



Notice of Hearing Examiner Decision

12/09/2019

To: Interested Parties and Parties of Record

RE: Project Name: Sargeson Cole CUP-ADU
 Applicant: Patricia & Mark Sargeson Cole
 2003 NE Sawdust Hill Rd
 Poulsbo, WA 98370-9128
 Application: Conditional Use Permit – Accessory Dwelling Unit
 (CUP-ADU)
 Permit Number: 19-01721

Enclosed is the Decision issued by the Kitsap County Hearing Examiner for the above project.

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>

The Decision of the Hearing Examiner is final, unless timely appealed, as provided under Washington law.

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: Patricia & Mark Sargeson Cole, pbzzzt@gmail.com
Authorized Agent: Terri Schultz of Permit Granted LLC,
permitgranted@comcat.net
Health District
Public Works
Navy
DSE
Central Kitsap Fire District
Central Kitsap School District
Puget Sound Energy

Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
WA State Dept of Ecology-SEPA
Interested Parties: None

**KITSAP COUNTY HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**Accessory Dwelling Unit Conditional Use Permit
Sargeson Cole, File No. 19-01721**

December 2, 2019

1. FINDINGS OF FACT

1.1 Proposal. The project adds a 560 square foot one-story accessory dwelling unit to a 6.41 acre lot.

Applicant/Property Owner. Mark and Patricia Sargeson-Cole, 2003 NE Sawdust Hill Road, Poulsbo, WA 98370-9128.

Location. 2003 NE Sawdust Hill Road, Poulsbo, WA 98370-9128. Assessor Account Nos. 012601-2-043-2009 and 012601-2-043-2108.

1.2 Hearing. An open record public hearing was held November 14, 2019. Kitsap County Department of Community Development, through Mr. Smith, described the project. DCD found it consistent with requirements, so recommended approval with mitigation. The Applicant's agent (Ms. Schultz, Permit Granted, LLC) and the Applicant (Ms. Sargeson-Cole) further addressed the ADU, providing minor corrections and clarifications.¹ Mr. Woodbury, a neighbor, had several comments and questions, including a concern related to forest conservation and stewardship, which his written comment provided detail on (Exhibit 24). The Applicant addressed the concerns at the hearing.

1.3 Administrative Record. The Hearing Examiner admitted Exhibits 1-26, which included the Staff Report, application materials, documentation of agency consultation, public notice documents, and other materials. Four exhibits are from the hearing, the DCD Power Point (Exhibit 23), citizen comment (Exhibit 24), photos from the Applicant (Exhibit 25), and the sign in sheet (Exhibit 26). Another public comment was received November 22, but was not admitted as the record closed November 14.

1.4 SEPA. Department of Community Development issued a Determination of Non-Significance,² with a condition requiring compliance with Title 12 to address stormwater control, Title 19 to address critical areas, and Title 17 to address land use impacts. The DNS was not appealed.

1.5 Agency Comment. The proposal was circulated within the County. As long as requirements are met, there were no objections to approval.

¹ Clarifications included noting ADU size and bedroom number (one).

² Exhibit 18; Exhibit 22 (Staff Report), p. 2.

1.6 Notice. Hearing notice was provided through posting, publishing, and mailing, and application notice through mailing and publishing.³ KCC notice requirements were complied with.

1.7 Zoning/Plan Designations. Located outside the urban growth area, the Comprehensive Plan and zoning designations are Rural Residential,⁴ which allows one dwelling unit per five acres. The zone allows an ADU, subject to both a CUP and separate requirements specific to the use. Surrounding properties have the same zoning and are developed with single-family homes or are vacant.

1.8 Critical Areas. A moderate erosion hazard is mapped on most of the parcel. There is a mapped non-fish stream to the east that may extend onto the parcel. Resolve Environmental & Geotechnical, Inc. prepared a geological report with recommendations. Construction will be about 100 feet from steep slopes. The top of slope is identified on the site plan and the drain field is beyond the slope top (Exhibit 15). Clearing and tree removal has occurred; the ADU is conditioned to account for that cleared area (Condition 21). The geologist recommended slope mitigation planting in disturbed areas and that the consultant be contacted for inspection and recommendations when footings are being cut.

1.9 Utility and Public Services.

- **Water:** Private well
- **Power:** Puget Sound Energy
- **Sewer:** Septic
- **Police:** Kitsap County Sheriff
- **Fire:** Poulsbo Fire District 18
- **Schools:** North Kitsap School District No. 400

1.10 Access 300+ foot long driveway from NE Sawdust Hill Road, a county-maintained local access road which intersects with Big Valley Road NE to the west and Bond Road NE (SR 307) to the east.

1.11 Setbacks/Height. Setback requirements are 50 feet on the front (west) side, and 20 feet for the rear and side yards.⁵ Setbacks exceed requirements, with 300 feet on the front, 165 and 115 feet for the two side yards, and 250 feet for the rear. The 35 foot height limit will be complied with.

1.12 Aesthetics. ADU building materials will be compatible with the existing single-family residence, with similar styles and color.⁶ Residential landscaping is coupled with stands of conifer and deciduous trees scattered across the site, providing screening and improved aesthetics.⁷

³ Exhibits 21, 12, and 19; *see also* Exhibit 22 (Staff Report), p. 6.

⁴ Exhibit 20; Exhibit 22 (Staff Report), p. 3.

⁵ Exhibit 22 (Staff Report), p. 3; KCC 17.420.052.

⁶ Exhibits 7 and 8; Testimony, Ms. Schultz; *see also* Exhibit 22 (Staff Report), p. 8.

⁷ Exhibit 22 (Staff Report), p. 4.

1.13 Conditions/Staff Report. The Applicant accepted the proposed conditions, which are incorporated without revision. Except as the Decision revises it, the Staff Report is incorporated by reference.

2. CONCLUSIONS OF LAW

2.1 Hearing Examiner Review Authority. The Hearing Examiner has CUP review authority for this ADU.⁸ The Examiner may approve, approve with conditions, or deny a CUP.⁹

2.2 Code Requirements Specific to an ADU in the RR Zone. An ADU outside the urban growth area, and within the RR zone, must obtain a CUP and comply with requirements specific to the use.¹⁰ Only one ADU is allowed per lot, on which no accessory dwelling quarters are located, and the owner "must reside in either the primary residence or the ADU."¹¹ These requirements are met. Only one ADU is proposed for a lot outside the urban growth area, no accessory dwelling quarters or other ADUs are on the lot, and the property owners will live in the existing single-family residence.

The ADU cannot "exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller."¹² The primary residence's habitable area is 1,404 square feet, so the ADU is limited to 702 square feet. At 560 square feet, the ADU complies.

The ADU, proposed to be 33 feet from the primary residence,¹³ complies with the requirement to be "within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (i.e., garage)..."¹⁴ The proposal complies with all other setback requirements.

As for design, as addressed in the findings above, the primary residence and ADU will be similar in appearance,¹⁵ as the ADU has been "designed to maintain the appearance of the primary residence."¹⁶ Also, the proposed ADU is stick-built, so is not a mobile home or recreational vehicle.¹⁷

The ADU will be supplied by well water and a septic system. The Health District approved the Building Site Application, so it will "meet the applicable health district standards for water and sewage disposal."¹⁸

⁸ KCC 17.410.010(C) and 21.04.100 (*see* permit type No. 18).

⁹ KCC 17.550.030.

¹⁰ KCC Table 17.410.042, FN 1, requiring KCC 17.410.060 compliance. *See* KCC 17.410.060(B)(3).

¹¹ KCC 17.410.060(B)(3).

¹² KCC 17.410.060(B)(3).

¹³ Exhibits 11 and 16; *see also* Exhibit 22 (Staff Report), p. 1.

¹⁴ KCC 17.410.060(B)(3).

¹⁵ Exhibits 7 and 8; *see also* Exhibit 22 (Staff Report), p. 8.

¹⁶ KCC 17.410.060(B)(3).

¹⁷ KCC 17.410.060(B)(3).

¹⁸ KCC 17.410.060(B)(3); Exhibit 10.

Parking and entry requirements are met. The ADU will use "the same side street entrance as the primary residence" and with sufficient space to meet minimum parking requirements will "provide additional off-street parking,"¹⁹ as Condition 11 addresses. All requirements specific to the ADU use are met.

2.3 Conditional Use Permit Requirements.

A CUP must meet four requirements.

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of [Title 17];
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.²⁰

These criteria are met. The Staff Report provided detail on Comprehensive Plan policies. They provide for development at low residential densities that can be sustained without urban levels of service, and will cause minimal environmental degradation. The Plan supports residential use consistent with the existing and planned rural character of the surrounding rural area, while minimizing housing costs and providing for a range of housing types. The ADU does not have significant environmental impacts, does not require urban infrastructure, and is consistent with the surrounding area's rural character. The proposal is consistent with the Comprehensive Plan.

The proposal is conditioned to ensure compliance with Title 17 and other code requirements. No code provision was identified which would not be complied with. Also, the proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity. All impacts identified have been addressed through project design, additional mitigation, and/or code requirements.

The proposal is compatible with surrounding existing and planned rural uses. It is aesthetically consistent with the existing residence. The ADU's small size, existing vegetation, and extensive setbacks all ensure it is consistent with the surrounding character, appearance, and quality of development on site and in the immediate vicinity. As conditioned and proposed, the ADU meets all CUP criteria and should be approved.

¹⁹ KCC 17.410.060(B)(3).

²⁰ KCC 17.550.030(A).

DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested CUP for the proposed ADU, provided these conditions are adhered to.

Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The 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 ADU building, regardless of whether a building permit is required, shall be reviewed by DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
4. Only one ADU shall be permitted on the subject property.
5. 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.
6. The ADU's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 560 square feet (Exhibit 4).
7. The ADU shall be located within 150 feet of the primary residence.
8. The ADU 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 ADU.
11. The 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 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 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 ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
15. The recipient of any CUP 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 CUP 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.
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 be, 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 19-01721 Sargeson Cole ADU CUP. 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 CUP approval shall automatically become void if no development permit application is accepted as complete by DCD within four 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 CUP.

Development Engineering

21. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12. As such, the application materials submitted for the ADU building permit shall demonstrate compliance with Stormwater Minimum Requirements 1-5 and shall also address the ground disturbance associated with the previous clearing.

22. Onsite stormwater management, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the CUP application was deemed complete, July 16, 2019.
23. If the project proposal is modified from that shown on the submitted site plan dated July 12, 2019, Development Services and Engineering will require additional review and potentially new conditions.

Environmental

24. The geological consultant requests to be contacted for inspection and recommendations when footings are being cut. The consultant recommends that disturbed areas where utilities are installed provide suggested slope mitigation plants in disturbed areas as listed in the report.

Traffic and Roads

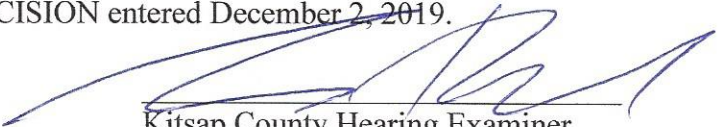
25. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project.
26. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the building permit. The need for and scope of bonding will be determined at that time.

Kitsap Public Health District

27. The Applicant shall adhere to all applicable Kitsap Public Health District regulations.

Absent a timely appeal, this Decision is final.²¹

DECISION entered December 2, 2019.


Kitsap County Hearing Examiner
Susan Elizabeth Drummond

²¹ See Ch. 36.70C RCW (any appeal to be filed within 21 days to superior court).