



Hearing Examiner Staff Report and Recommendation

Report Date: June 1, 2023
Hearing Date: June 8, 2023

Application Submittal Date: June 9, 2022
Application Complete Date: June 23, 2022

Project Name: Sullivan Accessory Dwelling Unit
Type of Application: Conditional Use Permit
Permit Number: 22-02873

Project Location

12717 Seabeck Highway NW
Seabeck, WA 98380
Commissioner District #3

Assessor's Account

212501-1-003-1008

Applicant/Owner of Record

Lindsey and Lukas Sullivan
12717 Seabeck Highway NW
Seabeck, WA 98380

Recommendation Summary

Approved subject to conditions listed under section 13 of this report.

VICINITY MAP



1. Background

Application proposes to construct a detached accessory dwelling unit (ADU) on a 4.99-acre lot zoned Rural Protection. The proposed ADU will be 892 square feet and approximately 29 feet from the 2,160-square-foot existing single-family residence. ADU will be served by PSE for power, and use an existing private well and septic drain field. A seasonal stream is off-site, and the project will be outside of the required 50-foot stream buffer and 15-foot building setback.

2. Project Request

The applicants, Lindsey and Lukas Sullivan, seek approval for a Conditional Use Permit (CUP) to allow a newly constructed ADU on their 4.99-acre parcel. Kitsap County Code 17.410.042.100 requires a CUP for a detached ADU in the Rural Protection zone.

3. 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 July 15, 2022. A Determination of Nonsignificance (DNS) was issued on April 4, 2023.

The SEPA appeal period expired April 18, 2023. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The parcel is rectangle-shaped that slopes down from north to south. The subject parcel is also located approximately 455 feet from the shoreline which is outside of the shoreline jurisdiction.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Protection Zone: Rural Protection	Standard	Proposed
Minimum Density	N/A	N/A
Maximum Density	1 dwelling unit per 10 acres	
Minimum Lot Size	10 acres	N/A
Maximum Lot Size	N/A	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	N/A	N/A
Maximum Height	35 feet	N/A
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Staff Comment: Lot is already existing. No newly created lots within this proposal.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (North)	50 feet	~891 feet
Side (East)	20 feet; 5 feet for accessory structures (29)	112 feet
Side (West)	20 feet (50 feet when abutting residential)	74 feet
Rear (South)	20 feet (50 feet when abutting residential)	40 feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single Family Residences	Rural Protection
South	Undeveloped land	Rural Residential
East	Single-family residences	Rural Protection
West	Undeveloped Land	Rural Protection

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District

5. Access

Access to the property is off Seabeck Highway NW which is a County-maintained road.

6. Site Design

ADU site design will be analyzed under Section 10.a of this report.

7. 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 (amended in 2018 and 2020).

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

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, 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, 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:

Code Reference	Subject
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)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

8. Documents Consulted in the Analysis

A complete index of exhibits is in the project file. To date, the index to the record consists of 18 exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
1	STAFF REPORT	06/01/2023	
2	Permit Questionnaire Form	06/09/2022	06/09/2022
3	ADU Floor Plan	05/03/2022	06/09/2022
4	Waiver for Water Availability Letter		06/09/2022
5	Engineered Plan	10/31/2019	06/09/2022
6	Stormwater Worksheet		06/22/2022
7	Notice of Application	07/15/2022	
8	SEPA Checklist	06/04/2022	10/03/2022
9	Health District Building Site Application (BSA)		10/03/2022
10	ADU Design Narrative		10/03/2022
11	Geotechnical Report		10/03/2022
12	Final Site Plan		02/07/2023
13	SEPA Determination	04/04/2023	
14	Stormwater Conditions Memo	05/11/2023	
15	Notice of Public Hearing	05/24/2023	
16	Certification of Public Notice	05/31/2023	
17	Staff Presentation		
18	Hearing Sign In		

9. Public Outreach and Comments

After the Notice of Application was sent out on July 15, 2022, one comment was received from the Suquamish Tribe. In their comment the Tribe said that their preferences are for “internal ADUs are preferred over detached structures. This proposed detached ADU is located in a Category I Critical Aquifer Recharge Area as well as in erosion hazard area. Impacts to these might be reduced by an internal structure.” Kitsap County Code 19.600.620 lists activities that threaten ground water and require a hydrogeologic report; however residential uses are not among uses enumerated in the code.

10. Analysis

a. Planning/Zoning

Kitsap County Code 17.415.015.B: In order to encourage the provision of affordable housing, an accessory dwelling unit (ADU), detached, located outside an urban growth area shall meet the following criteria:

1. Only one ADU shall be allowed per lot;

Staff Comment: Only one ADU is proposed and there are no existing ADUs on the subject property.

2. Owner of the property must reside in either the primary residence or the ADU;

Staff Comment: The owners of the property, Lindsey and Lukas Sullivan will reside in the primary residence.

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;

Staff Comment: The proposed ADU is 892 square feet and the existing primary residence has 2,160 habitable square feet. The size of the existing primary residence allows for a 900 square foot ADU. The proposed ADU is 892 square feet and meets this requirement. There is a proposed basement/garage under the ADU which does not count toward habitable area. It will not be heated and used for storage.

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);

Staff Comment: The proposed ADU is approximately 29 feet from the primary residence.

5. The ADU shall be designed to maintain the appearance of the primary residence;

Staff Comment: The proposed ADU will have the same pitched roof and siding.

6. All setback requirements for the zone in which the ADU is located shall apply;

Staff Comment: All setbacks for the proposed ADU are met. Please see Table 2 of this Staff Report.

7. The ADU shall meet the applicable health district standards for water and sewage disposal;

Staff Comment: The Kitsap County Health District approved the site for additional sewage and water supply. Please see Exhibit (9).

8. No mobile homes or recreational vehicles shall be allowed as an ADU;

Staff Comment: The proposed ADU is stick-built and not a mobile home or recreational vehicle.

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

Staff Comment: 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. Please see Table 5.

10. An ADU is not permitted on the same lot where an accessory dwelling unit, attached (ADU-A), exists.

Staff Comment: No other ADUs are present or proposed.

b. Lighting

Lighting is not analyzed for ADU proposals.

c. Off-Street Parking

Parking requirement is met. Please see Table 5 below.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces

Single-Family (attached or detached)	3 per unit (for existing primary residence) 1 additional space for accessory dwelling units	3+1 = 4	4 spaces – the paved area near the single-family residences and the proposed ADU exceed 720 square feet required for 4 parking spaces.
Total			4

d. Signage

No signage was proposed in this application.

e. Landscaping

Landscaping is not analyzed for ADUs.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	N/A	N/A
Required Buffer(s) 17.500.025	N/A	N/A
North	N/A	N/A
South	N/A	N/A
East	N/A	N/A
West	N/A	N/A
Street Trees	N/A	N/A

f. Frontage Improvements

Frontage improvements are no required for this proposal.

g. Design Districts/Requirements

The subject property is not within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. Comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans accepted for review June 22, 2022, and as revised by additional

materials accepted for review October 3, 2022 to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires four conditions as an element of the land use approval.

i. Environmental

There is a seasonal stream off-site but the project will be outside of the required 50-foot stream buffer and 15-foot building setback.

The subject property is located in a moderate geologic erosion hazard area. Submitted in the application was a Geologic Assessment Report prepared by Allen L. Hart dated April 28, 2018. The report concluded that the proposal “will not jeopardize the site slopes or adjacent properties and development of this proposal should be allowed.” The project is conditioned to follow the recommendations of the report.

j. Access, Traffic and Roads

At building permit application, the applicants will be required to submit a Kitsap County Public Works Form 1601 for issuance of a concurrency certificate, as required by Kitsap County Code 20.04.030, Transportation Concurrency.

k. Fire Safety

Kitsap County Building and Fire Safety Division reviewed and approved the ADU with no conditions.

l. Solid Waste

Solid waste was no reviewed as part of this proposal.

m. Water/Sewer

Water and sewer were approved by the Kitsap County Health District.

n. Kitsap Public Health District

Water and sewer were approved by the Kitsap County Health District.

11. Review Authority

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 KCC, Chapter 2.10.

12. Findings

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

13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 17.550.030.A, the Department of Community Development recommends **approval** subject to the following conditions:

a. Planning/Zoning

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 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 892 square feet. Any future expansion of the ADU will require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.

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 (formerly called accessory living quarters) or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the ADU-attached 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.

b. Development Engineering

19. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time this permit application was deemed fully complete. 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 Code in effect at the time of SDAP application, or Building Permit if an SDAP is not required.
20. The proposal indicates that the project will create additional hard surfaces not accounted for in the Drainage Report and Engineering Plans (dated July 1, 2019

and prepared for associated Single Family Residence permit #19-02166). The existing infiltration trench shall be evaluated for additional capacity by the engineer of record. If the additional hard surfaces cannot connect to the existing infiltration trench, then stormwater mitigation shall be provided in accordance with Kitsap County Code Title 12.

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 potentially new conditions.

c. Environmental

22. The project shall follow the recommendations of the submitted in Geologic Assessment Report prepared by Allen L. Hart dated April 28, 2018.

d. Traffic and Roads

None

e. Fire Safety

None

f. Solid Waste

None

g. Kitsap Public Health District

23. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

Report prepared by:

Katharine Shaffer

5-19-23

Katharine Shaffer, Planning Supervisor/ Project Lead

Date

Report approved by:

Scott Diener

5-19-23

Scott Diener, Planning and Environmental Programs Manager

Date

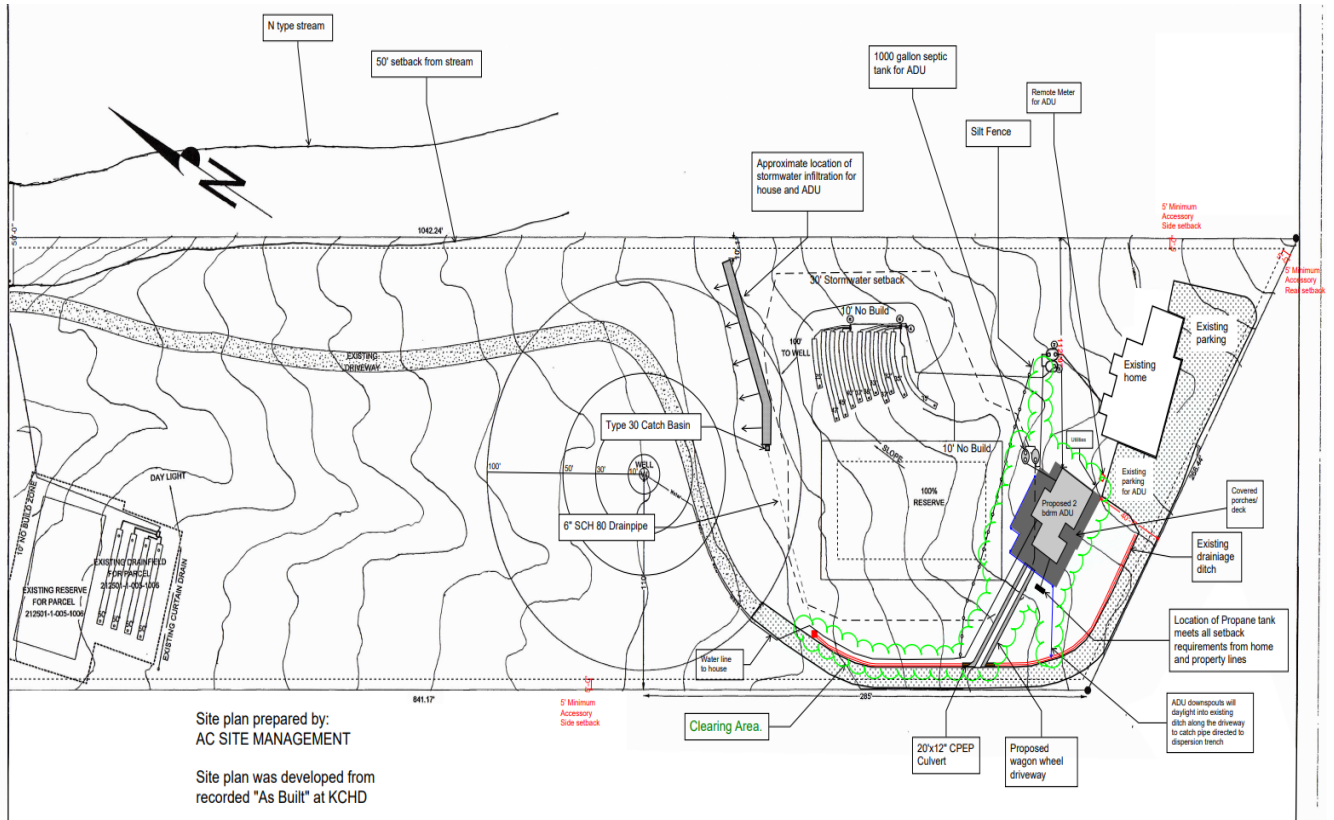
Attachments:

Attachment A – Site Plan

Attachment B – Zoning Map

CC: Applicant/Owner email: Lindsey and Lukas Sullivan, lukassullivan@yahoo.com
Authorized Agent: Warren Kitchel, olekitch@aol.com
Project Manager: Kurt Russell, acsitemanagmenet@gmail.com
Engineer: Michael Wnek, mike@wnekeng.com
Biologist: BGE Environmental LLC – Robbyn Myers, bgerobbbyn@comcast.net;
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer
Interested Parties: Theodore Genengels, tedgenengels@icloud.com; Suquamish Tribe
– Rod Malcom, rmalcom@suquamish.nsn.us

Attachment A Site Plan



Attachment B
Zoning Map

