



## Hearing Examiner Staff Report and Recommendation

**Report Date:** May 5, 2022  
**Hearing Date:** May 12, 2022

**Application Submittal Date:** 05/15/2021  
**Application Complete Date:** 12/29/2021

**Project Name:** Laymance ADU  
**Type of Application:** Conditional Use Permit – Accessory Dwelling Unit  
**Permit Number:** 21-02736

### Project Location

3605 Salmonberry Drive SE  
Port Orchard, WA  
Commissioner District 2 (south)

### Assessor's Account #

4829-000-008-0003

### Applicant/Owner of Record

Marjorie Laymance  
3605 Salmonberry Dr SE  
Port Orchard, WA 98366

### Recommendation Summary

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

### VICINITY MAP



### 1. Background

Marjorie Laymance (hereafter, “the Applicant”) propose to convert an existing detached structure into a detached 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, zoned Rural Protection and therefore, CUP approval is required. The property is 3.33 acres in size and is currently developed with a single-family home.

### 2. Project Request

The proposal is to convert an existing garage to an ADU. The habitable portion of the ADU will be 558 square feet. The lot is currently developed with a 1,152 square foot manufactured home.

The property will receive water from a private well and will use onsite septic. The ADU meets all applicable provisions applying to special uses per KCC 17.410.060 as well as criteria for CUP approval per KCC 17.550.030.A.

**3. SEPA (State Environmental Policy Act)**

The County used the optional DNS process allowed under WAC 197.11.355. The SEPA comment period was combined with the Notice of Application issued on January 11, 2022. No comments were received. A SEPA DNS was issued on February 4, 2022, followed by a 14-day appeal period. No appeals were filed.

**4. Physical Characteristics**

According to the Kitsap County Assessor, the subject site is 3.33 acres. The site is currently developed with a 1,152 square foot single family home and associated driveway and septic drain field. The home uses a private well for water. The rear undeveloped portion of the site is covered by a wetland.

**Table 1 - Comprehensive Plan Designation and Zoning**

Comprehensive Plan: Rural Protection Zone: Rural Protection (RP)	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 dwelling unit/10 acres	
Minimum Lot Size	10 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	1 story structure
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes: None

*Staff Comment:* The proposal meets applicable standards for the RP zone.

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (west)	50 feet standard	Approx. 60 feet
Side (south)	20 feet; 5 feet for accessory structures	Approx. 10 feet

Side (north)	20 feet; 5 feet for accessory structures	Approx. 150+ feet
Rear (east)	20 feet; 5 feet for accessory structures	Approx. 315+ feet

Applicable footnotes: None

Staff Comment: The ADU meets all dimensional requirements of the RP zone.

**Table 3 - Surrounding Land Use and Zoning**

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Preserve (RP)
South	Single-family residences	Rural Preserve (RP)
East	Single-family residences	Rural Preserve (RP)
West	Single-family residences/ wetland	Rural Preserve (RP)

\*See Attachment A – Zoning Map

**Table 4 - Public Utilities and Services**

	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	Onsite Septic System
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District

**5. Access**

The site will be accessed from the south via Salmonberry Dr SE. The proposed ADU will use the same existing private driveway as the existing home.

**6. Site Design**

The submitted site plan shows the existing primary residence, existing drainfield and existing well location. The plan also shows the existing garage proposed to be converted to an ADU, located in the South of the site. No clearing or vegetation removal is proposed for new ADU construction.

**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 and amended April 27, 2020.

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

*Land Use Policy 50*

*Limit the designed rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.*

*Land Use Policy 51*

*Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.*

*Land Use Policy 53*

*Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not draw population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designation, zoning designation, and zoning code provisions.*

*Housing, Human Services Policy 5*

*Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing.*

*Housing, Human Services Policy 7*

*Adopt regulatory changes to allow non-traditional housing types.*

*Housing, Human Services Policy 11*

*Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class.*

*Housing, Human Services Policy 12*

*Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply.*

*Housing, Human Services Policy 13*

*Identify and remove impediments to creating housing for harder to house populations.*

*Housing, Human Services Policy 14**Disperse affordable housing opportunities throughout the County.*

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

**8. Documents Consulted in the Analysis**

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

Exhibit #	Document	Dated	Date Received/ Accepted
<b>1</b>	<b>STAFF REPORT</b>		
2	Submittal Waiver	05/29/2021	12/27/2021
3	Site Plan with Wetlands	10/25/2021	12/27/2021
4	SFR Floor Plan		12/27/2021
5	SFR and ADU Elevations		12/27/2021
6	SEPA Checklist	05/19/2021	12/27/2021
7	Required Permit Questionnaire		12/27/2021
8	DCD Authorization	05/06/2021	12/27/2021
9	Concurrency Test		12/27/2021
10	ADU Floor Plan		12/27/2021
11	Health District Building Clearance Exemption	05/26/2021	12/27/2021
12	BSA Letter	12/06/2021	12/27/2021
13	Notice of Application	01/11/2022	
14	SEPA DNS	02/04/2022	
15	Revised Site Plan	03/10/2022	03/16/2022
16	Revised Project Narrative	03/15/2022	03/16/2022
17	Information Request Response	03/15/2022	03/16/2022

**9. Public Outreach and Comments**

A Notice of Application was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. Three comments were received. All comments were from neighbors who were generally in support of the project and in favor of approval.

## 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 ADU 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 ADU.

*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 resides and will continue to reside in the single-family residence. A conditional of approval #5 has been added with this requirement.

*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 single-family residence is 1,152 square feet. 50 percent of the home is 576 square feet; therefore, the ADU is limited to 576 square feet (the smaller value). There is an 80 foot separate storage area and the floor plans show that the proposed ADU includes 558 square feet of habitable space. The Kitsap County assessor's records show the structure as 720 square feet; however, submitted plans show the ADU in compliance with the size 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: Per the submitted site plan, the proposed single-family residence and the proposed ADU are approximately 35 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 within an existing detached garage. The interior of the structure will be converted but the exterior is not proposed to be changed, keeping the look of the accessory building on this lot. The photos of the single-family residence were compared to the photo of the proposed ADU (see exhibit 5). Both are one story structures with a pitched roof, horizontal siding, and slider windows. A condition of approval has been added for materials to be reviewed again at the time of building permit.

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

Staff Comment: The proposed ADU was reviewed against the dimensional standards of the RP zone. Please see Table 2.

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

Staff Comment: The application was routed to Kitsap County Health District for review and was approved. The project will be served for by a private well and private septic. Documentation of health approval will be required with building permit.

*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 submitted site plan (Exhibit 3) shows the proposed ADU will use the same driveway that will also serve the single-family residence. Adequate parking is available onsite for the home as well as ADU. The existing site can accommodate at least four vehicles.

*l. 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 4).

**b. Lighting**

Lighting was not analyzed as part of this proposal.

**c. Off-Street Parking**

Per KCC 17.490.030, a single-family dwelling requires 3 parking spaces plus one additional for ADUs. The proposal provides adequate parking per the table below.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 spaces	3	3 existing
ADU	1 additional space for ADU	1	1 existing
Total	4	4	4

**d. Signage**

No signage is proposed or required.

**e. Landscaping**

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

**f. Frontage Improvements**

No frontage improvements are required or proposed as part of this application.

**g. Design Districts/Requirements**

The subject property is not within a design district.

**h. Development Engineering/Stormwater**

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 accepts the concepts contained in this preliminary submittal.

**i. Environmental**

The rear, undeveloped portion of the site is a mapped wetland and FEMA floodplain. No clearing or grading is proposed as the project is all interior to an existing development. No additional environmental reports are required.

A SEPA DNS was issued for the project (exhibit 14).



**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 conditions.

**k. Fire Safety**

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

**l. Solid Waste**

The proposed ADU will use the same solid waste services as the existing single-family residence.

**m. Water/Sewer**

The property will receive water and sewer from onsite private systems. The Kitsap County Health District has reviewed this project and will review again with building permit.

**n. Kitsap Public Health District**

Kitsap County Health District as reviewed and approved the proposal with no conditions at this time.

**11. Review Authority**

The Hearing Examiner has review authority for this Conditional Use Permit application under KCC, Sections 17.550.020 and 21.04.100. The 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 located KCC, Chapter 2.10.

**12. Findings**

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply with all 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 - ADU request be **approved**, subject to the following conditions:

#### a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, tree removal, 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 Department of Community Development 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. 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 558 square feet. Any future expansion of the ADU will require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.
6. The ADU shall be located within 150 feet of the primary residence.
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 or guest house 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 and recorded by the Department at the applicant's expense.

15. 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.
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 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.
17. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #21-02736. 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 the Department of Community Development within four 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.

**b. Environmental**

20. The project proposes no ground disturbance. Should additional ground disturbance or development activity occur, a single-family wetland certification or delineation may be required.

**c. 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.

**d. Traffic and Roads**

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.

**e. Fire Safety**

None at this time.

**f. Solid Waste**

None at this time.

**g. Kitsap Public Health District**

None at this time.

**Report prepared by:**



\_\_\_\_\_  
Colin Poff, Staff Planner / Project Lead

\_\_\_\_\_  
May 4, 2022

Date

**Report approved by:**

*Scott Diener*

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Scott Diener, Manager, DSE

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May 4, 2022

Date

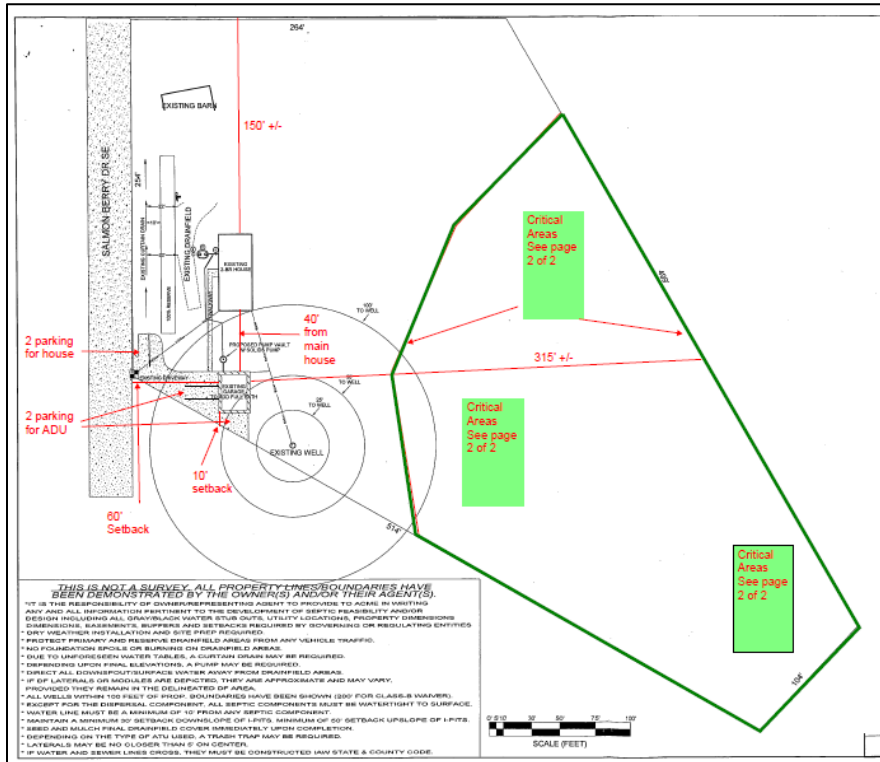
**Attachments:**

Attachment A – Zoning Map

Attachment B – Critical Areas Map

CC: Applicant: Marjorie Laymance, [skylarker04@gmail.com](mailto:skylarker04@gmail.com)  
Authorized Agent: Jeff Coombe, [jeff@jcmpm.com](mailto:jeff@jcmpm.com)  
Interested Parties: N/A  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Colin Poff

Site Plan



**Attachment A – Zoning Map**



**Attachment B – Critical Areas Map**

