



Notice of Hearing Examiner Decision

06/17/2022

To: Interested Parties and Parties of Record

RE: Project Name: The Preserve at Southworth Lot 4 (Pineda) -
Conditional Use for Accessory Dwelling Unit
Applicant: Pineda, Carlos & Lewis Patrick
554 TOYON AVE 6
SAN JOSE, CA 95127
Application: Conditional Use Permit (CUP)
Permit Number: 21-00513

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #21-00513** The Preserve at Southworth Lot 4 (Pineda) - Conditional Use for Accessory Dwelling Unit **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, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to Noon, except holidays. If you wish to view the case file or have other questions, please contact Help@Kitsap1.com or (360) 337-5777.

CC: Owner/Applicant: Pineda, Carlos & Lewis Patrick, 554 TOYON AVE 6 SAN JOSE, CA 95127
Authorized Agent: HNK Development – Todd Hardin, toddthardin@gmail.com
Health District
Public Works
Parks
Navy

DCD
DSE
South Kitsap Fire District
South Kitsap School District
Puget Sound Energy
Water Purveyor
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
WA Dept of Fish & Wildlife
WA State Dept of Ecology-SEPA
WA State Dept of Transportation
WA State Dept of Transportation-Aviation
Interested Parties: None

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 21-00513
)	
Todd Hardin, HNK Development,)	Preserve at Southworth – Pineda
on behalf of Carlos Pineda and Patrick)	Accessory Dwelling Unit CUP
Lewis)	
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Conditional Use Permit</u>)	AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to allow construction of a 900 square foot detached accessory dwelling unit, at 7301 SE Maple Bluff Court, in the Port Orchard area of unincorporated Kitsap County, is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposal.

Hearing Date:

The Hearing Examiner held an open record hearing on the request on May 26, 2022, utilizing a hybrid approach allowing for live participation or participation by remote access technology. The record was left open until June 2, 2022, to allow any member of the public having difficulty connecting to the remote hearing to submit written comments in lieu of live testimony. No additional comments were submitted, and, accordingly, the record closed on June 2, 2022.

Testimony:

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

Darren Gurnee, County Planner

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated May 19, 2022
2. Project Narrative, dated February 2, 2021
3. Site Plan (2 Sheets), dated December 11, 2020
4. ADU Floor Plan (2 Sheets), dated January 2021
5. Single Family Residence Floor Plan (9 Sheets), dated November 21, 2021
6. Required Permit Questionnaire – Conditional Use Permit – Accessory Dwelling Unit, received February 5, 2021
7. Concurrency Test, received February 5, 2021
8. Stormwater Worksheet, received February 5, 2021

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9. Stormwater Best Management Practice Infeasibility Worksheet, received February 5, 2021
10. Stormwater Pollution Prevention Plan (SWPP) Narrative, received February 5, 2021
11. Kitsap Public Health District Building Site Application, dated December 23, 2020
12. Owner Authorization Form, dated January 28, 2021
13. Notice of Application, dated May 6, 2021
14. Conditional Use Permit Memorandum, dated November 12, 2021
15. SEPA Environmental Checklist, dated March 22, 2022
16. Geotechnical Assessment, LeRoy Surveyors & Engineers, Inc., dated February 3, 2021
17. Determination of Non-Significance (DNS), dated May 4, 2022
18. Notice of Public Hearing, dated May 6, 2022
19. Certification of Public Hearing, dated May 16, 2022
20. Staff Presentation
21. Hearing Sign-In

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. Todd Hardin, of HNK Development, on behalf of Carlos Pineda and Patrick Lewis (Applicant), requests a conditional use permit (CUP) to allow construction of a 900 square foot detached accessory dwelling unit (ADU) on a 4.85-acre property that is currently undeveloped. A 3,084 square foot single-family residence would be constructed alongside the proposed ADU to ensure same design style and materials are incorporated into the construction of both structures. The property is located at 7301 SE Maple Bluff Court, in the Port Orchard area of unincorporated Kitsap County.¹ *Exhibit 1, Staff Report, pages 1 and 2; Exhibits 2 through 6; Exhibit 13; Exhibit 18.*
2. Kitsap County (County) determined that the application was complete on February 22, 2021. On May 5, 2021, the County provided notice of the application consistent with the 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. 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 May 11, 2022, the County mailed notice of the associated open record hearing to property owners within 800 feet of the site and to interested parties and published notice in the County's publishing newspaper of record. Notice of the hearing

¹ The property is identified by Kitsap County Assessor's Tax Account No. 042302-4-043-2004. *Exhibit 1, Staff Report, page 1.*

was posted on the subject property the same day. The County did not receive any comments on the proposal in response to its notice materials. *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 13; Exhibit 18.*

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 comment period with the notice of application dated May 5, 2021, under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, with a SEPA comment deadline of May 19, 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 May 4, 2022, with an appeal deadline of May 18, 2022. The DNS was not appealed. *Exhibit 1, Staff Report, pages 2 and 6; Exhibit 15; Exhibit 17.*

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]
 - 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 and all surrounding properties are zoned “Rural Protection” (RP). The RP zone “promotes low-density rural development and agricultural activities that are consistent with rural character and protects environmental features such as significant visual, historical and natural features, wildlife corridors, steep slopes, wetlands, stream and adjacent critical areas.” *KCC 17.140.010*. ADUs are allowed in the RP zone with a conditional use permit. *KCC 17.410.042*. ADUs in the RP zone are required to have front yard setbacks of 50 feet, and side and rear yard setbacks of 5 feet. *KCC 17.420.052*. In accordance with these requirements, the proposed ADU structure would be set back 60 feet from the front property line to the south, approximately 210 feet from the side property line to the west, approximately 20 feet from the side property line to the east, and approximately 140 feet from the rear property line to the north. In addition, ADUs are subject to the special use provisions of *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, 3, 7, and 10; Exhibit 3; Exhibit 6.*

Existing Property and Proposed Development

6. The 4.85-acre property is currently undeveloped and wooded. The eastern quarter of the site is relatively flat and would contain the proposed primary dwelling and ADU, as well as the associated driveway, septic drain field, and reserve drain field. The center of the site has an approximate 45 percent slope, and the County’s Critical Areas Map identifies this portion of the site as containing moderate to severe erosion hazard areas. LeRoy Surveyors and Engineers, Inc., prepared a geotechnical assessment addressing steep slopes on the subject property and other lots in the vicinity. The geotechnical assessment determined that the proposed development would not increase the potential erosion hazard associated with the steep slopes and, therefore, that no prescriptive buffer should be required. As noted above, the Applicant proposes the construction of a detached 900 square foot ADU, which would be located approximately 20 feet from the primary residence. A private driveway providing access to the primary residence from SE Maple Bluff Court would also provide access to the proposed ADU.

The Kitsap Public Health District (KPHD) reviewed and approved the proposal with no conditions. The Kitsap County Fire Marshal's Office also reviewed the proposal and is recommending a condition requiring that the ADU be equipped with an automatic fire sprinkler system to satisfy fire safety requirements. Adjacent properties to the north and west are currently undeveloped. Adjacent property to the east is developed with a single-family residence. Adjacent properties to the south consist of undeveloped property and property developed with a single-family residence. *Exhibit 1, Staff Report, pages 1 through 4, 6, 7, and 9; Exhibit 2; Exhibit 3; Exhibit 6; Exhibit 13; Exhibit 16; Exhibit 18; Exhibit 20.*

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 RP zoning district. *KCC 17.410.042*. ADUs in the RP zone are required to satisfy the ADU special use provisions of *KCC 17.410.060*. 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.*
 - d. Owner of the property must reside in either the primary residence or the ADU. *The owner would reside in the proposed 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 single-family residence would be 3,084 square feet. Fifty percent of 3,084 square feet is 1,542 square feet and, therefore, the ADU would be limited to 900 square feet. The proposed ADU would be 900 square feet, satisfying this requirement.*
 - f. The ADU shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure. *The proposed single-family residence and proposed ADU would be located approximately 20 feet apart, satisfying this requirement.*
 - g. The ADU shall be designed to maintain the appearance of the primary residence. *The proposed ADU and primary residence would be similar in appearance with*

regard to style of construction, roof pitch, roofing and siding materials, windows, and color.

- h. All setback requirements for the zone in which the ADU would be located shall apply. *The proposed ADU would meet all setbacks required by the Rural Protection zone.*
- i. The ADU shall meet applicable health district standards for water and sewage. *The ADU would be served by a private well and private on-site septic system. The Kitsap County Health District reviewed and approved the proposed ADU without conditions.*
- j. No mobile homes or recreational vehicles shall be allowed as an ADU. *There are no mobile homes or recreational vehicles present 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 Applicant's site plan shows that the proposed ADU would utilize the same driveway providing access to the primary dwelling. The driveway would provide an additional off-street parking space.*
- l. An ADU is not permitted on the same lot where accessory living quarters exist. *There are no present or proposed accessory living quarters.*

Exhibit 1, Staff Report, pages 6 and 7.

Testimony

- 8. Kitsap 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 a 900 square foot ADU. He described the subject property, noting that the 4.85-acre site is currently undeveloped. Mr. Gurnee explained that the proposed 3,084 square foot single-family residence would be constructed at the same time as proposed ADU and that both structures would incorporate the same style, siding and roofing materials, roof pitches, and windows. He noted that the subject property is wooded and that the eastern quarter of the site proposed for development is relatively flat. Mr. Gurnee stated that the property owner would reside in the single-family residence and that the ADU would be located approximately 20 feet from the primary residence. He confirmed that the proposed ADU would comply with all applicable setback requirements. Mr. Gurnee explained that the ADU would use the same access driveway as the primary residence and noted that the primary residence and ADU would be served by a private well and septic system. *Testimony of Mr. Gurnee.*
- 9. No one representing the Applicant appeared at the scheduled hearing to discuss the proposal. The Hearing Examiner noted, on the record, that it is the Applicant's burden (not the County's) to establish that a proposal meets the requirements for approval of a land use decision but that failure of an Applicant to participate in the hearing on a proposal is not grounds for denial of a permit application. *Comments of the Hearing Examiner.*

Staff Recommendation

10. Mr. Gurnee testified that County staff recommends approval of the CUP, with conditions. *Exhibit 1, Staff Report, pages 1 and 10 through 12; Testimony of Mr. Gurnee.*

CONCLUSIONS

Jurisdiction

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

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;
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

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- 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, ADUs are subject to the following special use provisions of 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.
- 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;
- k. An ADU shall use the same side-street entrance as the primary residence and shall provide additional off-street parking; and
- l. An ADU is not permitted on the same lot where an accessory living quarters exists.

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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(1)*.

Conclusions Based on Findings

- 1. With conditions, the proposed ADU would be consistent with the special use provisions of KCC 17.410.060.B.3.** The proposed ADU would be located within the Rural Protection (RP) 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 3,084 square foot single-family residence that would be constructed on the property. The proposed ADU would measure 900 square feet, which meets the 900 square foot maximum allowed for an ADU associated with a 3,084 square foot primary residence. The proposed ADU would be sited approximately 20 feet from the primary residence and would be designed to maintain the appearance of the single-family residence by incorporating the same roof pitch, roofing materials, siding, and windows. The proposed ADU would meet all applicable setback requirements for the RP zone and would utilize the same driveway serving the primary residence. Adequate parking is available on-site for the ADU and the existing single-family residence. The proposed ADU would be served by a private well and septic system. The Kitsap County Health District has approved, without conditions, the water and septic systems proposed for the project. The Kitsap County Fire Marshal's Office reviewed and approved the proposal with a condition that the ADU be equipped with an automatic fire sprinkler system to satisfy fire safety requirements. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with applicable statutes, ordinances, and regulations. *Findings 1, 5 – 10*.
- 2. With conditions, the proposed project would be 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 Non-significance on May 4, 2022. 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 approved the

Applicant's proposed water and septic systems without conditions. As conditioned, the proposed ADU would comply with all applicable provisions of the County zoning code, including setback requirements for the RP zone and the specific ADU special use provisions of 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, the request for a conditional use permit to allow construction of a 900 square foot detached accessory dwelling unit at 7301 SE Maple Bluff Ct., in the Port Orchard area of unincorporated Kitsap County, is **APPROVED**, subject to the following conditions:²

1. All required permits shall be obtained prior to commencement of land clearing, tree clearing, construction, and/or occupancy.
2. The accessory dwelling unit 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 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 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 percent of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 900 square feet. Any future expansion of the ADU would require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.

² This decision includes conditions designed to mitigate impacts of this proposed project and to meet requirements of the County code.

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.
12. An accessory living quarters or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the accessory living quarters or guest house 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. Building permits submitted shall include construction plans and profiles for all roads, driveways, storm drainage facilities, and appurtenances. No construction shall be started prior to said plan acceptance.
16. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the lot development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, February 15, 2021. If lot development meets the thresholds for engineered drainage design, 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 Ordinances in effect at the time of Building Permit application.
17. If the project proposal is modified from that shown on the submitted site plan dated December 11, 2020, Development Services and Engineering will require additional review and potentially new conditions.

18. Stormwater controls should be planned in compliance with current Kitsap County stormwater criteria. Final landscaping should be planned and conducted in a manner that reduces the possibility for channelization of stormwater runoff which could create erosion of soils.
19. If possible, excavation and grading should be targeted to drier times of the year.
20. The drainage control plan should incorporate protections such as stockpile cover and silt fencing down slope of earthwork areas.
21. The contractor should temporarily grade any exposed surfaces into a planar shape, and have ready, temporary erosion control materials (plastic sheeting and sandbags, extra silt fencing, straw waddles, etc.).
22. The conclusions and recommendation presented in the geologic assessment are based, in part, on observations, interpretations, and assumptions regarding shallow subsurface conditions. Site conditions observed at a later date which differ from the assessments will require an update to the geologic assessments to reflect those changes.
23. At the time of building permit application, submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with County right-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Existing approaches may need to be improved to meet current standards.
24. 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.
25. 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 of Community Development at the Applicant's expense.
26. 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.

27. 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.
28. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit No. 21-00513. 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.
29. 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.
30. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
31. The ADU shall be equipped with an automatic fire sprinkler system to satisfy access and safety requirements.

Decided this 17th day of June 2022.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center