



## Notice of Hearing Examiner Decision

12/13/2022

To: Interested Parties and Parties of Record

RE:           Project Name: Rosenkranz Conditional Use Permit for Accessory Dwelling Unit (CUP-ADU)  
                  Applicant: William & Barbara Rosenkranz and Brian & Nichole Brown, Kingston WA  
                                  10221 NE Kingston View Ct  
                                  Kingston, WA 98346-9635  
                  Application: Conditional Use Permit (CUP)  
                  Permit Number: 22-01796

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #22-01796 Rosenkranz Conditional Use Permit for Accessory Dwelling Unit (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](mailto:help@kitsap1.com) or (360) 337-5777.

CC: Applicant/Owner: William & Barbara Rosenkranz and Brian & Nichole Brown,  
10221 NE KINGSTON VIEW COURT KINGSTON, WA 98346-9635  
Authorized Agent: ARMSTRONG HMS BREM. INC, [office@armstrong-home.com](mailto:office@armstrong-home.com)  
Health District  
Public Works  
Parks

Navy  
DSE  
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 State Dept of Ecology-SEPA  
WA State Dept of Transportation  
Interested Parties: James & Marilyn Kelly, [Justforus4@msn.com](mailto:Justforus4@msn.com)

**BEFORE THE HEARING EXAMINER  
FOR KITSAP COUNTY**

In the Matter of the Application of	)	No. 22-01796
	)	
	)	
<b>Barbara and William Rosenkranz and</b>	)	<b>Rosenkranz Accessory Dwelling Unit</b>
<b>Nicole and Brian Brown</b>	)	<b>CUP</b>
	)	
	)	
	)	
<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 an 884 square foot detached accessory dwelling unit on an approximately 2.31-acre property, located at 10221 NE Kingston View Court, in the Kingston 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 November 17, 2022, utilizing a hybrid approach allowing for participation in person or through remote access technology. The record was left open until November 28, 2022, to allow any member of the public having difficulty participating at the hearing through remote access to provide written comments in lieu of live testimony. No additional comments were submitted and, accordingly, the record closed on November 28, 2022.

Testimony:

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

Carla Lundgren, County Planner  
Brian Brown, Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated November 10, 2022
2. Single-Family Residence Floor Plans (2 Sheets), submitted April 13, 2022
3. Submission Form, dated April 13, 2022

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4. ADU Construction/Elevation Plans (8 Sheets), dated July 30, 2021, with Structural Calculations, Armstrong Building Components, dated December 4, 2021
5. Building Site Application Health Officer Decision, dated October 21, 2021, with Building Site Application, dated August 30, 2021, and Binding Water Availability Letter, dated November 24, 2021
6. Single-Family Residence Photographs (7 Photographs), submitted April 13, 2022
7. SEPA Environmental Checklist, dated August 23, 2022
8. Notice of Application, dated September 14, 2022
9. Revised Site Plan, dated September 16, 2022
10. Stormwater Worksheet, received September 19, 2022
11. Stormwater and Roadway Features Memorandum, received September 23, 2022
12. Comment from the Suquamish Tribe, dated September 28, 2022
13. Determination of Nonsignificance, dated September 26, 2022
14. Single-Family Residence Building Plans, received November 1, 2022
15. Single-Family Residence Impact Fees, dated June 1, 2011
16. Notice of Public Hearing, dated November 2, 2022
17. Certification of Public Notice, dated November 5, 2022
18. Staff Presentation
19. 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. Barbara and William Rosenkranz and Nicole and Brian Brown (Applicant) request a conditional use permit (CUP) to allow construction of an 884 square foot detached accessory dwelling unit (ADU) on a 2.31-acre property that is currently developed with a 1,767 square foot single-family residence, a 484 square foot attached garage, a 2,400 square foot general purpose building/workshop, paved driveway, and septic system. A building permit for a detached garage and additional parking space on the property was issued on July 12, 2022. The existing driveway providing access to the primary residence from NE Kingston View Court would provide access, through an access easement, to the proposed ADU, and the ADU would utilize the existing septic system serving the primary residence. Stormwater would be dispersed through splash blocks and downspouts. The property is located at 10221 NE Kingston View Court.<sup>1</sup> *Exhibit 1, Staff Report, pages 1 and 2; Exhibits 2 through 5; Exhibits 9 through 12; Exhibit 14; Exhibit 15; Exhibit 18.*

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<sup>1</sup> The property is identified by Kitsap County Assessor's Tax Account No. 232702-1-042-2004. *Exhibit 1, Staff Report, page 1.*

2. Kitsap County (County) determined that the application was complete on June 16, 2022. On September 14, 2022, 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 November 2, 2022, the County mailed notice of the open record hearing associated with the application to interested parties and property owners within 800 feet of the site, published notice in the County's publishing newspaper of record, and posted notice on the property. The County did not receive any comments on the proposal from member of the public in response to its notice materials. The County received a comment from the Suquamish Tribe that was specific to the environmental review of the proposal, as discussed in further detail below. *Exhibit 1, Staff Report, pages 1 and 6; Exhibit 8; Exhibit 16; Exhibit 17.*

#### 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. The Suquamish Tribe submitted a comment raising concerns about increases in impervious surfaces associated with the driveway and garage serving the ADU. During the open record hearing associated with the proposal, County Planner Carla Lundgren testified that the detached garage and driveway are not part of the proposal and were reviewed and approved under a separate building permit process. 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 September 26, 2022, with an appeal deadline of October 13, 2022. The DNS was not appealed. *Exhibit 1, Staff Report, page 2; Exhibit 7; Exhibit 12; Exhibit 13; Testimony of Carla Lundgren.*

#### 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 3 through 5.*

5. The subject property and all surrounding properties are 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*. Detached 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*. In accord with these requirements, the proposed ADU structure would be set back 250 feet from the front property line to the north, 75 feet from the side property line to the east, 206 feet from the side property line to the west, and 45 feet from the rear property line to the south. Additionally, ADUs are subject to the special use provisions

of former KCC 17.410.060.<sup>2</sup> The proposed ADU's compliance with these special use provisions is discussed in detail below. *Exhibit 1, Staff Report, pages 1 and 3; Exhibit 4; Exhibit 9.*

#### Existing Property and Proposed Development

6. The 2.31-acre property is currently developed with a 1,767 square foot single-family residence, with a 484 square foot attached garage, a 2,400 square foot general purpose building/workshop, paved driveway, and septic system. The parcel is roughly square shaped, and approximately half of the property is wooded, with the remaining half consisting of lawn and hard surfaces from existing structures and a driveway. The western portion of the site is developed with the existing primary dwelling and attached garage. The northeastern portion of the property is developed with the existing workshop building. The existing driveway providing access to the primary residence runs from the northeast corner of the property through the central portion of the property. The southwestern portion of the site contains an existing primary septic drain field, and the north central portion of the property contains an existing reserve septic drain field. The site does not contain any critical areas. Properties to the east, west, and north are developed with single-family residences, and the property to the south is undeveloped. *Exhibit 1, Staff Report, pages 1 through 3; Exhibit 2.*
7. The proposed ADU would be located approximately 120 feet southeast of the primary residence. Access to the ADU would be provided by the existing driveway serving the primary residence, which connects to NE Kingston View Court through an access easement. One additional parking space would be provided for the ADU. Stormwater would be dispersed by splash blocks and downspouts. County Development Services and Engineering reviewed and approved the proposal, with conditions, for compliance with stormwater and road standards. The conditions have been incorporated with County staff's recommended conditions of CUP approval. Kitsap Public Utility District provided a Binding Water Availability Letter for the proposal on November 24, 2021. The proposed ADU would be served by the existing on-site septic system. The Kitsap County Health District reviewed and approved the proposal without conditions. The Kitsap County Fire Marshal's Office also reviewed and approved the proposal without conditions. *Exhibit 1, Staff Report, pages 1, 2, 4, 10, and 12; Exhibit 5; Exhibit 10; Exhibit 11.*

#### Conditional Use Permit

8. 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*

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<sup>2</sup> KCC 17.410.060 was repealed pursuant to Ordinance No. 611-2002, which became effective on June 28, 2022. The proposal vests to the former code provisions because the application was deemed complete on June 16, 2022, prior to the ordinance taking effect on June 28, 2022. *Exhibit 1, Staff Report, page 1.*

17.110.175. As noted above, the Applicant requests a CUP to construct a detached ADU, which is listed as a conditional use in the RR zoning district. *KCC 17.410.042*. ADUs in the RR zone are required to satisfy the ADU special use provisions of former 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 currently resides 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 existing residence is 1,767 square feet. Fifty percent of 1,767 is 883.5 square feet. The County rounds up to 884 square feet and, therefore, the ADU is limited to 884 square feet.*
- 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 would be located approximately 120 feet apart, satisfying this requirement.*
- g. The ADU shall be designed to maintain the appearance of the primary residence. *The structure and siding of the proposed ADU would match the aesthetic of the existing house.*
- h. All setback requirements for the zone in which the ADU would be located shall apply. *The proposed ADU would comply with all setback requirements applicable to the RR zone.*
- i. The ADU shall meet applicable health district standards for water and sewage disposal. *Kitsap County Health District reviewed and approved the proposed ADU.*
- j. No mobile homes or recreational vehicles shall be allowed as an ADU. *There are no mobile homes or recreational vehicles present or proposed to be located 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 that the*

*proposed ADU would use an existing driveway utilized by the single-family residence.*

1. 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 through 8.*

#### Testimony

9. County Planner Carla Lundgren 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 detached ADU. She explained that the proposed ADU would be located on a 2.31-acre lot that has an existing 1,767 single family residence, which is occupied by the Applicant. She noted that there were discrepancies between the square footage of the existing single-family residence recorded with the assessor's office and provided by the Applicant but explained that the Applicant had provided sufficient documentation to establish that the existing residence is 1,767 square feet in size. Ms. Lundgren stated that the County had received one comment from a reviewing agency, the Suquamish Tribe, which raised concerns about increases in impervious surface associated with the driveway and detached garage. She stressed, however, that the driveway and detached garage are not part of the current proposal and had been reviewed and approved under a separate building permit process.

Ms. Lundgren explained that the property is located within the RR zone and that the proposed ADU would meet all setback requirements for the RR zone. She noted that the proposed ADU and existing single-family residence would have similar architectural styles. Ms. Lundgren detailed how, with conditions, the proposal would be consistent with the goals and policies of the County Comprehensive Plan and would meet all the special-use criteria under former KCC 17.410.060.B.3. *Testimony of Ms. Lundgren.*

10. Applicant Brian Brown testified that he had originally understood that the existing single-family residence was 1,776 square feet in size but later determined through documentation that the residence is 1,767 square feet. *Testimony of Mr. Brown.*

#### Staff Recommendation

11. Ms. Lundgren testified that County staff recommends approval of the conditional use permit application, with conditions. Mr. Brown testified that he understands and would comply with County staff's recommended conditions. *Testimony of Ms. Lundgren; Testimony of Mr. Brown; Exhibit 1, Staff Report, pages 11 through 14.*

### **CONCLUSIONS**

#### Jurisdiction

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

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### 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 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 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.
- 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.

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.*

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Conclusion Based on Findings

1. **With conditions, the proposed ADU would be consistent with the special use provisions of former KCC 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 continue to reside in the existing 1,767 square foot single-family residence on the property. The proposed ADU would measure 884 square feet, which is the maximum permitted for an ADU associated with a 1,767 square foot primary residence. The proposed ADU would be sited approximately 120 feet from the existing single-family residence and would be designed to maintain the appearance of the single-family residence by incorporating the same architectural style and siding. The proposed ADU would meet all applicable setback requirements for the RR zone and would be accessed by the existing driveway serving the single-family residence, which would provide the additional parking space required for the ADU. The proposed ADU would be served by an on-site septic system, and potable water would be provided by municipal water. The Kitsap County Health District has approved the water and septic systems proposed for the project, without conditions. The Kitsap County Fire Marshal's Office also reviewed and approved the proposal without conditions. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with applicable statutes, ordinances, and regulations. *Findings 1, 5 – 11.*
  
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 from members of the public in response to its notice materials. The County received a comment from the Suquamish Tribe that was specific to the environmental review of the proposal, which raised concerns about impervious surfaces related to a detached garage and driveway on the property. These concerns relate to a detached garage and driveway project that is not included as part of the CUP request before the Hearing Examiner, which was reviewed and approved through a separate building permit process. 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 September 26, 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 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 RR zone and the specific ADU special use provisions of former 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 – 11.*

### DECISION

Based on the preceding findings and conclusions, the request for a conditional use permit to allow construction of an 884 square foot detached accessory dwelling unit on an approximately 2.31-acre property, located at 10221 NE Kingston View Court, in the Kingston area of unincorporated Kitsap County, is **APPROVED**, subject to the following conditions:<sup>3</sup>

1. All required permits shall be obtained prior to commencement of land clearing, construction, and/or occupancy.
2. The accessory dwelling unit (ADU) is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering, and similar finish work), remodel, or expansion of the accessory dwelling unit building, regardless of whether a building permit is required, shall 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 ADU'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 884 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.

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<sup>3</sup> This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by 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. 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.
16. The uses of the subject property are limited to the uses proposed by the Applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.

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 Conditional Use Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within four years of the Notice of Decision date or the resolution of any appeals.
20. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
21. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time this permit application was deemed fully complete. If 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.
22. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.
23. At the time of building permit application, submit Kitsap County Public Works Form 1601 for issuance of a concurrency certificate, as required by Kitsap County Code 20.04.030, Transportation Concurrency.
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

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right-of-way shall be submitted as part of the SDAP process (or building permit if no SDAP is required). The need for and scope of bonding will be determined at that time.

**DECIDED** this 12<sup>th</sup> day of December 2022.



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ANDREW M. REEVES  
Hearing Examiner  
Sound Law Center