



## Kitsap County Department of Community Development

### Notice of Hearing Examiner Decision

1/24/2017

To: Interested Parties and Parties of Record

RE:           Project Name:       FARMER Granny's Accessory Dwelling Unit (ADU)  
          Applicant:       JUSTIN & TANYA FARMER  
                                  13947 OLYMPIC DR SE OLALLA  
                                  OLALLA, WA 98359  
          Application:     Conditional Use Permit (CUP-ADU)  
          Permit Number:  16 04977

Enclosed is the Decision issued by the Kitsap County Hearing Examiner in the above-referenced matter.

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

[http://www.kitsapgov.com/dcd/lu\\_env/he/HE%20Rules%20for%20Kitsap%20County%20-%20206-23-09.pdf](http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%20206-23-09.pdf)

The Decision of the Hearing Examiner is final, unless 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](mailto:Help@Kitsap1.com) or (360) 337-5777.

CC: Justin & Tanya Farmer [justinfarmerlaw@gmail.com](mailto:justinfarmerlaw@gmail.com)  
Interested Parties:  
None

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

**In the Matter of Request for  
Accessory Dwelling Unit Conditional Use Permit  
File No. 16 04977**

**January 19, 2017**

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THIS MATTER came before the Kitsap County Hearing Examiner on January 19, 2017. The Hearing Examiner makes the following Findings of Fact, Conclusions of Law, and Decision:

**1. FINDINGS OF FACT**

**1.1 Proposal.** The Applicants request a Conditional Use Permit to convert an existing 768 square foot garage to an accessory dwelling unit (ADU). The Applicants/property owners and site location are as follows:

**Applicants/Property Owners:** Justin and Tanya Farmer, 13947 Olympic Drive SE, Olalla, WA 98359.

**Site Location:** The site is located at 13947/13951 Olympic Drive SE, Olalla, WA 98359 (Assessor No. 012201-4-054-2005).

**1.2 Administrative Record.** The Hearing Examiner reviewed Exhibits 1-22, which included the Staff Report. At the hearing, the Department of Community Development ("DCD") proposed adding an updated floor plan and power point to the administrative record as Exhibits 23 and 24, respectively. The Examiner admitted Exhibits 1 through 24.

**1.3 SEPA.** SEPA review was completed and a DNS issued in November, 2016. No appeal was filed. The DNS included the following condition: "The proposal will be conditioned for Stormwater Control per Kitsap County Code Title 12."

**1.4 Hearing.** The Hearing Examiner considered the ADU proposal at an open record public hearing on January 19, 2017. DCD, through Ms. Schaffer, who holds a Masters in Urban and Regional Planning, summarized the proposal. The presentation identified relevant code requirements and how they were met. As DCD found the proposal consistent with applicable requirements, it recommended approval. The Applicant, Mr. Farmer, after being sworn in, addressed questions on the proposal. No person present indicated a wish to submit oral comment and no written public comment was submitted.

**1.5 Agency Comment.** The proposal was circulated within the County, and comment was received regarding regulatory compliance. There were no objections to approval, as long as applicable requirements are met.

**1.6 Zoning/Plan Designations.** The Comprehensive Plan and zoning designations are both Rural Protection (RP). RP zoning allows one dwelling unit per ten acres. The immediate surrounding properties are also zoned RP. To the east approximately 0.36 miles, the zoning changes to Rural Residential (RR), which allows for one dwelling unit per five acres. To the south the zoning remains RP until the Pierce County border approximately 1.25 miles away from the subject property. Parcels in the area are predominantly developed with single family residences. The nearest non-residential use, which is approximately 0.19 mile northeast of the subject property, has a Parks zoning designation.

**1.7 Site and Surrounding Land Uses.** The three acre rectangular parcel is developed with a 2,586 square foot single family residence and a 768 square foot detached two car garage. The property's perimeter is lined with maple and fir trees, providing a natural screening from neighboring properties.

**1.8 Utility and Public Services.**

- **Water:** Kitsap Public Utility District
- **Power:** Puget Sound Energy
- **Sewer:** On-site septic system
- **Police:** Kitsap County Sheriff
- **Fire:** South Kitsap Fire and Rescue
- **Schools:** South Kitsap School District

**1.9 Access.** Access to the site is off a 580' long driveway off of Olympic Drive SE, a County maintained, paved road.

**2. CONCLUSIONS OF LAW**

**2.1 Hearing Examiner Review Authority.**

The Hearing Examiner has review authority for this Conditional Use Permit application.<sup>1</sup> 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.<sup>2</sup>

**2.2 Code Requirements Specific to an ADU in the RP Zone.**

An ADU located outside the urban growth area, and within the RP zone, must obtain a Conditional Use Permit, and comply with requirements specific to the use.<sup>3</sup> 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."<sup>4</sup> As only one ADU is being proposed on a lot

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<sup>1</sup> See KCC Sections 17.410.010(C) and 21.04.100.

<sup>2</sup> KCC 17.550.030(1).

<sup>3</sup> KCC Table 17.410.040(A) Rural, Resource, and Urban Residential Zones, and Footnote 1, requiring ADU compliance with KCC 17.410.060. See KCC 17.410.060(B)(3).

<sup>4</sup> KCC 17.410.060(B)(3).



located outside the urban growth area, no accessory dwelling quarters or other ADU are located on the lot, and the property owners live in the single family residence, these requirements are met.

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."<sup>5</sup> The primary residence's habitable area is approximately 2,586 square feet. Fifty percent of its habitable area is over 900 square feet, so the ADU would be limited to 900 square feet. The proposed ADU habitable area is 768 square feet, which complies with this code requirement.

The proposed ADU building is located approximately 62 feet from the primary residence and is the conversion of an existing detached garage, so complies with the requirement to be located "within one hundred fifty feet of the primary residence or ...the conversion of an existing detached structure (i.e., garage)...."<sup>6</sup> The proposal complies with all other setback requirements.

As for design, the primary residence and ADU are similar in appearance. Both buildings have a composition roof, sheet siding, vinyl windows and are painted in the same color scheme. The ADU's residential architectural design and building materials are similar to the appearance of the primary residence. As a result, the ADU has been "designed to maintain the appearance of the primary residence."<sup>7</sup> Also, the proposed ADU is stick-built, so is not a "mobile home or recreational vehicle."<sup>8</sup>

The Health District recommends approval of this project.<sup>9</sup> On December 12, 2016, the Applicants and staff had a conference call regarding a pump house reservoir that would alter the site plan. The site plan was revised and sent to the Health District. DCD received the approved revision on January 5, 2017 with one condition from the Health District.<sup>10</sup> As such, the proposed ADU will "meet the applicable health district standards for water and sewage disposal."<sup>11</sup>

Parking and entry requirements are met. The proposed ADU uses "the same side street entrance as the primary residence and shall provide additional off-street parking."<sup>12</sup> Both the primary residence and the ADU would use the same existing driveway. The driveway is partially paved and partially crushed rock. Two parking spaces are required for the single family residence and could be accommodated on the existing driveway. One parking space is required for the ADU. At least one parking space is available in front of the ADU building.<sup>13</sup> As a result, all requirements specific to the ADU use are met.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *See e.g.*, Exhibit 13.

<sup>10</sup> Exhibit 20.

<sup>11</sup> KCC 17.410.060(B)(3).

<sup>12</sup> *Id.*

<sup>13</sup> *See* Exhibits 10, 23, and 24.

### **2.3 Conditional Use Permit Requirements.**

A CUP must comply with the following:

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.<sup>14</sup>

These criteria are met. The Staff Report provided detail on applicable comprehensive plan policies. These policies provide for development at low residential densities that can be sustained without urban levels of service, will cause minimal environmental degradation, and provide for residential uses 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, is consistent with the character of the surrounding area, and meets a need to provide housing for extended family. The proposal is consistent with the comprehensive plan.

The proposal is conditioned to ensure compliance with Title 17 and other applicable code requirements. No relevant 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 and mitigated with appropriate 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 and the extensive setbacks provided ensure that 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.

### **DECISION**

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested ADU, provided the following 21 conditions are adhered to.

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<sup>14</sup> KCC 17.550.030(A)



### **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 property owner 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 ADU is 768 square feet as indicated in Exhibit 7. 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 designed to maintain the appearance of the primary residence.
8. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
9. No mobile home or recreational vehicle shall be allowed as an ADU.
10. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
11. 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.
12. 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.
13. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.

14. 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 by the Department and recorded at the Applicants' expense. The Applicants shall provide recorded copies of the Binder to the Department immediately after recording. The Binder shall be recorded within 30 days of notification from the Department that the Binder is ready to be recorded.

15. The uses of the subject property are limited to the uses proposed by the Applicants 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 be, and is not to be, construed as approval for more extensive or other utilization of the subject property.

16. 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 Applicants represent 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 Applicants agree to promptly bring such development or activities into compliance.

17. The decision set forth herein is based upon representations made and exhibits contained in the project application (16 04977). 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.

18. This Conditional Use Permit approval shall automatically become void if no development permit application is accepted as complete by DCD within three years of the Notice of Decision date or the resolution of any appeals.

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

#### **Traffic and Roads.**

20. The Applicants shall 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.

**Health District.**

21. Installer and designer are to prove verticle prior to installation of the septic system. Less than 36" verticle will require a redesign.

THIS DECISION is entered this 19th day of January, 2017.

A handwritten signature in blue ink, appearing to read 'S. Drummond', written over a horizontal line.

Kitsap County Hearing Examiner  
Susan Elizabeth Drummond