



Hearing Examiner Staff Report and Recommendation

Report Date: April 2, 2020
Hearing Date: April 9, 2020

Application Submittal Date: November 8, 2019
Application Complete Date: January 13, 2020

Project Name: Surly Crab Accessory Dwelling Unit (ADU)
Type of Application: Conditional Use Permit (CUP)
Permit Number: 19-05227

Project Location

8695 Sunset Lane NW
Seabeck, WA 98380
Commissioner District #3

Assessor's Account #

192501-2-023-1006

Applicant/Owner of Record

Lyneshard LLC
8695 Sunset Lane NW
Seabeck, WA 98380

VICINITY MAP



Recommendation Summary

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

1. Background

The Department of Community Development (DCD) is recommending approval of Conditional Use Permit (CUP) for a 750 square-foot accessory dwelling unit (ADU) at 8693/8695 Sunset Lane NW in Seabeck.

2. Project Request

Lyneshard LLC has requested approval for a CUP that would allow the construction of a new 750 square-foot ADU. The subject property is a shoreline property but the proposed ADU is 200' from ordinary high-water mark. Because the proposal is not located within 200' of the shoreline, it does not fall under the jurisdiction of the Shoreline Master Program. The proposed ADU will be built over existing impervious surface. The site is developed with an existing 1,346 square-foot single family residence. However, the owners have an issued building permit to replace the existing residence with a 3,900 square-foot home. The property

is also developed with a 560 square-foot detached garage and bulkhead. The project is served by public water and on-site sewage.

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 January 21, 2020 (Exhibit 17). A Determination of Nonsignificance (DNS) was issued on March 2, 2020 (Exhibit 19). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions 30 at the end of this report.

The SEPA appeal period expired March 16, 2020. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

According to the Kitsap County Assessor, the subject property is 4.93 acres. It is a shoreline property that abuts Hood Canal to the west. The parcel is rectangle-shaped and is heavily wooded.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	Subject property is an existing lot.
Maximum Density	1 dwelling unit per acre	
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	N/A	N/A
Minimum Lot Width	140'	N/A
Minimum Lot Depth	140'	N/A

Maximum Height	35'	Reviewed at time of building permit
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (South)	50'	50'
Side (East)	20', 5' for accessory structures such as ADUs	311'
Side (North)	20', 5' for accessory structures such as ADUs	304'
Rear (West)	Shoreline Designation, Shoreline Residential: 85' standard buffer from ordinary high-water mark	Proposed ADU is 200' from ordinary high-water mark. Buffer is met.

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Residential
South	Single-family residence	Rural Residential
East	Single-family residence	Rural Residential
West	Hood Canal	Hood Canal

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	Central Kitsap Fire and Rescue
School	Central Kitsap School District

5. Access

The subject property is accessed off an easement road from Sunset Lane NW which is a County-maintained right of way.

6. Site Design

Site design is analyzed under Section 10 of this report.

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

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

Land Use Policy 50

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

Land Use Policy 51

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

Land Use Policy 53

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

Housing, Human Services 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 Development Procedures

8. Documents Consulted in the Analysis

A complete index of exhibits is in the project file. To date, the index to the record consists of 32 Exhibits.

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE ACCEPTED
1	Permit Questionnaire		11/12/2019
2	Concurrency Test		11/12/2019
3	Drainage Report		11/12/2019
4	ADU – Elevations		11/12/2019
5	Single-Family Residence – Elevations		11/12/2019
6	ADU- Floor Plan		11/12/2019
7	Single-Family Residence – Floor Plan		11/12/2019
8	Geotechnical Report		11/12/2019
9	No Net Loss Report		11/12/2019

10	Stormwater Worksheet		11/12/2019
11	State Environmental Policy Act (SEPA) Checklist		11/12/2019
12	Surly Crab Narrative		11/14/2019
13	Landscape Plans		11/15/2019
14	Drainage SWPP Plans		11/19/2019
15	BSA Site Plan – Revised		01/06/2020
16	Kitsap Health Dept – BSA Approval		01/09/2020
17	Notice of Application	01/21/2020	
18	Stormwater Conditions Memo from Candy Vickery	03/02/2020	
19	SEPA Determination of Non-Significance	03/02/2020	
20	Revised Site Plan		03/05/2020
21	Zoning Map	03/05/2020	
22	Critical Area Map	03/05/2020	
23	Aquifer Recharge Area Map	03/05/2020	
24	Comprehensive Plan Map	03/05/2020	
25	Aerial Map	03/05/2020	
26	Assessor Map	03/05/2020	
27	Email Comment – Waxham		03/18/2020
28	Notice of Public Hearing	03/25/2020	
29	Staff Report	04/02/2020	
30	Staff Presentation	04/02/2020	
31	Certification of Public Notice	04/02/2020	
32	Hearing Sign-In Sheet	04/02/2020	

9. Public Outreach and Comments

Staff received two inquiries about the project via phone call. The first, a neighbor wished to remain anonymous but was concerned about the proposed ADU turning into a short-term vacation rental.

Second contact was on March 18, 2020 Elizabeth Waxham contacted staff after the original Notice of Public Hearing. (Original public hearing was scheduled for March 26, 2020 but because of COVID19, the hearing was rescheduled for April 9, 2020). Ms. Waxham's comments were regarding traffic, specifically related to speeding on Sunset Lane NW and additional shoreline property owners (Exhibit 27).

Issue Ref. No.	Issue	Staff Response
1.	Vacation Rentals	A neighbor, who wished to remain anonymous, called and had concerns about the proposed ADU becoming a

		vacation rental. Staff told the neighbor that if the ADU was rented out as a vacation rental and the property became a nuisance that Kitsap County Code Compliance could be contacted.
2.	Traffic on Sunset Lane NW	ADUs do not require traffic impact analyses. However, Condition 28 does require a traffic concurrency test with the building permit.

10. Analysis

a. Planning/Zoning

17.410.060.B.3. Accessory Dwelling Unit (ADU). In order to encourage the provision of affordable and independent housing for a variety of households, an accessory dwelling unit may be located in residential zones, subject to the following criteria:

- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary;

Staff Comment: The subject property is not located within the urban growth boundary.

- b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary;

Staff Comment: The subject property is located outside of the urban growth boundary. This application is a CUP for an Accessory Dwelling Unit.

- 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 existing 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 750 square feet. The existing residence is 1,346 square feet. However, the owners have an issued building permit (#19-

5212) to replace the existing residence with a 3,900 square-foot home. The project will be conditioned for the existing single-family residence to be finalized prior to the approval of the ADU building permit. Please see Condition 20.

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 accessory dwelling unit are approximately 140' 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. Please see Exhibit 4 and 5. The roof pitch is the same and both structures propose the same wood siding.

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

Staff Comment: All setbacks required by the Rural Residential zone are met for the proposed accessory dwelling unit. Please see Table 2.

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

Staff Comment: The application was routed to Kitsap County Health District and approved. Condition 8 addresses Health District concerns.

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 proposed ADU will use the existing driveway that the single-family residences. The driveway will provide an additional off-street parking space.

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

Staff Comment: There are no present or proposed accessory living quarters. Please see the single-family residence floor plan, Exhibit 7.

b. Lighting

Light was not analyzed for this proposed project

c. Off-Street Parking

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	1 additional space for accessory dwelling units	1 space	Proposed parking on the existing shared driveway
Total	1	1	1

d. Signage

This application does not include any proposals for signage.

e. Landscaping

Landscaping is not required with this proposal.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	N/A	N/A
Required Buffer(s)	N/A	N/A
North	N/A	N/A
South	N/A	N/A
East	N/A	N/A
West	N/A	N/A
Street Trees	Not required	Not required

f. Frontage Improvements

Frontage Improvements are not required with this application.

g. Design Districts/Requirements

The subject property is not within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to site development. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans received November 12, 2019 by Kitsap County Development Services and Engineering. Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires 4 conditions as an element of the land use approval.

i. Environmental

There was a Geotechnical Engineering Investigation submitted prepared by Coastal Solutions dated September 15, 2019. However, the report did not address the proposed ADU. Condition 27 requires an addendum to the report to address the proposed ADU.

There is non-fish bearing stream north of the proposed ADU. The required 50' buffer for the stream and the construction buffer will be met.

j. Access, Traffic and Roads

Traffic and Roads reviewed the proposal and approved the project with 3 conditions. Please see Conditions 28-30.

k. Fire Safety

Kitsap County Fire Marshal's Office reviewed the proposal and approved with no conditions.

l. Solid Waste

Solid Waste reviewed was no required for this proposal.

m. Water/Sewer

The application included an approved Building Site Application that shows approval for water and sewer from Kitsap County's Health Department, Exhibit 16. Potable water is proposed to be provided by an on-site two-party well; sanitary sewage disposal is proposed to be provided by an on-site septic system, serving both the single-family residence and the ADU.

n. Kitsap Public Health District

Kitsap County Health District has approved the proposal. Please see Exhibit 16 and Condition 8.

11. Review Authority

The Hearing Examiner has review authority for this CUP application under KCC, Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, or deny a CUP. 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 CUP request for Surly Crab ADU be **approved**, subject to the following 30 conditions:

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The ADU (ADU) is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.

3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the ADU building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
4. Only one ADU shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time. The ADU's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 750 square feet (Exhibit 6). Any future expansion of the ADU will require a building permit and would have to comply with all code requirements in place at the time of the new building permit application.
6. The ADU shall be located within 150 feet of the primary residence.
7. The ADU shall be designed to maintain the appearance of the primary residence.
8. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
9. No mobile home or recreational vehicle shall be allowed as an ADU.
10. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
11. An accessory living quarters (ALQ) or guest house (GH) is not permitted on the same lot unless the ADU is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code.
12. A property with a primary residence and an ADU cannot be segregated to create two separate legal lots unless it complies with all subdivision, zoning and density requirements in place at the time of a complete subdivision application.
13. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
14. The recipient of any 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 Department at the applicant's expense.
15. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code. Unless in conflict with the conditions

stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.

16. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
 17. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #19-05227. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
 18. This CUP approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within four years of the Notice of Decision date or the resolution of any appeals.
 19. Any violation of the conditions of approval shall be grounds to initiate revocation of this CUP.
 20. The building permit for the ADU, #19-05221 cannot be finalized until the building permit for the single-family residence, #19-05212 is finalized. The two structures can be built simultaneously but the single-family residence shall receive final approval first. The primary residence must receive its Certificate of Occupancy prior to the ADU Certificate of Occupancy.
 21. All the plans submitted with the building permit for the ADU, #19-05221 but be revised to match the approved site plan with the CUP, #19-05227.
- b. Development Engineering**
22. 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.
 23. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12 and meets the Simplified Drainage

Review-Engineered level of drainage review. Engineered drainage plans are required as an element of building permit review and approval.

24. On-site stormwater management, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the CUP application was deemed complete, January 13, 2020. 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 KCC in effect at the time of building permit application.
 25. At the time of submittal of a building permit, soil amendment is required for all disturbed areas not covered by hard surface.
 26. If the project proposal is modified from that shown on the submitted site plan dated November 13, 2019, Development Services and Engineering will require additional review and potentially new conditions.
- c. Environmental**
27. With the building permit for the ADU #19-05221 an addendum to the submitted Geotechnical Engineering Investigation prepared by Coastal Solutions dated September 15, 2019 shall be required.
- d. Traffic and Roads**
28. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project.
 29. 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 rights-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.
 30. 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 if no SDAP is required). The need for and scope of bonding will be determined at that time.
- e. Fire Safety**
None
- f. Solid Waste**
None

g. Kitsap Public Health District
None

Report prepared by:



3/19/2020

Katharine Shaffer, Staff Planner

Date

Report approved by:



3/23/2020

Scott Diener, Manager, Development Services and Engineering

Date

Attachments:

Attachment A -- Zoning Map

CC: Applicant: Lauren Rist, Eerkes Architects: laurenr@eerkesarchitects.com

Owner: Scott Lynes, scottalynes@gmail.com

Project Representative: Lionel Halvorsen: lionel@fradkinfineconstruction.com

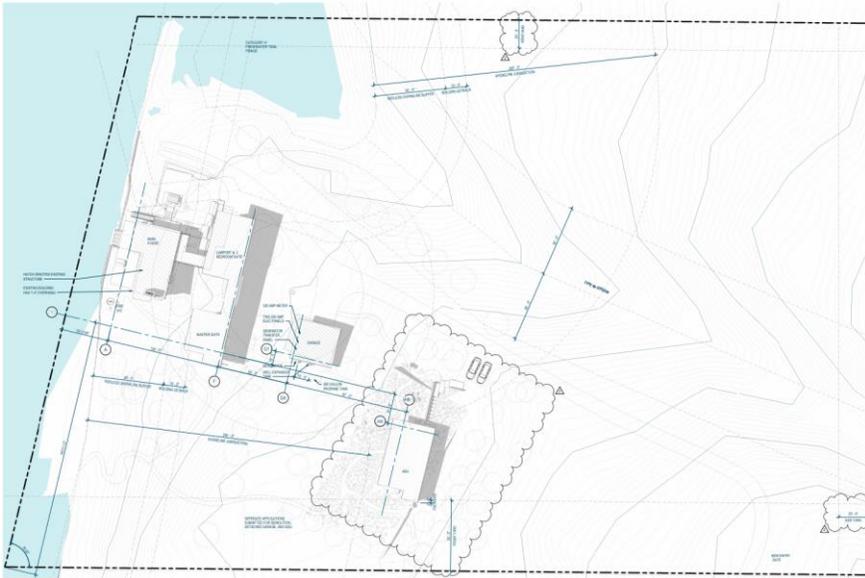
Interested Parties: Wish to remain anonymous

Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Katharine Shaffer

Site Plan



Attachment A:

