

Kitsap County Department of Community Development

Hearing Examiner Staff Report and Recommendation

Report Date: April 15, 2020 **Application Submittal Date:** September, 19, 2019 **Hearing Date:** April 23, 2020 **Application Complete Date:** November 05, 2019

Project Name: JETTER - Accessory Dwelling Unit (ADU)
Type of Application: Conditional Use Permit (CUP)

Permit Number: 19-04860

Project Location

11134 NE TULIN RD KINGSTON, WA 98346-9206 COMMISSIONER DISTRICT 1

Assessor's Account # 012602-3-037-2004

Applicant/Owner of Record AMY M & JAMES JETTER 11134 TULIN RD NE KINGSTON, WA 98346-9206

Recommendation Summary

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

VICINITY MAP



1. Background

The request is for approval to convert a portion of an existing structure into an Accessory Dwelling Unit (ADU). Per KCC 17.410.060.B.3.b, ADUs proposed outside of the urban growth boundary (UGA) shall be subject to a conditional use permit (CUP). The subject site is located outside of the UGA; therefore, CUP approval is required, subject provisions applying to special uses per KCC 17.410.060 as well as criteria for CUP approval per KCC 17.550.030.A.

2. Project Request

Jessica Jetter (hereafter, "the Applicant") has requested approval for a Conditional Use Permit (CUP) that would allow a portion of an existing accessory structure to be converted into an approximately 900 square foot Accessory Dwelling Unit (ADU). The property will be served by a new onsite septic system and private well. The access, driveway and parking areas serving the ADU are existing impervious surfaces. No expansion of the existing structure's footprint is proposed.

3. SEPA (State Environmental Policy Act)

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 November 14, 2019 (Exhibit 15). A Determination of Nonsignificance (DNS) was issued on January 27, 2020 (Exhibit 18). The SEPA appeal period expired February 10, 2020. No appeals were filed; therefore, the SEPA determination is final.

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.

4. Physical Characteristics

According the Kitsap County Assessor, the subject site is 2.5 acres (approximately 108,900 square feet). The western portion of the site has been cleared and is developed with a single-family residence, accessory structure, septic system, and private well. The remaining eastern portion remains uncleared and vegetated with primarily deciduous trees. The site topography is mostly sloped. From the western property line, the site slopes down toward the east at approximately a 14% grade, then reaches a flattened, ponded area near the center of the site. Beyond the pond, the site slopes down the east at grades measuring approximately (30-40%). The site contains various critical areas, including: A Category IV wetland (pond), Moderate Erosion and Landslide Areas, and a Category II Critical Aquifer Area. Environmental features are further detailed in Section 10.i. of this report.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential (RR)			
Zone:	Standard	Proposed	
Rural Residential (RR)			
Minimum Density	N/A	N/A - Subject property is	
Maximum Density	1 dwelling unit/5 acres	an existing lot.	
Minimum Lot Size	5 acres	N/A	
Maximum Lot Size	NA	N/A	

Minimum Lot Width	140-feet	N/A
Minimum Lot Depth	140-feet	N/A
Maximum Height	35 feet	Structure is existing
Maximum Impervious	NA	NA
Surface Coverage		
Maximum Lot	NA	NA
Coverage		

Table 2 - Setback for Zoning District

	- 3	
	Standard	Proposed
Front (East)	50-feet	130-feet
Side (North)	5-feet for accessory	106-feet
	structures	
Side (South)	5-feet for accessory	30-feet
	structures	
Rear (West)	5-feet for accessory	<300-feet
	structures	

Table 3 - Surrounding Land Use and Zoning

Surrounding	Land Use	Zoning
Property		
North	Single-family Residence	Rural Residential (RR)
South	Single-family Residence	Rural Residential (RR)
East	Undeveloped Land	Rural Residential (RR)
West	Single-family Residence	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	On-site Septic
Police	Kitsap County Sherriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Access

The site gains access via NE Tulin Road (WSDOT unclassified road) on the southwest corner of the property. NE Tulin Rd to a private easement along the southern property line. A secondary access exists north of the single-family residence that leads to a gravel driveway.

6. Site Design

A site plan has been submitted that shows a three-bedroom home, accessory structure, associated septic system and drain fields, and a private 2-party well. The proposed ADU will be housed in the existing structure and use existing driveways and parking areas.

4

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

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.

April 15, 2020

5

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 located in the project file. To date, the index to the record consists of Exhibits 1-33.

Exhibit #	Document	Dated	Date Received
1	Concurrency Test		10/01/19
2	Notice of Pending Building Site Application (BSA)		10/01/19
3	ADU Photos		10/21/19
4	Elevations – SFR Photos		10/21/19
5	Floor Plan – SFR		10/21/19

6	Health District BSA		10/21/19
7	Permit Questionnaire		10/21/19
8	Project Narrative		10/21/19
9	Stormwater Worksheet		10/21/19
10	Submittal Waiver		10/21/19
11	Water Approval		10/21/19
12	SWPPP Drawing		10/30/19
13	Notice of Complete Application	11/05/19	
14	SEPA Checklist		11/05/19
15	Notice of Application	11/14/19	
16	Stormwater Preliminary Conditions Memo –	01/13/20	
	Vickery		
17	Information Request	01/27/20	
18	SEPA Determination of Non-Significance	01/27/20	
19	ADU Elevations & Floor Plans		03/12/20
20	Health District Site Plan		03/12/20
21	Response Letter		03/12/20
22	Wetland Certification		03/12/20
23	Zoning Detail Site Plan		03/12/20
24	Notice of Public Hearing	04/08/20	
25	Certification of Public Notice	04/08/20	
26	Health District Email – Yanda	04/09/20	
27	Zoning Map		
28	Critical Area Map		
29	Comprehensive Plan Map		
30	Aerial Map		
31	Assessor Map		
32	Staff Report		
33	Staff Presentation		

9. Public Outreach and Comments

A Notice of Application (Exhibit 15) was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. No comments were received by the department.

10. Analysis

a. Planning/Zoning

Per KCC 17. 410.060.B.3, in order to encourage the provision of affordable and independent housing for a variety of households, an accessory dwelling unit may be located in residential zones, subject to the following criteria (italicized). Staff comments are provided below:

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

Staff Comment: The subject property is not located within the urban growth boundary.

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

Staff Comment: The subject property is located outside of the urban growth boundary. This application is a Conditional Use Permit for an Accessory Dwelling Unit.

c. Only one ADU shall be allowed per lot;

Staff Comment: 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.

Staff Comment: The owner currently resides in the existing single-family residence.

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.

Staff Comment: The existing residence is 3,276 square feet, according the Assessor's database. 50-percent of 3,276 is 1095 square feet; therefore, the ADU is limited to 900 square feet (the smaller value). The proposed ADU is 896 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 (i.e., garage).

Staff Comment: The proposed single-family residence and the proposed accessory dwelling unit are approximately 74 feet apart, satisfying this requirement.

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

Staff Comment: The ADU will be constructed within an existing structure, and most of the work with be interior. In efforts to create aesthetic harmony, the exterior of the existing structure will be updated with cedar siding painted to match the SFR. Additionally, the ADU's windows will be updated and replaced to match the SFR.

April 15, 2020

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

8

Staff Comment: All setbacks required by the Rural Residential zone are met for the proposed accessory dwelling unit. Please see Table 2.

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

Staff Comment: As a condition of approval, the applicant will submit and approved Building Site Application from the Kitsap County Health Department (Condition 26). A detailed analysis is provided in Section 10.m of this report.

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

Staff Comment: 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; and

Staff Comment: The ADU will use the existing driveways and parking areas on-site. There is sufficient area to accommodate all parking required for both the ADU and SFR (Exhibit 23). Parking is analyzed in section 10.c of this report. As a condition of approval, the additional access to the north of the single-family residence shall be removed (Condition 11).

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

Staff Comment: There are no present or proposed accessory living quarters. Please see the single-family residence floor plan (Exhibit 5).

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

A total of four off-street parking spaces are required (three for the single-family residence, and one for the proposed ADU). The site has five existing off-street parking spaces, satisfying this requirement. There is one off-street parking space adjacent to the single-family residence and an additional 22-ft by 48-ft existing parking area

adjacent to the ADU, which can accommodate four 9-ft X 20-ft off-street parking spaces.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 for single family residence, 1 additional space for accessory dwelling units.	4	5
Total		4	5

d. Signage

No signage is proposed or required.

e. Landscaping

Per KCC 17.500.010, single-family lots are exempt from landscaping requirements.

Table 6 - Landscaping Table

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

f. Frontage Improvements

No frontage improvements are required or proposed.

g. Design Districts/Requirements

The site is not within a design district.

h. Development Engineering/Stormwater

April 15, 2020

Development Services and Engineering has reviewed land use proposal and finds the concept supportable in its approach to civil site development. Development Services and Engineering provided a preliminary condition memo (Exhibit 16), dated January 13, 2020, and recommends approval, with two conditions (Conditions 21, 22).

10

i. Environmental

The applicant submitted a single-family wetland certification dated February 10, 2020, by C3 Habitat that identified a Category IV wetland on site. KCC Title 19.200 requires a 40-ft buffer and 15-ft from this wetland. The report confirmed that the structure is outside of the required buffer and setback area.

The site is also within a mapped Moderate Erosion Hazard. The proposal is for interior conversion of an existing structure. Kitsap Public Health has reviewed the septic and well proposal and determined that the soil conditions and well site location meet current requirements of Local Board of Health Ordinances. No other ground disturbing activity is proposed at this time. At the time of building permit, if foundation work or any other work outside of the existing footprint is proposed or required, a geological assessment may be required per KCC 19.400 (Condition 23).

j. Access, Traffic and Roads

Development Services and Engineering has reviewed the proposal for compliance with traffic and road standards and has recommended approval, with two conditions (Condition 24, 25).

k. Fire Safety

The Kitsap County Fire Marshall's Office reviewed and approved the proposal with no conditions.

I. Solid Waste

The ADU will use the existing solid waste systems.

m. Water/Sewer

The Kitsap County Health District has reviewed the applicant's Building Site Application (Exhibit 6) and has granted preliminary approval to the proposed septic design and well (Exhibit 2). Final Building Site Application approval is pending the construction of the well and the permit has been conditioned to provide final BSA approval with the associated building permit application (Condition 26).

n. Kitsap Public Health District

See section 10.m of this report.

11. Review Authority

April 15, 2020

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.

11

12. Findings

- 1. The proposal is consistent with the Comprehensive Plan.
- 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 that the Conditional Use Permit request for the Jetter Accessory Dwelling Unit be **approved**, subject to the following 26 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 (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

April 15, 2020

be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.

12

- 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 accessory dwelling unit'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 896 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.
- 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. The additional entrance to the primary residence that is not serving the ADU shall be removed.
- 12. An accessory living quarters or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the ALQ or GH 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. 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.

April 15, 2020

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. 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.

13

- 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 Permit #19-04860. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
- 19. This Conditional Use Permit 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.
- 20. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

b. Development Engineering

- 21. 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.
- 22. If the project proposal is modified from that shown on the submitted site plan received October 21, 2019, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

23. A geologic assessment may be required to be submitted with the building

April 15, 2020

14

permit if any modifications are made to the proposal that include foundation work or work beyond the existing footprint.

d. Traffic and Roads

- 24. 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.
- 25. 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 process. The need for and scope of bonding will be determined at that time.

e. Fire Safety

No conditions.

f. Solid Waste

Report prepared by:

No conditions.

g. Kitsap Public Health District

26. An approved Building Site Application shall be submitted with the building permit for the proposed ADU.

L Satar	4/13/2020
Tasha Santos Staff Planner / Project Lead	Date
Report approved by:	
So Coi	4/13/2020
Shawn Alire Denartment Supervisor	Date

CC: Jessica Jetter, jetterjessica@gmail.com Interested Parties: None

April 15, 2020

Kitsap County Health District, MS-30 Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Tasha Santos

Site Plan

