



Kitsap County Department of Community Development

Hearing Examiner Staff Report and Recommendation

Report Date: May 4, 2021
Hearing Date: May 13, 2021

Application Submittal Date: 09/29/2020
Application Complete Date: 11/02/2020

Project Name: Doerr ADU
Type of Application: Conditional Use Permit – Accessory Dwelling Unit
Permit Number: 20-04538

Project Location

5989 Watauga Beach Dr E.
Port Orchard, WA
Commissioner District 2 (South)

Assessor's Account

4664-000-023-0002

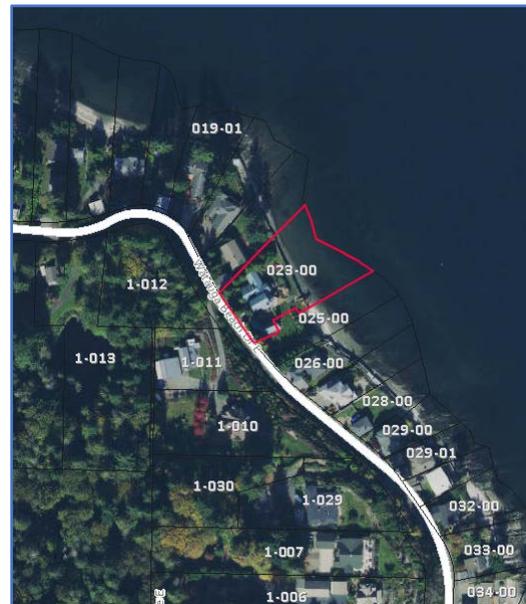
Applicant/Owner of Record

Eric and Samantha Doerr
5989 Watauga Beach Dr E.
Port Orchard, WA 98366

Recommendation Summary

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

VICINITY MAP



1. Background

Eric and Samantha Doerr (hereafter, “the Applicant”) propose to construct a detached Accessory Dwelling Unit (ADU). Per KCC 17.410.060.B.3.b, ADUs proposed outside of the urban growth boundary (UGA) shall be subject to a Conditional Use Permit (CUP). The subject site is located outside of the UGA, zoned Rural Residential and therefore, CUP approval is required. The property is also located on the shoreline and within the “shoreline residential” shoreline designation.

A Building Permit for the ADU (20-01449) is associated with this permit and is returned pending approval of this CUP.

The property is 0.45 acres and is currently developed with a single-family home and detached garage, which is proposed to be converted to the ADU. Per the assessor, the detached garage was built in 1993.

2. Project Request

The proposal is for a CUP to allow the conversion of an existing 1,090 square-foot detached structure into an approximately 870 square foot ADU. All modifications to the existing structure will be interior and will convert the unfinished 2nd story above a garage into a habitable 1 bedroom, 1 bath ADU. A portion of the 2nd story will remain as unfinished/unheated attic space and is not included in the overall square footage of the ADU.

The property will receive water and sewer service from West Sound Utility District. The ADU meets all applicable provisions applying to special uses per KCC 17.410.060 as well as criteria for CUP approval per KCC 17.550.030.A.

3. SEPA (State Environmental Policy Act)

The County used the optional DNS process allowed under WAC 197.11.355. The SEPA comment period was combined with the Notice of Application issued on December 22, 2020. No comments were received. A SEPA DNS was issued on April 7, 2021 followed by a 14-day appeal period. No appeals were filed.

4. Physical Characteristics

According to the Kitsap County Assessor, the subject site is 0.45 acres. The site is a developed shoreline property that slopes gently to the northeast toward the water. There is an existing bulkhead at the property. According to the Kitsap County maps, a small portion of the property is within an erosion hazard area. The shoreline area is a FEMA flood hazard area, however the structure is not located within the mapped flood hazard area.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential (RR)	Standard	Proposed
Minimum Density	N/A	N/A - Subject property is an existing lot.
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	NA	N/A
Minimum Lot Width	140 feet	N/A
Minimum Lot Depth	140 feet	N/A
Maximum Height	35-feet	25-feet
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Applicable footnotes: None

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

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (west)	50 feet standard (20 feet using Urban Restricted (UR) setbacks per footnote 17.120.060.42.b)	None; encroaches on property line.
Side (north)	20 feet (5 feet using UR setbacks per footnote 17.120.060.42.b)	Approx. 90 feet
Side (south)	20 feet (5 feet using UR setbacks per footnote 17.120.060.42.b)	3' 6"
Rear (east)	Regulated by KCC T 22 Shoreline Master Program: 85-foot standard vegetation buffer plus 15-foot building setback. (50-foot reduced vegetation buffer may apply)	Approx. 79 feet

Applicable footnotes: None

Staff Comment: The existing structure is nonconforming to the required side (south) and front (west) setbacks. No exterior changes or expansions of the footprint are proposed. Per KCC 17.570.040.A, alteration or enlargement of existing nonconforming structures is not allowed. Aside from the addition of a dormer, no alteration or enlargement of the structure is proposed as the work will be interior.

The existing structure is nonconforming to the standard 85-foot shoreline buffer. However, no expansions or changes to the footprint are proposed. Under KCC 22.400.100.B.1.b, all structures lawfully constructed structures may continue and may be repaired or maintained in accordance with the Act and this program. The existing garage is a lawfully constructed structure built in 1993, and interior remodeling is allowed pursuant to this section.

A Boundary Line Adjustment was recorded in 2004 which remedied an encroachment of the detached garage over the side (southern) property line. A License was issued by Kitsap County Public Works in September of 2020 authorizing the existing encroachment into the right of way at the front (western) property line.

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Residential (RR)
South	Single-family residences/ Vacant lot	Rural Residential (RR)
East	Puget Sound/Rich Passage	N/A
West	Single-family residences	Rural Residential (RR)

*See Attachment A – Zoning Map

Table 4 - Public Utilities and Services

	Provider
Water	West Sound Utility District
Power	Puget Sound Energy
Sewer	West Sound Utility District
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District

5. Access

The site will be accessed using the existing private driveway from Watuga Beach Dr. E. The proposed ADU and Single-Family home will use the same access.

6. Site Design

The submitted site plan shows the existing 3,996 square foot primary residence, existing 1,090 square foot 2-story detached garage and other site features. The image below shows the proposed site plan.



7. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016 and amended April 27, 2020

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

Land Use Policy 50

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

Land Use Policy 51

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

Land Use Policy 53

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

Housing, Human Services Policy 5

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

Housing, Human Services Policy 7

Adopt regulatory changes to allow non-traditional housing types.

Housing, Human Services Policy 11

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

Housing, Human Services Policy 12

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

Housing, Human Services Policy 13

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

Housing, Human Services Policy 14

Disperse affordable housing opportunities throughout the County.

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

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

8. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of Exhibits 1-26.

Exhibit #	Document	Dated	Date Received
1	Required Permit Questionnaire		10/26/2020
2	Project Narrative		10/26/2020
3	Submittal Waiver		10/26/2020
4	Letter of Authorization		10/26/2020
5	Stormwater Worksheet		10/26/2020
6	Binding Water Agreement		10/26/2020
7	Binding Sewer Agreement		10/26/2020
8	HD Building Clearance		10/26/2020
9	Concurrency Test		10/26/2020
10	Historic Permitting Information for Garage		10/26/2020
11	License to Use ROW		10/26/2020
12	No Net Loss Analysis		10/26/2020
13	SEPA Checklist		10/26/2020
14	Site Plan		10/26/2020
15	ADU Elevation Photos		10/26/2020
16	SFR Photos		10/26/2020
17	Existing SFR Footprint		10/26/2020
18	Permit Set - First Correction Response		10/26/2020
19	Notice of Application	12/31/2020	
20	SEPA Determination of Non-Significance	04/07/2021	
21	Notice of Public Hearing	04/28/2021	
22	Certification of Public Notice	05/04/2021	
23	Staff Report		
24	Staff Presentation		

9. Public Outreach and Comments

A Notice of Application (Exhibit 19) 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 17. 410.060.B.3, 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 (*italicized*). Staff comments are provided below:

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

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

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

Staff Comment: The subject property is located outside of the urban growth boundary. This application is a Conditional Use Permit for an 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 resides and will continue to reside in the single-family residence. A conditional of approval #5 has been added with this requirement.

e. The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by exterior measurements.

Staff Comment: The existing single-family residence is 3,996 square feet. 50 percent of the home is 1,998 square feet; therefore, the ADU is limited to 900 square feet (the smaller value). The exterior dimensions of the ADU add up to 1,090 square feet. According to the floor plan, 220 square feet will be unconditioned, unfinished attic space. The total habitable square footage will be 870 square feet, meeting this requirement.

f. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (i.e., garage).

Staff Comment: Per the submitted site plan, the proposed single-family residence and the proposed accessory dwelling unit are approximately 19 feet apart, satisfying this requirement.

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

Staff Comment: The elevations of the single-family residence were compared to the elevations of the proposed ADU. (see exhibit 15 and 16) There two structures are similar in appearance, using an architectural style, materials, and colors that are matching or similar. Condition of approval #7 ensures the appearance of the ADU remain similar to that of the primary dwelling.

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

Staff Comment: The proposed ADU was reviewed against the dimensional standards of the RR zone. Please see Table 2. The structure is a lawfully constructed nonconforming structure. With this permit, historic records were retrieved that show the structure was legally permitted under permit number 56712 (see attachment 10).

The existing structure is nonconforming to the required side (south) and front (west) setbacks. No exterior changes or expansions of the footprint are proposed. Per KCC 17.570.040.A, alteration or enlargement of existing nonconforming structures is not allowed. Aside from the addition of a dormer, no alteration or enlargement of the structure is proposed as the work will be interior.

The structure encroaches over the front (west) property line. A License was issued by Kitsap County Public Works in September of 2020 authorizing the encroachment in the right-of-way (see exhibit 11).

The existing structure is nonconforming to the standard 85-foot shoreline buffer. However, no expansions or changes to the footprint are proposed. Under KCC 22.400.100.B.1.b, all structures lawfully constructed structures may continue and may be repaired or maintained in accordance with the Act and this program. The existing garage is a lawfully constructed structure built in 1993, and interior remodeling is allowed pursuant to this section.

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. The project received Health District approval on 8/27/2020. The project will be served for water and sewage by West Sound Utility District.

j. No mobile homes or recreational vehicles shall be allowed as an ADU;

Staff Comment: There are no mobile homes or recreational vehicles present on the subject property or proposed in this application.

k. An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking; and

Staff Comment: The submitted site plan (Exhibit 14 shows the proposed ADU will use the same driveway that will also serve the single-family residence. Adequate parking is available onsite for the home as well as ADU. See Table 5 below for the parking analysis.

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 17).

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

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

Table 5 - Parking Table

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

d. Signage

No signage is proposed or required.

e. Landscaping

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

f. Frontage Improvements

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

g. Design Districts/Requirements

The subject property is not within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed land use proposal and finds the concept supportable in its approach to civil site development. Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires 4 conditions (Conditions #20-23).

i. Environmental

The existing detached garage and ADU conversion is within the shoreline jurisdiction and therefore subject to regulations of the Shoreline Master Program (Title 22). The shoreline environment is Shoreline Residential, requiring a standard 85-foot buffer. The existing structure is partially within the standard buffer, however, no expansions to the footprint are proposed. Per KCC 22.400.120.C.2.b, structures in existence on the effective date of the SMP that do not meet the setback or buffer requirements may be remodeled or reconstructed provided that the new construction does not exceed the standard height limit and does not further intrude into the standard buffer. No new development impacts are proposed within the shoreline buffer as the proposed conversion of the garage is limited to interior work.

Permitting requirements and standards for residential development are identified under KCC 22.600.105 and KCC 22.600.170. According to KCC 22.600.170.A.3.c and KCC Table 22.600.105 the addition of an ADU within the Shoreline Residential environment is allowed with a shoreline substantial development permit (SSDP). However, it was determined that a SSDP was not required in this case, as interior work alone does not meet the Shoreline Management Act definition of “development” per 90.58.030(3)(a).

Other mapped critical areas include a FEMA flood hazard area and moderate erosion hazard area. The proposal is located entirely outside of the flood hazard area. The building is partially within the moderate erosion hazard area but does not require a geological assessment as the work is interior. There are no mapped steep slopes in the vicinity.

A SEPA DNS was issued for the project and no comments were received.

j. Access, Traffic and Roads

Development Services and Engineering has reviewed the proposal for compliance with traffic and road standards and has recommended approval, with conditions. (Conditions 22-23).

k. Fire Safety

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

l. Solid Waste

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

m. Water/Sewer

The property will receive water and sewer service from West Sound Utility District. The Kitsap County Health District approved a sewer building clearance for this project.

n. Kitsap Public Health District

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

11. Review Authority

The Hearing Examiner has review authority for this Conditional Use Permit application under KCC, Sections 17.550.020 and 21.04.100. The Hearing Examiner may approve, approve with conditions, or deny a Conditional Use Permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision. The powers of the Hearing Examiner are located KCC, Chapter 2.10.

12. Findings

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply with all 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 Conditional Use Permit - ADU request for Doerr ADU be **approved**, subject to the following 23 conditions:

a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, tree removal, construction and/or occupancy.
2. The 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. The accessory dwelling unit'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 870 square feet. A 220-square-foot area of the second floor must be kept as unconditioned, unfinished attic space at all times to keep the ADU below the maximum size requirement. 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 accessory dwelling unit shall be located within 150 feet of the primary residence.
7. The accessory dwelling unit 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 accessory dwelling unit.
10. The accessory dwelling unit shall use the same side street entrance as the

- primary residence and shall provide one additional off-street parking space.
11. An accessory living quarters or guest house is not permitted on the same lot unless the accessory dwelling unit 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 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.
 13. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
 14. The recipient of any conditional use permit shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the Department at the applicant's expense.
 15. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not, and is not, to be construed as approval for more extensive or other utilization of the subject property.
 16. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
 17. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #20-04538. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
 18. This Conditional Use Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of

Community Development within four years of the Notice of Decision date or the resolution of any appeals.

19. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

b. Environmental

None at this time.

c. Development Engineering

20. New and/or replaced hard surfaces do not exceed the 2,000 square foot threshold; nor does the project exceed 7,000 square feet of disturbed area. While a formal plan is not required, the applicant must consider all elements required of a stormwater pollution prevention plan and make allowances for managing erosion and sediment discharge on site. Per KCC Title 12, if the project exceeds either of the thresholds noted above, then additional review for stormwater management will be required.
21. If the project proposal is modified from that shown on the submitted site plan accepted for review October 27, 2020, Development Services and Engineering will require additional review and potentially new conditions.

d. Traffic and Roads

22. 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.
23. 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 at this time.

f. Solid Waste

None at this time.

g. Kitsap Public Health District

None at this time.

Report prepared by:



Colin Poff, Staff Planner / Project Lead

5/4/2021

Date

Report approved by:



Scott Diener, Department Manager / Supervisor

5/4/2021

Date

Attachments:

Attachment A – Zoning Map

Attachment B – Critical Areas Map

CC: Applicant: Wayne and Samantha Doerr
Project Representative: Axiom Design Build: mkapoyos@axiomdesignbuild.com
Interested Parties: N/A
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Colin Poff

Site Plan



Attachment A – Zoning Map



Attachment B – Critical Areas Map

