



Notice of Hearing Examiner Decision

04/15/2022

To: Interested Parties and Parties of Record

RE: Project Name: Nordgren Conditional Use Permit – Accessory Dwelling Unit
 Applicant: Michael & Dawnelle Nordgren
 PO Box 4955
 South Colby, WA 98384
 Application: Conditional Use Permit (CUP)
 Permit Number: 21-02500

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #21-02500 Nordgren Conditional Use Permit – Accessory Dwelling Unit (CUP-ADU), subject to the conditions outlined in this Notice and included Decision.**

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

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

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

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

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

CC: Owner/Applicant: Michael & Dawnelle Nordgren, mjnordgren@wavecable.com
Authorized Agent: Angela Butts w/NW PERMITTING SOLUTIONS,
angelaybutts@icloud.com
Health District
Public Works
Parks
Navy

DSE
Kitsap Transit
South Kitsap Fire District
South Kitsap School District
Bremerton 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 Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Wetland Review
WA State Dept of Transportation
Interested Parties: None

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 21-02500
)	
Michael and Dawnelle Nordgren)	Nordgren 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 allow construction of an 800 square foot detached accessory dwelling unit on a developed residential property at 3492 Harper Hill Road SE 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 March 24, 2022, using remote access technology. The record was left open until March 31, 2022, to allow any member of the public having difficulty connecting to the remote hearing to submit written comments in lieu of live testimony. No additional comments were submitted and, accordingly, the record closed on March 31, 2022.

Testimony:

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

Darren Gurnee, County Planner
Arleta Nordgren

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated March 15, 2022
2. Accessory Dwelling Unit Plans (17 Sheets), received May 26, 2021
3. Owner Authorization Form, dated April 27, 2021
4. Kitsap Public Health District Building Site Application, approved October 8, 2020
5. Concurrency Test, received May 26, 2021
6. Site Plan, dated April 27, 2021
7. Project Narrative, received May 26, 2021
8. Required Permit Questionnaire – Conditional Use Permit – Accessory Dwelling Unit, dated May 26, 2021
9. SEPA Environmental Checklist, dated April 28, 2021

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10. Single-Family Residence Rendering and Floor Plan (2 Sheets), received May 26, 2021
11. Five (5) Single-Family Residence Site Photographs, received May 26, 2021
12. Stormwater Worksheet, received May 26, 2021
13. Notice of Application, dated June 9, 2021
14. SEPA Determination of Nonsignificance, dated July 22, 2021
15. Kitsap Public Health District Septic Design Approval, dated November 24, 2021
16. Corrections Response Letter, dated January 17, 2022
17. Notice of Public Hearing, published March 9, 2022
18. Certification of Public Notice, dated July 22 and March 9, 2022
19. Stormwater Conditions Memorandum, dated January 20, 2022
20. Staff Presentation
21. Hearing Sign-in Sheet

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. Michael and Dawnelle Nordgren (Applicant), request a conditional use permit (CUP) to allow construction of an 800 square foot detached accessory dwelling unit (ADU) on a 1.2-acre property that is currently developed with a 1,693 square foot single-family residence and attached garage. The property is located at 3492 Harper Hill Road SE.¹ *Exhibit 1, Staff Report, pages 1 through 3; Exhibit 2; Exhibit 4; Exhibits 6 through 8; Exhibit 10; Exhibit 11.*

2. Kitsap County (County) determined that the application was complete on May 28, 2021. On June 9, 2021, the County provided notice of the application consistent with the requirements of Kitsap County Code (KCC) 21.04.210 by publishing notice in the County's publishing newspaper of record and by mailing 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 March 9, 2022, the County mailed notice of the associated open record hearing to property owners within 800 feet of the site and to interested parties, published notice in the County's publishing newspaper of record, and posted notice on the property. The County did not receive any comments on the proposal in response to its notice materials. *Exhibit 1, Staff Report, page 6; Exhibit 13; Exhibit 17; Exhibit 18.*

¹ The property is identified by Kitsap County Assessor's Tax Account No. 4810-000-008-0103. *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 June 23, 2021. The County received no comments on the proposal in response to its notice materials. Following the comment period, 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 July 22, 2021, with an appeal deadline of August 5, 2021.² The DNS was not appealed. *Exhibit 1, Staff Report, page 2; Exhibit 9; Exhibit 14; Exhibit 18.*

Comprehensive Plan and Zoning

4. The property and all surrounding properties are designated "Rural Residential" by the County Comprehensive Plan. County staff identified the following Comprehensive Plan policies as relevant to the proposal:
 - Limit the 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 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]

² The DNS incorrectly listed the proponent of the proposal as "James Tatum" and stated that a comment from a member of the public was received concerning stormwater impacts from development – information related to a different, unrelated proposal. County Planner Darren Gurnee testified that County planning staff became aware of these errors after the DNS was issued and, accordingly, consulted County legal staff to determine if further action would be appropriate. Mr. Gurnee testified that legal staff determined that, in light of the appropriate site address and description of the development proposal having been provided in the DNS, the identified errors were harmless such that no further action (i.e., reissuing the DNS) would be necessary. *Testimony Mr. Gurnee.*

- 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 3 through 5.

5. The subject property and all surrounding properties are zoned “Rural Residential” (RR). The RR zone “promotes low-density residential development consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services.” *KCC 17.130.010*. ADUs are allowed in the RR zone with a conditional use permit. *KCC 17.410.042*. ADUs in the RR zone are required to have front yard setbacks of 50 feet, and side and rear yard setbacks of 5 feet. *KCC 17.420.052*. In accordance with these requirements, the proposed ADU structure would be set back approximately 73 feet from the front property line to the south, 140 feet from the side property line to the west, 100 feet from the side property line to the east, and 26 feet from the rear property line to the north. Additionally, ADUs are subject to the special-use provisions of *KCC 17.410.060.B.3*. The proposed ADU’s compliance with these special-use provisions is discussed in detail below. *Exhibit 1, Staff Report, pages 2, 3, 6, and 7; Exhibit 6.*

Existing Property and Proposed Development

6. The 1.2-acre property is currently developed with a 1,693 square foot single-family residence with an attached garage and paved driveway. The northeastern portion of the site is developed with an existing septic drainfield and reserve area. Vehicular access to the property is provided by an access easement south of the parcel, which connects to Harper Hill Road SE. No critical areas have been identified on the property. The proposed ADU would be located approximately 10 feet to the west of the existing primary residence and would use the existing driveway and access easement serving the primary residence. The proposed ADU would be served by a separate on-site septic system. The ADU would be designed to be consistent with and in likeness to the primary residence by utilizing the same rambler style, main color, trim color, roof style, roof material, siding style, siding material, and window style as the primary residence. Roof runoff from the ADU would be tightlined to an infiltration trench with a 30-foot

flow path. The Kitsap County Health District reviewed and approved the proposal without conditions. The Applicant would be required to submit documentation of Kitsap County Health District approval with the building permit application. The Kitsap County Fire Marshal's Office also reviewed the project and determined that the proposal would comply with fire code requirements with the condition that the ADU be equipped with an automatic fire sprinkler system to satisfy access and safety requirements. *Exhibit 1, Staff Report, pages 1 through 3, and 10; Exhibit 4; Exhibits 6 through 11.*

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*. ADUs in the RR zone are required to satisfy the ADU special-use provisions of *KCC 17.410.060.B.3*. County staff reviewed the proposal and determined that it would satisfy these provisions. The ADU special-use provisions are listed below, together with County staff's analysis (in italics):
- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary. *The subject property is not located within the UGA.*
 - 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 an UGA. This application is a CUP for an ADU.*
 - c. Only one ADU shall be allowed per lot. *This application proposes only one ADU. There are no other ADUs present or proposed.*
 - d. Owner of the property must reside in either the primary residence or the ADU. *The owner currently resides in the existing single-family residence.*
 - e. The ADU shall not exceed 50 percent of the square footage of the habitable area of the primary residence or 900 square feet, whichever is smaller. Dimensions are determined by exterior measurements. *The existing residence is 1,693 square feet. 50 percent of 1,693 square feet is 847 when rounded to the nearest whole number and, therefore, the ADU would be limited to 847 square feet. The proposed ADU would be 800 square feet, satisfying this requirement.*
 - 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. *The proposed single-family residence and the proposed ADU would be approximately 10 feet apart, satisfying this requirement.*
 - g. The ADU shall be designed to maintain the appearance of the primary residence. *The single-family residence and the ADU would be similar in appearance. The structure and siding of the proposed ADU would match the aesthetic of the existing house and garage.*

- h. All setback requirements for the zone in which the ADU would be located shall apply. *The proposed ADU would meet all setbacks required by the Rural Residential zone.*
 - i. The ADU shall meet applicable health district standards for water and sewage disposal. *The Kitsap County Health District reviewed and approved the ADU.*
 - j. No mobile homes or recreational vehicles shall be allowed as an ADU. *There are no mobile homes or recreational vehicles present on the subject property or proposed in this application.*
 - 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 that the proposed ADU would use the existing driveway utilized by the single-family residence. The driveway would provide an additional off-street parking space.*
 - l. An ADU is not permitted on the same lot where an accessory living quarters exists. *There are no present or proposed accessory living quarters.*
- Exhibit 1, Staff Report, pages 6 through 8.*

Testimony

- 8. County Planner Darren Gurnee 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 1.2-acre lot that is currently developed with a 1,693 square foot single-family residence. Mr. Gurnee explained that the proposed ADU would be located on the western portion of the site and would comply with setback requirements. He noted that access to the existing single-family residence and paved driveway is currently provided from an access easement south of the parcel, which would also provide access to the proposed ADU. He further noted that there are no on-site critical areas. Mr. Gurnee explained that the County conducts an environmental review of all ADU proposals within rural areas and determined that the current proposal would not have a probable significant adverse impact on the environment. Accordingly, a Determination of Nonsignificance was issued on the proposal, which was not appealed. Mr. Gurnee stated that the proposed ADU would be connected to municipal water and would use a new septic system separate from the primary residence. He detailed how, with conditions, the proposal would be consistent with several goals and policies of the County Comprehensive Plan and would meet all the special-use criteria under KCC 17.410.060.B.3 to allow construction of an ADU on residentially zoned property. *Testimony of Mr. Gurnee.*
- 9. Arleta Nordgren testified that she is the Applicant's mother and that she would use the proposed ADU. *Testimony of Ms. Nordgren.*

Staff Recommendation

- 10. County staff recommends approval of the application, with conditions. Ms. Nordgren testified that the Applicant understands and would comply with County staff's

recommended conditions. *Exhibit 1, Staff Report, pages 10 through 13; Testimony of Ms. Nordgren.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for a conditional use permit. *KCC 2.10.070; KCC 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 17.410.060.B.3:

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

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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 continue to reside in the existing 1,693 square foot single-family residence on the property. The proposed ADU would measure 800 square feet, which is less than the 847 square foot maximum permitted for an ADU associated with a 1,693 square foot primary residence. The proposed ADU would be sited approximately 10 feet from the existing single-family residence and would be designed to maintain the appearance of the single-family residence by incorporating the same roof pitch, horizontal siding, and slider windows. The Applicant also proposes to incorporate materials and color schemes on the proposed ADU that would match the existing primary structure, which County staff would review at the building permit stage. The proposed ADU would meet all applicable setback requirements for the RR zone, utilize the existing driveway and access easement serving the single-family residence, and provide additional off-street parking spaces within the driveway. Two separate on-site septic systems would serve the ADU and the primary residence. The municipal water district would provide water to both units. The Kitsap County Health District has reviewed and approved the proposal without conditions. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with applicable statutes, ordinances, and regulations. *Findings 1, 5 – 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 July 22, 2021. The 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 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 an 800 square foot detached accessory dwelling unit at 3492 Harper Hill Road SE is **APPROVED**, subject to the following conditions:³

1. All required permits shall be obtained prior to commencement of land clearing, construction, and/or occupancy.
2. The accessory dwelling unit (ADU) is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering, and similar finish work), remodel, or expansion of the 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.
6. The ADU's habitable area shall not exceed 50 percent of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 800 square feet. Any future expansion of the ADU would require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.

³ This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by the County code.

7. The accessory dwelling unit shall be located within 150 feet of the primary residence.
8. The accessory dwelling unit 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 accessory dwelling unit.
11. The accessory dwelling unit 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 or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the accessory living quarters or guest house complies with all requirements imposed by the Kitsap County Code.
13. 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.
14. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
15. 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.
16. 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.
17. If the project proposal is modified from that shown on the submitted site plan accepted for review May 26, 2021, Development Services and Engineering will require additional review and potentially new conditions.
18. At the time of building permit application, submit an Application for Concurrency Test

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(KCPW Form 1601) as required by KCC 20.04.030, Transportation Concurrency. The KCPW 1601 form reserves road capacity for the project.

19. 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 scope of bonding will be determined at that time.
20. 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 of Community Development at the Applicant's expense.
21. 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.
22. 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 approval granted and is a continuing requirement of such approval. 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.
23. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit No. 21-02500. 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.
24. This Conditional Use Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of

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Community Development within four years of the Notice of Decision date or the resolution of any appeals.

25. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

DECIDED this 14th day of April 2022.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center