



## REVISED Hearing Examiner Staff Report and Recommendation

**Report Date:** 09/01/2023  
**Hearing Date:** 09/07/2023

**Application Submittal Date:** 11/09/2022  
**Application Complete Date:** 01/19/2023

**Project Name:** Hyde – Conditional Use Permit for an Accessory Dwelling Unit (ADU)  
**Type of Application:** Conditional Use Permit (CUP-ADU)  
**Permit Number:** 22-05536

### Project Location

10553 Seabeck HWY NW  
Seabeck, WA 98380  
Commissioner District 3

### Assessor's Account #

152501-4-019-1002

### Applicant/Owner of Record

Hyde Wendy W & Sam E  
10553 Seabeck HWY NW  
Seabeck, WA 98380

### VICINITY MAP



### Recommendation Summary

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

#### 1. Background

Hyde Wendy W & Sam E (hereafter, “the Applicant”) propose to construct an 800-square-foot Accessory Dwelling Unit (ADU). Per Kitsap County Code (KCC) section 17.410.042, an ADU proposed in the Rural Protected zone outside of an Urban Growth Area (UGA) boundary requires a Conditional Use Permit (CUP). The project is located outside of an UGA; therefore, a CUP approval is required.

#### 2. Project Request

The Applicant requests approval of a CUP to construct an 800-square-foot ADU. The ADU will use the same driveway as the SFR, and access the parcel from the North of the parcel which connects to Seabeck HWY NW. The ADU will have similar materials as the primary dwelling. The onsite septic system will serve the ADU and primary unit. A new Kitsap Public Utility District and new Puget Sound Energy meter will provide water and power to the new proposed dwelling unit. The ADU meets all applicable provisions applying to special uses per KCC section 17.410.060 as well as criteria for CUP approval per KCC section 17.550.030.A.

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

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated 02/17/2023 (Exhibit 13). A Determination of Nonsignificance (DNS) was issued on 07/19/2023 (Exhibit 18). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions at the end of this report:

The SEPA appeal period expired 08/02/2023. No appeals were filed; therefore, the SEPA determination is final.

**4. Physical Characteristics**

According to the Kitsap County Assessor, the subject site is 2.27 acres. The middle portion of the site is developed with primary dwelling, attached garage and driveway. The septic, primary and reserve, is NW of the proposed development. Potable water is proposed to be provided by a private well; sanitary sewage disposal is proposed to be provided by an individual on-site septic system. Adequate vehicular access is proposed via private driveway intersecting Seabeck HWY NW. There are critical areas on the parcel, a mapped moderate erosion hazard. It has been addressed in the submittals and meets the code requirements of Title 19. The project is conditioned that required building permits meet the provisions of Kitsap County Code Title 12.

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

Comprehensive Plan: Rural Residential Zone: Rural Protection (RP)	Standard	Proposed
Minimum Density	NA	1 dwelling unit and 1 ADU
Maximum Density	1 DU/10 acres	
Minimum Lot Size	10	2.27, existing

Maximum Lot Size	NA	2.27, existing
Minimum Lot Width	140	284', existing
Minimum Lot Depth	140	367', existing
Maximum Height	35 feet	Single story
Maximum Impervious Surface Coverage	NA	9,385 SF, proposed. ~ 9.5%
Maximum Lot Coverage	NA	NA

*Staff Comment: Lot is already existing. No newly created lots within this proposal.*

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (North)	50 feet	~76 feet
Side (East)	20 feet; 5 feet for accessory structures	~62 feet
Side (West)	20 feet; 5 feet for accessory structures	~184 feet
Rear (South)	20 feet; 5 feet for accessory structures	~250 feet

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

Surrounding Property	Land Use	Zoning
North	Single Family Residence	Rural Protection (RP)
South	Single Family Residence	RP
East	Single-family residence	RP
West	Single-Family residence	RP

**Table 4 - Public Utilities and Services**

	Provider
Water	Well
Power	Puget Sound Energy
Sewer	Septic
Police	Kitsap County Sheriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District #401

## 5. Access

The subject site gains access via a driveway off Seabeck Hwy NW.

## 6. Site Design

Site design is evaluated under the "Planning Analysis" under Section 10.

## 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 in 2018 and 2020.

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

*Land Use Goals and Policies*

*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 Goals and Policies*

*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 23 Exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
<b>1</b>	<b>STAFF REPORT – Revised</b>	<b>09/01/2023</b>	
2	Submission Form	11/09/2022	01/19/2023
3	SEPA Checklist	09/30/2022	01/19/2023
4	Site Assessment Planning Packet		01/19/2023
5	ADU Floor Plans / Engineered Calculations	07/14/2022	01/19/2023
6	Elevations Photos		01/19/2023
7	Site Assessment Planning Packet		01/19/2023
8	Water Availability Letter - Waiver		01/19/2023
9	Septic Design	08/03/2022	

10	Geologic Report	08/29/2022	01/19/2023
11	Stormwater Worksheet		01/19/2023
12	Post-Construction Soil Quality & Depth Worksheet		01/19/2023
13	Notice of Application	02/17/2023	
14	SFR Floor Plans – Revised	06/13/2023	06/27/2023
15	Civil / Site Plans – Revised	06/14/2023	06/27/2023
16	Corrections Response	06/16/2023	06/27/2023
17	Stormwater Pollution Prevention Plan (SWPP) – Revised	09/06/2022	06/27/2023
18	SEPA Determination of Non-Significance (DNS)	07/19/2023	
19	Stormwater Conditions Memo	07/20/2023	
20	Notice of Public Hearing – Revised	08/21/2023	
21	Certification of Public Notice	08/29/2023	
22	Staff Presentation		
23	Hearing Sign In		

## 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. No comments were received by the department.

## 10. Analysis

### a. Planning/Zoning

Per KCC section 17.415.015.B, 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 UGA.**

- b. An ADU shall be subject to a CUP in those areas outside an urban growth boundary;*

**Staff Comment: The subject property is located outside of an UGA. This application is a CUP 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 currently resides in the single-family residence.**

- 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 proposed ADU is 800 square feet. The residence is 1,851 square feet. Fifty percent of 1,851 square feet is 925.5 square feet. The ADU is limited to 900 square feet (the smaller value).**

- 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: The proposed single-family residence and the proposed ADU are approximately 84 feet apart, satisfying this requirement.**

- g. The ADU shall be designed to maintain the appearance of the primary residence.*

**Staff Comment: The single-family residence and the ADU are similar in appearance. The structure, and siding match the aesthetic of the existing house.**

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

**Staff Comment: The parcel is zoned Rural Protection zone. All setbacks required by the Rural Protection zone are met for the proposed ADU. Please see Table 2 – Setback for Zoning District.**

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

**Staff Comment: The Kitsap County Health District review and approval will be completed with the building permit, 22-05307.**

- 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 shows the proposed ADU will use the existing driveway utilized by the single-family residence. The driveway will provide the required additional off-street parking space.**

*l. An ADU is not permitted on the same lot where an accessory living quarter exists.*

**Staff Comment: There are no present nor proposed accessory living quarters.**

**b. Lighting**

Lighting was not analyzed as part of this proposal.

**c. Off-Street Parking**

The proposal includes one additional parking space for the ADU.

**Table 5 - Parking Table**

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	For historical lots or lots with no standing requirement, 3 per unit. 1 additional space for ADUs	1	3 SFR 1 ADU
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.

**Table 6 - Landscaping Table**

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s) 17.500.025		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA



**f. Frontage Improvements**

Not applicable; there are no frontage improvement requirements for an ADU. However, there are access requirements that limit access to one road approach off a County road. This is addressed below under the access heading.

**g. Design Districts/Requirements**

Not applicable; the subject property is not located within a design district.

**h. Development Engineering/Stormwater**

Applicant proposes an accessory dwelling unit on an approximate 2.27-acre parcel. The parcel is currently developed with a single-family residence, driveway, and utilities. Potable water is proposed to be provided by a well; sanitary sewage disposal is proposed to be provided by private onsite septic. Adequate vehicular access exists via the driveway that intersects Seabeck Highway NW. The parcel contains the following mapped critical areas: moderate erosion hazards. The proposed stormwater facilities include downspout splash blocks for stormwater quantity control.

**i. Environmental**

There is a mapped moderate erosion hazard on the parcel, which has been addressed in the submitted Geological report from Envirotech Engineering dated August 29, 2022. The report calls for a 25-foot setback from the toe of the Eastern slope and is on the site plan. The permit will be conditioned to follow the recommendations of the Geological report.

**j. Access, Traffic and Roads**

Development Services and Engineering reviewed the proposal for compliance with traffic and road standards and recommended approval, with conditions (Section 13).

**k. Fire Safety**

The Kitsap County Fire Marshal's Office reviewed and approved the proposal.

**l. Solid Waste**

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

**m. Water/Sewer**

The application included a waiver for Building Site Application from Kitsap County's Health District for water availability and a Septic plan from ACME septic. Potable water will be provided by a private well; sanitary sewage disposal is proposed to be provided by an on-site septic system. The Building Site Application from the Kitsap County Health District for water and sewer will be addressed in the building permit, 22-05307.

**n. Kitsap Public Health District**

Kitsap County Health District will be reviewed and approved in the building permit 22-05307.

**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 at 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 of 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 request be **approved**, subject to the following conditions:

**a. Planning/Zoning**

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

whether a building permit is required, shall be reviewed by the DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.

4. Only one ADU shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time.
6. The ADU's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 800 square feet (Exhibit 2). Any future expansion of the ADU will require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.
7. The ADU shall be located within 150 feet of the primary residence.
8. The ADU shall be designed to maintain the appearance of the primary residence.
9. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
10. No mobile home or recreational vehicle shall be allowed as an ADU.
11. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
12. An attached accessory dwelling unit (A-ADU) or guest house (GH) is not permitted on the same lot unless the ADU is removed and the A-ADU or GH complies with all requirements imposed by the Kitsap County Code.
13. A property with a primary residence and an ADU cannot be segregated to create two separate legal lots unless it complies with all subdivision, zoning and density requirements in place at the time of a complete subdivision application.
14. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
15. The recipient of any CUP shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of, and agreement to, abide by the terms and conditions of the CUP and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the DCD at the

applicant's expense.

16. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.
17. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
18. The decision set forth herein is based upon representations made and exhibits contained in the project application. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
19. This CUP approval shall automatically become void if no development permit application is accepted as complete by the DCD within four years of the Notice of Decision date or the resolution of any appeals.
20. Any violation of the conditions of approval shall be grounds to initiate revocation of this CUP.

**b. Development Engineering**

21. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
22. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the SDAP (or Building Permit if no SDAP required) application is deemed fully complete. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Code in effect at the time of SDAP application, or Building Permit if an SDAP is not required.

23. 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.

**c. Environmental**

24. The submitted Geological report shall be followed, and the permit shall be conditioned to follow the report recommendations.

**d. Traffic and Roads**

25. At 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.

26. 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 SDAP process, or Building Permit process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

**e. Fire Safety**

NA

**f. Solid Waste**

NA

**g. Kitsap Public Health District**

NA

Report prepared by:



Joshua Bennett, Staff Planner / Project Lead

08/30/2023

Date

Report approved by:



David Kinley, Assistant Director

8/31/2023

Date

**Attachments:**

Attachment A – Site Plan

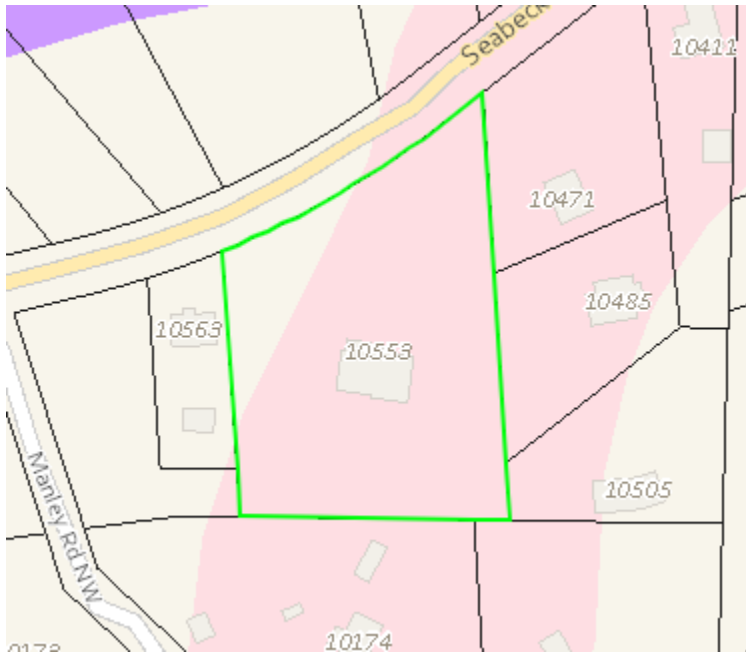
Attachment B – Critical Area Map

Attachment C – Zoning Map, etc.

CC: Applicant: Angela Butts w/NW Permitting Solutions, [angelaybutts@icloud.com](mailto:angelaybutts@icloud.com)  
Owner: Wendy & Sam Hyde, [samhyde1966@gmail.com](mailto:samhyde1966@gmail.com)  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Joshua Bennett  
Interested Parties: Patricia Horton, 10120 Manley Rd Seabeck, WA 98380



**Attachment B – Critical Area Map**



**Attachment C – Zoning Map**

