



Notice of Hearing Examiner Decision

02/08/2023

To: Interested Parties and Parties of Record

RE: Project Name: Bogue Accessory Dwelling Unit (ADU)
 Applicant: Larry & Cindy Bogue
 1301 NW Slate Ln Unit 103
 Silverdale, WA 98383
 Application: Conditional Use Permit (CUP-ADU)
 Permit Number: 21-03285

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #21-03285 Bogue Accessory Dwelling Unit – Conditional Use Permit (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://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 by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC: Applicant/Owner: Larry & Cindy Bogue, cbogue@frontiernet.net
Project Representative: Fred Jordan with LANDMAN DEVLPMT CONSLT SVS LLC, fjordan@land2home.com
Health District
Public Works
Parks
Navy
DSE
Kitsap Transit
North Kitsap Fire District

North Kitsap 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. 21-03285
)	
Larry and Cindy Bogue)	Bogue Accessory Dwelling Unit
)	CUP
)	
)	
<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 a detached, 884-square-foot accessory dwelling unit, on a 5.10-acre property with a proposed, future 2,289-square foot primary residence, located at 23926 Port Gamble Road NE, in the Poulsbo area of unincorporated Kitsap County, 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 January 12, 2023, utilizing a hybrid approach allowing for participation in person or through remote access technology. The record was left open until January 19, 2023, to allow any member of the public having difficulty participating at the hearing through remote access technology to provide written comments in lieu of live testimony. One additional exhibit was submitted via email after the hearing on January 12, 2023. No additional comments were submitted, and, accordingly, the record closed on January 19, 2023.

Testimony:

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

Darren Gurnee, County Planner
Cindy Bogue, Applicant

Exhibits:

The following exhibits were admitted into the record:¹

¹ In this decision, the Hearing Examiner is using the same exhibit numbers provided in the Index to the Record supplied in advance of the open record public hearing on January 12, 2023. The exhibits themselves were marked with different exhibit numbers in the packet of exhibits supplied in advance of the

1. Staff Report, dated January 5, 2023
2. ADU Plans, dated February 26, 2021
3. ADU Elevation, dated February 11, 2021
4. SFR Floor Plan, dated March 1, 2021
5. SFR Elevations, dated October 7, 2020
6. Permit Questionnaire, received June 18, 2021
7. SEPA Checklist, dated June 8, 2021
8. Single-Family Wetland Certification, dated June 4, 2021
9. Health District Building Site Application, dated March 30, 2021
10. Drainage Report, dated May 19, 2021
11. SEPA Determination of Nonsignificance, dated July 22, 2021
12. Notice of Application, dated July 26, 2021
13. Site Plan, dated November 9, 2022
14. Stormwater Operation and Maintenance Plan, dated November 2022
15. Stormwater Site Plan, dated November 2022
16. Information Request Response, received November 15, 2022
17. Notice of Public Hearing, dated December 28, 2022
18. Certification of Public Notice, date January 3, 2023
19. Staff Presentation, dated January 12, 2023
20. Hearing Sign-In Sheet, dated January 12, 2023
21. Health Officer Decision, dated May 24, 2022

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. Larry and Cindy Bogue (Applicant) request a conditional use permit to allow construction of a detached, 884-square-foot accessory dwelling unit on a 5.10-acre property. The property would also be developed with a 2,289-square foot single-family residence. The property is located at 23926 Port Gamble Road NE, in the Poulsbo area of unincorporated Kitsap County.² *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 4; Exhibit 13.*
2. Kitsap County (County) determined that the application was complete on June 28, 2021. On July 2, 2021, the County provided notice of the application consistent with the

hearing, beginning with Exhibit 11. All exhibits are accounted for in both the Index to the Record and the packet of exhibits; it is only a matter of which numbering to use.

² The property is identified by Kitsap County Assessor's Tax Account Nos. 05602-002-2003 and 052602-074-2006. *Exhibit 1, Staff Report, page 1.*

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.³ 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 December 28, 2022, the County published notice of the open record hearing associated with the application in the County's publishing newspaper of record and mailed notice to interested parties and property owners within 800 feet of the site. Notice of the hearing was posted on the property the same day. The County's notice materials stated that written comments on the proposal could be submitted as early as possible prior to open record hearing associated with the application. The County did not receive any comments on the proposal in response to its notice materials. *Exhibit 1, Staff Report, pages 1, 2, and 6; Exhibit 12; Exhibit 17; Exhibit 18; Testimony of Mr. Gurnee.*

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 July 16, 2021. The County did not receive any comments on the environmental review of the proposal. 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 21, 2021, with an appeal deadline of August 5, 2021. The DNS was not appealed. *Exhibit 1, Staff Report, page 2; Exhibit 17; Exhibit 18; Testimony of Mr. Gurnee.*

Comprehensive Plan and Zoning

4. The property is designated "Rural Residential" by the County Comprehensive Plan. County staff identified the following Comprehensive Plan policies as relevant to the proposal:
 - Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, that cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service. [Land Use Policy 50]

³ The Notice of Application in the record is dated July 26, 2021, but Mr. Gurnee testified the actual date of notice was July 2, 2021. The Examiner concludes the July 26 date was likely a typo. *Testimony of Mr. Gurnee.*

- 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]
- 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 4 and 5.

5. The subject property is 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*. The Applicant’s site plan shows that the structure would comply with these setback requirements. Additionally, at the time of the application, ADUs were subject to the special-use provisions of former *KCC 17.410.060*. The proposed ADU’s compliance with these special-use provisions is discussed in detail below. *Exhibit 1, Staff Report, pages 2 and 3; Exhibit 2; Exhibit 3; Exhibit 13.*

Existing Property and Proposed Development

6. The 5.10-acre property is situated on two tax parcels. The site is currently undeveloped and slopes gently down to the west. The properties abutting the subject property include forest land to the north, undeveloped residential land to the south, and single-family residences to the west and east. A Category III wetland, with an associated 110-foot vegetative buffer and 15-foot building setback, extends over the eastern half of the subject property. All development would occur outside the wetland buffer and setback. The primary residence and ADU would be served by a private well and septic system. The primary residence and ADU would share a common driveway. County Development Services and Engineering reviewed and approved the proposal with conditions relating to stormwater and driveway access. The Kitsap County Public Health District reviewed and approved the proposal without conditions. The Kitsap County Fire Marshal's Office reviewed and approved the proposal with the condition that the Applicant submit documentation showing the access road is compliant with the code, or else improve the access road to meet requirements; or else install a sprinkler system. *Exhibit 1, Staff Report, pages 1 through 3, 12, and 13; Exhibits 2 through 5; Exhibit 8; Exhibit 13; Testimony of Mr. Gurnee.*

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*. At the time the application was submitted on June 10, 2021, ADUs in the RR zone were required to satisfy the ADU special-use provisions of *KCC 17.410.060* (subsequently repealed).⁴

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 an urban growth boundary.*
- 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 the urban growth boundary. The Applicant requests approval of a CUP to allow an ADU.*
- c. Only one ADU shall be allowed per lot. *The Applicant proposes only one ADU. There are no other ADUs present or proposed on the property.*

⁴ Under the County vesting rules, applications for permits vest the time a complete application is submitted and an initial deposit fee paid. *KCC 21.04.150.A*.

- d. Owner of the property must reside in either the primary residence or the ADU. *The owner would reside 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 proposed ADU is 894 square feet.⁵ The proposed residence is 2,289 square feet. Fifty percent of 2,289 square feet is 1,144 square feet; therefore, the ADU is limited to 900 square feet (the smaller value).*
- f. The ADU shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure. *The existing single-family residence and proposed ADU are less than 53 feet apart.*
- g. The ADU shall be designed to maintain the appearance of the primary residence. *The single-family residence and the ADU are similar in appearance. The structure, and siding match the aesthetic of the proposed 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 setback requirements applicable to the RR zone.*
- i. The ADU shall meet applicable health district standards for water and sewage. *The application was reviewed and approved by Kitsap County Health District.*
- j. No mobile homes or recreational vehicles shall be allowed as an ADU. *There are no mobile homes or recreational vehicles present or proposed on the subject property.*
- 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 the proposed ADU would use the existing driveway utilized by the single-family residence. The additional parking required for the ADU would be located on an additional 500-square foot extension of the existing driveway.*

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 single-family residence would be 2,289 square feet while the proposed ADU would be 884 square feet. He testified that all development would be outside the buffer and setback of the Category III wetland, and he had no doubts about the accuracy of the delineation and typing of that wetland. He noted that the parcel to the north is zoned rural wooded, which imposes a 100-foot setback on the rural residential zone where the ADU is proposed. He testified that the proposal complies with all zoning requirements. He testified there was ample parking, because the driveway itself can be used for parking. *Testimony of Mr. Gurnee.*

⁵ Site Plans show the proposed ADU is actually 884 square feet. *Exhibit 2.*

9. Applicant Cindy Bogue testified that both the single-family house and the ADU would be owner-occupied. Ms. Bogue stated the she and her husband would live in the ADU, while their daughter, son-in-law, and family would be living in the single-family residence. She testified that she understood the proposed conditions and had no objections. *Testimony of Ms. Bogue.*

Staff Recommendation

10. County staff recommends approval of the application, with conditions. The Applicant has no objections to the proposed conditions. *Exhibit 1, Staff Report, pages 10 through 13; Testimony of Mr. Gurnee; Testimony of Ms. Bogue.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for a conditional use permit. *KCC 2.10.070; 17.550.020.*

Vesting

The project vests to the version of the code that was in effect on the date the application was submitted, June 10, 2021. *KCC 21.04.150.A.*

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;

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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, at the time the application was submitted and vested to the code, ADUs were subject to the following special-use provisions of former 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.

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

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 former 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 reside in the ADU. The proposed ADU would measure 884 square feet, which is less than the 900 square foot maximum permitted size for an ADU associated with a 2,289 square-foot primary residence. The proposed ADU would be sited 53 feet from the proposed single-family residence and would be designed to have a similar appearance by matching the aesthetic of the primary house. The proposed ADU would meet all applicable setback requirements for the RR zone, utilize the driveway serving the single-family residence, and provide an additional off-street parking space. The proposed ADU would be served by an on-site well and an on-site septic system.

County Development Services and Engineering reviewed and approved the proposal for compliance with traffic and road standards and recommended approval, with conditions that the Hearing Examiner adopts as conditions of conditional use permit approval. The Kitsap County Health District has reviewed and approved the proposal without conditions. The Kitsap County Fire Marshal's Office also reviewed and approved the

proposal with conditions that the Examiner adopts as conditions of conditional use permit approval. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with applicable statutes, ordinances, and regulations. *Findings 1, 4 – 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. That 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 former code 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, request for a conditional use permit to allow construction of a detached, 884-square-foot accessory dwelling unit, on a 5.10-acre property located at 23926 Port Gamble Road NE, is **APPROVED**, subject to the following conditions:

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 the 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 876 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 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 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 DCD 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 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.
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. 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 the 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.
21. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before (requesting final building inspection/recording the final plat/binding site plan) for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.
22. At building permit application, submit KCPW Form 1601 for issuance of a concurrency certificate, as required by KCC Section 20.04.030, Transportation Concurrency.

23. Private driveway approaches to existing County roads shall be reviewed and approved by Development Engineering.
24. Work within the county right-of-way requires a permit to perform work in the right-of-way from the Kitsap County Department of Public Works.
25. The approach to Port Gamble Road shall be designed in accordance with Kitsap County Road Standards and WSDOT Design Manual Figure 920-5, with a minimum return radius of 35 feet. The approach grade shall not exceed 5% from the flow line to twenty feet beyond the right-of-way line. Note the design vehicle on the final plans.
26. Where slopes are steeper than 15 percent and flatter than 30 percent, infiltration facilities (excluding individual lot systems) shall be placed no closer to the top of slope than the distance equal to the total vertical height of the slope area. All retention facilities shall be a minimum of 200 feet from any slope steeper than 30 percent. This distance may be reduced based on a geotechnical engineering report. That analysis will be prepared by a Civil Engineer licensed in the State of Washington, knowledgeable in the practice of soils engineering and mechanics. The analysis will address the effects of groundwater infiltration, seepage, potential slip planes, and changes in soil bearing strength. The proposed facilities will be designed following the recommendations of the geotechnical analysis.
27. 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 the application was submitted, June 10, 2021. 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.
28. Prior to final permit approval the Applicant shall:
 - Submit documentation of road construction meeting access requirements per code; or
 - Improve access to meet current code; or
 - Equip the residence and Accessory Dwelling Unit (ADU) with an automatic fire sprinkler system. Automatic sprinkler system will require a separate permit.Said access roads shall comply with the following:
 - Unobstructed width of 20 feet and height of 13 feet 6 inches.
 - Access shall be designed and maintained to support a 60,000 pound fire apparatus and be provided with an all weather driving surface.
 - Inside turning radii shall be a minimum of 25 feet.

- Dead end access roads exceeding 150 feet in length shall be provided with an approved turnaround.
- Roads shall not be more than 12% grade.

DECIDED this 6th day of February 2023.



ALEX SIDLES
Hearing Examiner
Sound Law Center