



Kitsap County Hearing Examiner

COUNTY COURTHOUSE, 614 DIVISION STREET MS-36
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Stephen K. Causseaux, Jr.

PORT ORCHARD WASHINGTON 98366-4682
(360) 337-7181 FAX (360) 337-4925
kashcraf@co.kitsap.wa.us

OFFICE OF THE HEARING EXAMINER

KITSAP COUNTY

REPORT AND DECISION

CASE NO.: 080710-053
PIPERATA/NGUYEN
CONDITIONAL USE PERMIT

**APPLICANT/
OWNER:** Anthony Piperata
9919 Kingston Farm Road NE
Kingston, WA 98346

SUMMARY OF REQUEST:

The proposed project is to construct a 2-bedroom, 864 square foot Accessory Dwelling Unit on the 2.32 acre parcel. There is a single family residence and a detached garage on the property. The ADU will be served by an onsite septic system.

PROJECT LOCATION:

The 2.32 acre subject parcel is located in Kingston, North Kitsap County at 9919 Kingston Farm Road NE. The parcel is situated in Section 23, Township 27 North, Range 2 East, NW. Commissioner District No. 1.

SUMMARY OF DECISION:

Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing Department of Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was conducted in the chambers of the Kitsap County Board of Commissioners on July 10, 2008.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
1	Water Availability Letter from KCPUD#1	10/18/07	3/5/08
2	Affidavit of Single Residency KCPUD#!	11/1/07	3/5/08
3	Site Plan	11/9/07	1/8/08
4	Pre-Application Meeting Request	No Date	1/8/08
5	KC Assessor's Parcel Map	No Date	N/A
6	Photo (1)	No Date	No Rec'd Date
7	KCHD Building Site Application	11/27/07	3/5/08
8	Pre-Application Conference Confirmation Letter	1/22/08	N/A
9	GIS Aerial Photo	1/22/08	N/A
10	GIS Critical Areas Topo Map	1/22/08	N/A
11	GIS Zoning Map	1/22/08	N/A
12	GIS Building Limitations Map	1/22/08	N/A
13	GIS Critical Topo Map	1/23/08	N/A
14	KC Assessor's Property Report	1/22/08	N/A
15	E-mail from David Greetham	2/5/08	2/5/08
16	Written Summary of Pre-Application Meeting	2/6/08	N/A
17	Environmental (SEPA) Checklist	2/25/08	3/5/08
18	Conditional Use Permit Application	3/3/08	3/5/08
19	Accessory Dwelling Unit Triage Complete Checklist	3/5/08	N/A
20	Google Aerial Photo	No Date	3/5/08
21	Letter from Paula Piperata & Danh Nguyen	No Date	3/5/08
22	KCPW Application for Concurrency Test	No Date	3/5/08
23	Site Plan – ADU	No Date	3/5/08
24	GIS Critical Aquifer Recharge Areas Map	4/22/08	N/A
25	Notice of Complete Application	4/22/08	N/A
26	Notice of Application	4/30/08	N/A
27	Memo from Nathan D Holburn KCHD	5/2/08	N/A
28	Affidavit of Mailing – NOA	5/2/08	N/A

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
29	Notice of Application – Publication	5/17/08	5/17/08
30	Determination of Non-Significance	6/19/08	N/A
31	Notice of Public Hearing	6/23/08	N/A
32	Affidavit of Mailing – NPH	6/23/08	N/A
33	Affidavit of Posting	6/25/08	N/A
34	Staff Report	6/11/08	N/A
35	Notice of Public Hearing – Publication	6/25/08	6/25/08
36	Power Point Presentation	7/10/08	7/10/08

JONATHAN PAVY appeared, presented the Department of Community Development Staff Report, and introduced Exhibits “1” through “35”. The site consists of a 2.3 acre parcel and improvements include a single family residential dwelling and detached garage. The ADU will be located adjacent to the same parking area serving the garage and home. The site is located in the Rural Residential (RR) zone classification and in a Category I aquifer recharge area. The applicant will expand the septic drainfield to accommodate the ADU. The reserve drainfield area is west of the primary drainfield. The applicant will use the ADU to provide living space for their parents. Staff finds that the request satisfies all criteria and therefore recommends approval.

ANTHONY PIPERATA, applicant, appeared and testified that they are living on the site with their daughter, son-in-law, and grandchild. All of them can live on the site comfortably with the ADU. The applicant then reviewed conditions of approval with staff and determined that he had no questions or concerns and would meet all conditions.

No one spoke further in this matter and so the Examiner took the request under advisement.

NOTE: A complete record of this hearing is available in the office of Kitsap County Department of Community Development.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. Appropriate notice was provided pursuant to the Kitsap County Code.
3. Pursuant to WAC 197-11-355, the optional DNS process was used for this project. The SEPA comment period previously occurred concurrent with the

Notice of Application dated April 30, 2008. A Determination of Non-Significance (DNS) was issued June 19, 2008. The deadline for appeals was May 14, 2008. No appeals were filed.

4. The applicant has a possessory ownership interest in a rectangular, 2.32 acre parcel of property abutting the west side of Kingston Farm Road immediately north of its intersection with NE Kingston View Court. Improvements on the site include a three bedroom, single family residential dwelling, detached garage, greenhouse, and on-site septic disposal system. The applicant requests a conditional use permit to allow construction of a two bedroom accessory dwelling unit (ADU).
5. The site plan shows that the parcel abuts Kingston Farm Road for 160 feet and measures 633 feet in depth. All improvements are located on the eastern half of the site. Access to the garage, dwelling, and proposed ADU is provided by a single driveway extending northwest into the site from a point near the south property line. All improvements are located around a generally circular parking area in the east central portion of the site. The on-site septic primary and reserve drainfields are located to the west of the improvements.
6. The site is located within the Rural Residential (RR) designation of the Kitsap County Comprehensive Plan. Housing Policy HS-9 of the comprehensive plan provides as follows:

Accessory Dwelling Units shall be permitted uses in all zones and be subject to applicable development standards including Health District requirements for water and sewage disposal.

The applicant's proposal is consistent with the comprehensive plan.

7. The parcel is located within the RR zone classification of the Kitsap County Code (KCC). Section 17.381.040.E KCC authorizes ADUs in the RR classification subject to a conditional use permit. The applicant has properly applied for such permit.
8. Section 17.382.100 KCC requires a minimum lot width and depth of 140 feet and a minimum lot size of five acres for newly created lots in the RR classification. The applicant's parcel meets the lot width and depth requirements, but is approximately half the size of the minimum for newly created lots. However, the parcel is an existing lot of record and is recognized by the RR zone as a legal building site.
9. Section 17.382.100 KCC requires minimum setbacks of 50 feet front yard, 20 feet rear yard, and 20 feet side yard for structures. The site plan shows the ADU 111 feet from Kingston Farm Road (front), 20 feet from the north side property line, and a significant distance from both the east (rear) and south (side) property lines. The ADU satisfies all bulk requirements of the RR zone classification.

10. To obtain approval for an ADU the applicant must show that the request satisfies the criteria set forth in KCC 17.381.060.B.3. Findings on each criteria are hereby made as follows:
- A. Subsections (a) and (b) authorize ADUs as an outright permitted use within an urban growth boundary and subject to a conditional use permit in areas outside of an urban growth boundary. Since the applicant's parcel is not within an urban growth boundary, he has properly applied for a conditional use permit.
 - B. The applicant proposes only one ADU for the lot in accordance with Criteria (c).
 - C. The owners of the property (the applicant) currently reside in the primary single family dwelling. The applicant will continue to reside therein and will provide the ADU for other family members.
 - D. The applicant proposes an ADU of 864 square feet. Criteria (e) provides that the ADU may not exceed 50% of the square footage of the habitable area of the primary residence or 900 square feet, whichever is smaller. The primary residence measures 2,028 square feet, half of which calculates to 1,014 square feet. Therefore, the ADU is limited to 900 square feet and the proposal complies with this criteria.
 - E. Criteria (f) requires the location of the ADU within 150 feet of the primary residence. The ADU will measure approximately 15 feet from the primary residence in compliance with this criteria.
 - F. Criteria (g) requires the ADU to maintain the appearance of the primary residence. The plans show that the ADU complies with this criteria as both residential structures will be of stick built construction and have pitched roofs. The architectural design and building materials are similar and complementary to those of the primary residence.
 - G. As previously found, the ADU meets all setback requirements of the RR zone classification.
 - H. Criteria (i) requires the ADU to meet applicable Health District standards for water and sewage disposal. The Health District confirms that the proposed water supply and sewage disposal for the ADU complies with its regulations.
 - I. The applicant does not propose a mobile home or recreational vehicle as an ADU.
 - J. As previously found, the ADU will use the same entrance from Kingston Farm

Road as does the primary residence. The parking area located adjacent to all structures provides at least one additional parking space.

- K. The applicant's primary residence has no accessory living quarters.
11. Prior to obtaining a conditional use permit the applicant must show that the request satisfies the criteria set forth in KCC 17.421.030(A). Findings on each criteria are hereby made as follows:
- A. As previously found, the proposed ADU is consistent with the comprehensive plan.
 - B. The proposal complies with all regulations of the RR zone classification and all criteria set forth in KCC 17.381.060(B)(3), and thus meets all applicable requirements of Title 17 KCC.
 - C. The proposal will not materially, detrimentally impact uses or property in the immediate vicinity. The ADU maintains proper setbacks and photographs of the site show a heavily wooded parcel with the exception of the improved area.
 - D. 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. In compliance with ADU standards the applicant will construct an attractive structure which will complement the existing, primary, single family residential dwelling. Because of the wooded condition of the lot the structure should not be visible from Kingston Farm Road.

CONCLUSIONS:

- 1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
- 2. The applicant has shown that the request for a conditional use permit to allow an accessory dwelling unit is consistent with the Kitsap County Comprehensive Plan and the RR zone classification.
- 3. The proposal satisfies all criteria set forth in KCC 17.381.060(B)(3) as well as the criteria for a conditional use permit set forth in KCC 17.421.030. Therefore, the conditional use permit should issue subject to the following conditions:
 - 1. All building permits shall be subject to impact fees pursuant to the *Kitsap County Code* in effect on the date of a complete building

permit application.

2. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the ADU building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
3. 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.
4. Applicant shall record a Notice to Title with the Kitsap County Auditor, if this ADU is approved. Prior to recording the Notice to Title, the applicant shall provide a draft to the Department of Community Development (DCD) for review and approval. A recorded copy of the approved Notice to Title must be submitted to DCD prior to Certificate of Occupancy issuance of this ADU. The Notice to Title shall include the following “a” through “j” statements:
 - a. This property has received land use approval for an Accessory Dwelling Unit (ADU) and is bound by the conditions of approval as stipulated in the Hearing Examiner’s decision, ordered _____, Case No.: [TBA], (refer to Conditional Use Permit, DCD File # 08 51495) on file at the Department of Community Development.
 - b. A property with a primary residence and 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 subdivision application.
 - c. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
 - d. Only one ADU shall be allowed on this lot.
 - e. 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.
 - f. The ADU’s habitable area shall not exceed 864 square feet

as determined by exterior measurements.

- g. The ADU shall use the same street entrance from Kingston Farm Road NE as the primary residence.
 - h. Accessory Living Quarters (ALQ) or a Guest House (GH) is not allowed on this lot if the ADU is approved by Kitsap County.
 - i. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the ADU building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
 - j. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
- 5. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
 - 6. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
 - 7. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

DECISION:

The request for a conditional use permit to allow construction of an 864 square foot accessory dwelling unit at a site located at 9919 Kingston Farm Road NE, Kingston, is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 25th day of July, 2008.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 25th day of July, 2008, to the following:

APPLICANT/ Anthony Piperata
OWNER: 9919 Kingston Farm Road NE
Kingston, WA 98346

OTHERS:

Kitsap County Board of Commissioners
Kitsap County Department of Community Development
Kitsap County Department of Public Works
Kitsap County Prosecutor – Civil Division
Kitsap County Department of Parks and Recreation
Bremerton-Kitsap County Health Department
The Sun Newspaper

Pursuant to Kitsap County Code Section 21.04.120 and the Land Use Hearing Examiner Rules of Procedure, an OBJECTION to the Examiner's Decision may be filed, in this matter, in writing, with the Clerk of the Board of County Commissioners, on or before _____, 2008. Prior to the filing of an Objection, the objector shall pay the sum of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) to the Department of Community Development.