence, which would provide the additional parking space required for the ADU. The proposed ADU would be served by the West Sound Utility District, for water and sewer service. The Kitsap County Health District confirmed that the West Sound Utility District has capacity to provide water and sewer service to the ADU, with conditions that have been incorporated with County staff's recommended conditions of CUP approval. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with applicable statutes, ordinances, and regulations. *Findings 1, 4 – 13.*

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 received no public comments 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 April 18, 2023. The DNS 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 confirmed that water and sewer are available for the ADU, with conditions that have been incorporated with County staff's recommended conditions of CUP approval. As conditioned, the proposed ADU would comply with all applicable provisions of the County zoning code, including setback requirements for the RR zone (except as detailed above in relation to the southern property line) and the specific ADU special use provisions of KCC 17.415.015.B. 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 – 13.*

DECISION

Based on the preceding findings and conclusions, the request for a conditional use permit to convert a portion of an existing, detached garage into an approximately 898-square-foot accessory dwelling unit (ADU), on an irregularly shaped 0.90-acre property developed with an existing single-family residence, at 5960 Watauga Beach Drive East, 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 accessory dwelling unit 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 accessory dwelling unit 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 accessory dwelling unit shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the accessory dwelling unit and only one of the structures may be rented at any one time.

The habitable area of the ADU shall not exceed 50 percent of the primary residence or 900 square feet, whichever is smaller. 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 accessory dwelling unit shall be located within 150 feet of the primary residence.
7. The accessory dwelling unit shall be designed to maintain the appearance of the primary residence.
8. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit.
9. The accessory dwelling unit shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
10. An attached accessory dwelling unit (A-ADU) or guest house (GH) is not permitted on the same lot unless the ADU is removed and the A-ADU or GH complies with all requirements imposed by the Kitsap County Code.
11. A property with a primary residence and an accessory dwelling unit 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.
12. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
13. 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.

14. 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.
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 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. 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.
17. 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.
18. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
19. Building permits submitted for this development shall include construction plans and profiles for all roads, driveways, storm drainage facilities and appurtenances. No construction shall be started prior to said plan acceptance.
20. Stormwater quantity control, quality treatment, and erosion and sedimentation control

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shall be designed in accordance with Title 12 of the Kitsap County Code. 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.

21. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and may impose additional conditions upon site development.
22. 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.
23. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

DECIDED this 10th day of August 2023.



ANDREW M. REEVES
Hearing Examiner
Kitsap County