



## Staff Report for the Hearing Examiner

Report Date: April 3, 2017

Application Submittal Date: February 22, 2017

Hearing Date: April 13, 2017

Application Complete Date: February 22, 2017

**Permit Number:** 17 00682

**Project Name:** Dahmen – Accessory Dwelling Unit

**Type of Application:** Conditional Use Permit (CUP)

*This staff report was prepared by Holly Roberts, Planner, Katharine Shaffer, Environmental Planner and Candice Vickery, Engineer 1, based on information available up until the time the report was prepared. New information relevant to review of this application may become available prior to the hearing or at the hearing. Staff may wish to change their analysis based upon that new information, and reserves the right to do so.*

### **Proposal Summary:**

The Department of Community Development is recommending approval of the applicant's request for a Conditional Use Permit (CUP) to convert a 672 square foot storage room located in an existing accessory structure into an Accessory Dwelling Unit (ADU) subject to 23 conditions outlined at the end of this report. The 0.91-acre parcel is zoned Rural Residential (RR) and is located at 20808 President Point Road NE, in Kingston. The project will be served by on-site septic and a public water.

### **Project Request:**

The applicant requests conditional use permit approval to convert a 672 square foot storage room into a 1-bedroom ADU. The proposed ADU will be located on the second story of an existing garage/shop.

### **Project Location:**

20808 President Point RD NE  
Kingston, WA 98346  
Commissioner District #1

### **Assessor's Account #:**

4381-000-054-0006

### **Applicant/Owner of Record:**

Neil J Dahmen, Trustee  
PO Box 190  
Kingston, WA 98346



**SEPA (State Environmental Policy Act):**

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

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated March 6, 2017 (Exhibit 14). A Determination of Nonsignificance (DNS) was issued on March 14, 2017 (Exhibit 15).

The SEPA appeal period expired March 28, 2017. No appeals were filed; therefore, the SEPA determination is final.

**Physical Characteristics:**

The 0.91 acre parcel is currently developed with a 1,480 square foot single family residence and 1,030 square foot garage/shop/storage building. The property slopes west to east towards Puget Sound and contains moderate slopes (Exhibit 21), however the proposed ADU is an existing building and no further slope analysis is required. The property is also located approximately 800 feet south of a mapped bald eagle nest but is outside of required buffer management area (Exhibit 17). The east half of the property lies within a Category II Critical Aquifer Recharge Area (Exhibit 18). The property is landscaped with a mix of lawn, coniferous and deciduous trees, native and ornamental shrubs and garden space.

**Comprehensive Plan Designation and Zoning:**

The Comprehensive Plan designation is Rural (Exhibit 19) and the Zoning designation is Rural Residential (RR), (Exhibit 16).

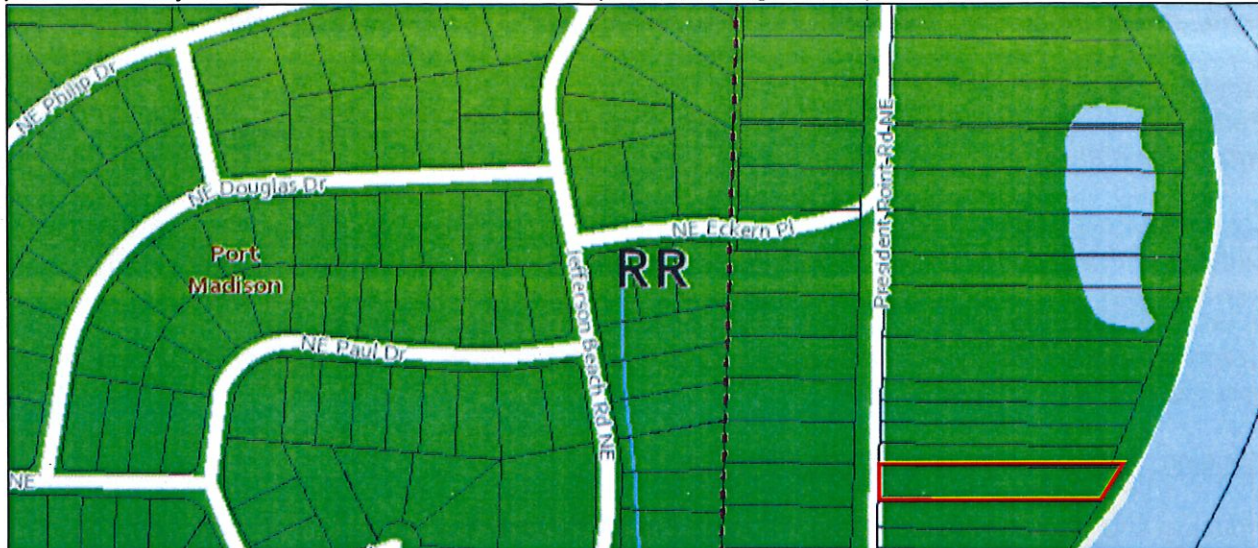
Base/Maximum Density -	Not Applicable
Minimum Lot Area -	5 acres (for newly created lots, this is an existing legal lot)
Minimum Lot Width -	140 feet
Minimum Lot Depth -	140 feet
Maximum Height -	35 feet

**Standard Zoning Setbacks**

Front	- 50 feet (reduced to 20 feet per KCC 17.420.060.42 – Exceptions for historic lots)
Side	- 5 feet (accessory structure)
Rear	- 5 feet (accessory structure)

**Surrounding Land Use and Zoning:**

The surrounding area is also zoned Rural Residential (RR). Lots in this area are predominantly small, historic, rural lots developed with single family residences.

**Public Utilities and Services:**

Water: PUD # 1  
 Power: Puget Sound Energy  
 Sewer: On-site septic  
 Police: Kitsap County Sheriff  
 Fire: North Kitsap Fire & Rescue  
 Schools: North Kitsap School District #400

**Access:**

Access to the site is off of President Point Road NE, a County maintained, paved road.

**Policies and Regulations Applicable to the Subject Proposal:**

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

Kitsap County Comprehensive Plan  
 Adopted June 30, 2016

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

**Land Use Goals and Policies:**

Land Use Goal 13 – Protect Kitsap County’s unique rural character

Land Use Policy 50

*Limit the designed rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.*

Land Use Policy 51

*Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.*

Land Use Policy 53

*Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not draw population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designation, zoning designation, and zoning code provisions.*

Housing, Human Services Goals and Policies:

Housing and Human Services Goal 2 – Increase affordable housing units and ensure that a broad range of housing types are available.

Housing, Human Services Policy 5

*Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing.*

Housing, Human Services Policy 7

*Adopt regulatory changes to allow non-traditional housing types.*

Housing and Human Services Goal 4 – Ensure that all people have fair and equal access to housing and services.

Housing, Human Services Policy 11

*Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class.*

Housing, Human Services Policy 12

*Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply.*

Housing, Human Services Policy 13

*Identify and remove impediments to creating housing for harder to house populations.*

Housing, Human Services Policy 14

*Disperse affordable housing opportunities throughout the County.*

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

**Kitsap County Code (KCC)**

- Title 12 Storm Water Drainage
- Title 13 Water and Sewers
- Title 14 Buildings and Construction
- Title 17 Zoning
- Chapter 18.04 State Environmental Policy Act (SEPA)
- Title 19 Critical Areas Ordinance
- Chapter 20.04 Transportation Facilities Concurrency Ordinance
- Chapter 21.04 Land Use and Development Procedures

**Documents Consulted in the Analysis:**

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 24.

Exhibit #	Document	Date or date stamped
1	Project Application	02/21/17
2	Supplemental Application – Land Use	02/21/17
3	State Environmental Policy Act (SEPA) Checklist	02/21/17
4	Supplemental Application – Concurrency Test	02/21/17
5	Site Plan	02/21/17
6	Floor Plan – ADU	02/21/17
7	Elevations – ADU	02/21/17
8	Floor Plan – Single Family Residence (SFR)	02/21/17
9	Elevations – SFR	02/21/17
10	Health Officer Decision – BSA Alteration	02/21/17

**Public Comments:**

As of the date of this report, we have received no public comment.

**Analysis:**

Land Use and Zoning

An accessory dwelling unit within the Rural Residential (RR) zone requires a conditional use permit (CUP) as specified in KCC Table 17.410.040 (A) Rural, Resource and Urban Residential Zones, subject to footnote 1. Footnote 1 indicates an ADU is subject to compliance with Section 17.410.060 Provisions applying to special uses.

Accessory Dwelling Unit (ADU) Standards

An ADU is required to meet the provisions and requirements outlined in KCC 17.410.060(B)(3) – Provisions applying to special uses; Accessory Dwelling Unit (ADU). In order to encourage the provision of affordable and independent housing for a variety of households, an accessory dwelling unit may be located in residential zones. Criteria from KCC 17.410.060(B)(3) are listed below (*italics*), with a discussion of the individual standard immediately following:

- a. *An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary.*

The proposed ADU is not within an urban growth boundary. Therefore, the ADU cannot be permitted in conjunction with a building permit as an outright use. Land use approval is required for this ADU.

- b. *An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary.*

The subject property is outside an urban growth boundary. As a result, the applicant has applied for and is requesting approval of a conditional use permit as required by Kitsap County Code (KCC).

- c. *Only one ADU shall be allowed per lot.*

Only one ADU is proposed for the subject lot.

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

The property owner, Neil Dahmen, lives in the Single Family Residence (SFR) (Exhibit 2).

- e. *The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or 900 square feet, whichever is smaller.*

The primary residence's habitable area is 1,440 square feet according to the floor plan (Exhibit 8). Fifty percent of its habitable area is 720 square feet (1,440 square feet X 50% = 720 square feet). The ADU would be limited to 720 square feet as determined by exterior measurements. The entire ADU building is 1,030 square feet according to Assessor's records. The habitable area will be 672 square feet, the deck is 348 square feet (Exhibit 6). The garage and shop areas shall be used as garage/shop space only and not converted to habitable area unless this CUP is revised through the proper permitting process. In no case shall the habitable area of the ADU be greater than 720 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 (i.e., garage).*

The ADU building will be located approximately 15 feet from the primary residence (Exhibit 5).

- g. *The ADU shall be designed to maintain the appearance of the primary residence.*

Both the primary residence and ADU structures are existing. They are painted the same base and trim color and are similar in appearance. Both buildings have pitched metal roofs and matching trim (Exhibits 12 & 13).

- h. *All setback requirements for the zone in which the ADU is located shall apply.*

Both structures are existing and meet the required setbacks for the zone. The ADU structure is approximately 360 feet from the west property line (front), 10 feet from the south property line, 40 feet from the north property line and 95 feet from the east (approximate location of Ordinary High Water Mark) (Exhibit 5).

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

The Health District has approved the CUP application with no conditions, however prior to the final building inspection the Health District will require the proposed septic be installed and approved. This condition is included at the end of this report as condition number 9.

- j. *No mobile homes or recreational vehicles shall be allowed as an ADU.*

The proposed ADU will be a stick-built structure.

- k. *An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking.*

Both the primary residence and the ADU will use the same paved driveway.

Two parking spaces are required for the single-family residence (SFR) which is located on the paved parking apron in front of the garage. One additional parking space is required for the ADU. The ADU parking space will be located on the west side of the ADU structure on the existing gravel parking area (Exhibit 5).

- l. *An ADU is not permitted on the same lot where an accessory living quarters exists.*

Based on the SFR floor plan the structure does not have accessory living quarters (Exhibit 8).

#### Critical Areas

According to Kitsap County Geographic Information System (GIS) data, there are moderate geologic hazard slopes on the site (Exhibit 17), however the ADU structure already exists and Environmental Planner Katharine Shaffer has determined no further review or reports are necessary.

The GIS data also indicates that the east half of the site lies within a Category II Critical Aquifer Recharge Area (Exhibit 18). Single-family development is not a threat and doesn't require any further analysis or reports within this recharge area designation.

### Stormwater

Development Services and Engineering has reviewed the request for CUP approval and accepts the concepts contained in the preliminary submittal. Relevant conditions are included at the end of this report.

### **Agency Recommendation**

All reviewing entities recommend approval of the proposed project and any required conditions are stipulated at the end of this report.

### **Staff Evaluation of Decision Criteria**

1. The Hearing Examiner has review authority for this conditional use permit application under KCC, Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions or deny a conditional use permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner are at located in KCC, Chapter 2.10.
2. The proposal is consistent with the comprehensive plan.
3. The proposal complies with or will comply with requirements of Title 17 and complies with or will comply with all of the other applicable provisions of the KCC and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
4. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity.
5. 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.

### **Recommendation:**

Based upon the information above, the Department of Community Development recommends that the conditional use permit request for the Dahmen Accessory Dwelling Unit be **approved**, subject to the following 23 conditions:

### **Planning/Zoning**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. An approved and issued building permit is required to convert the existing storage space to accessory dwelling unit (ADU).
3. 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.

4. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the accessory dwelling unit (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.
5. Only one accessory dwelling unit (ADU) shall be permitted on the subject property.
6. The owner of the property must reside in either the primary residence or the accessory dwelling unit (ADU) and only one of the structures may be rented at any one time.
7. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 672 square feet as indicated in Exhibit 6. Any future expansion of the ADU shall require a minor revision to this conditional use permit and a new building permit.
8. The accessory dwelling unit (ADU) shall be designed to maintain the appearance of the primary residence.
9. This permit shall comply with all Kitsap Public Health District (KPHD) regulations and conditions of approval. An approved Building Site Application is on file at KPHD for the proposed ADU. The building permit for the proposed ADU will not be finalized until the proposed septic is installed and approved.
10. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
11. The accessory dwelling unit (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 accessory dwelling unit (ADU) is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code (KCC).
13. A property with a primary residence and an accessory dwelling unit (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 accessory dwelling unit (ADU) cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.

15. Upon approval of this application a Land Use Binder will be recorded by The Department of Community Development. Recording fees are at the applicant's expense. This Binder will include information directing the Public to the land use decision and conditions contained therein. The Binder shall not be removed or extinguished without the written approval of the Kitsap County Department of Community Development.
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 Kitsap County Code (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 17 00682. 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 conditional use permit (CUP) approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within three 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 conditional use permit.

#### **Development Engineering**

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 22, 2017.
22. If the project proposal is modified from that shown on the submitted site plan dated February 22, 2017, Development Services and Engineering will require additional review and potentially new conditions.

**Traffic and Roads**

- 23. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project.

**Attachments:**

Appendix A – Site Plan



Holly Roberts, Staff Planner

4/3/17

Date



For

Scott Diener, Development Services and Engineering Manager

4/3/17

Date

CC: Applicant/Owner: Neil Dahmen, Trustee, nbdahm@gmail.com  
Interested Parties: Peggy & Robert Nystrom, peggynys@gmail.com  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Holly Roberts  
DCD File 17 00682  
DCD Building Permit File 17 01178

