



Hearing Examiner Staff Report and Recommendation

Report Date: March 6, 2019
Hearing Date: March 14, 2019

Application Submittal Date: October 16, 2018
Application Complete Date: October 29, 2018

Project Name: Pregartner and Miller CUP - ADU
Type of Application: Conditional Use Permit
Permit Number: 18-05021

Project Location

34705 Hansville Road NE
Kingston, WA 98346
Commissioner District 1

Assessor's Account

332802-1-006-2005

Applicant/Owner of Record

Craig Pregartner and Rene Miller
PO Box 1917
Kingston, WA 98346

Recommendation Summary

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

VICINITY MAP



1. Background

Conditional use permit to build an 875 square foot Accessory Dwelling Unit (ADU). The ADU is accessory to an existing 2,082 square foot single family residence. The proposed ADU will be designed to maintain the same appearance as the residence in siding, roof pitch, materials, and color as the primary residence. In addition to the conditional use permit for the ADU, other associated development permits will be required, including a building permit. The subject property is zoned Rural Residential and is not inside of an urban growth area boundary. Kitsap County Code 17.410.060(B)(3)(b) requires a conditional use permit for ADUs outside of the urban growth boundary.

2. Project Request

The applicant requests approval for a Conditional Use Permit for an 876 square foot ADU.

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 Non-Significance (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 November 9, 2018 (Exhibit 13). A Determination of Non-Significance (DNS) was issued on January 25, 2019 (Exhibit 19).

The SEPA appeal period expired February 8, 2019. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The parcel is a five-acre rectangular shape with the dimensions of 660 feet by 330 feet. The parcel is relatively flat on the northern end at a height of 300 feet sloping approximately half way through the parcel to approximately 265 feet on the southern portion of the parcel. Some mature trees exist on the property, however, most of the parcel is cleared with grass and other vegetation. The existing home and proposed ADU are located in the flat portion of the parcel to the north. A seasonal stream in a swale is indicated to be located 100 feet away from proposal on the slope. No other critical areas are known to be on the parcel. The access to the parcel is from the south.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential (1 DU/5 Ac)	Standard	Proposed
Minimum Density	N/A Per 17.420.052	Two Dwelling Units: One Accessory Dwelling Unit to an Existing Single Family Residence
Maximum Density	N/A Per 17.420.052	
Minimum Lot Size	5 acres	N/A
Maximum Lot Size	N/A Per 17.420.052	N/A
Minimum Lot Width	140 feet	N/A

Minimum Lot Depth	140 feet	N/A
Maximum Height	35 feet	Under 35 feet
Maximum Impervious Surface Coverage	N/A Per 17.420.052	N/A
Maximum Lot Coverage	N/A Per 17.420.052	N/A

Applicable footnotes: None

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (North and South) (both have access easements serving more than four lots)	50 feet	South is approximately 320 feet to proposed ADU. North is approximately 300 feet to the proposed ADU.
Side (East)	5 feet for accessory structures	Approximately 245 feet to the proposed ADU.
Side (West)	5 feet for accessory structures	Approximately 50 feet to the proposed ADU.
Rear (None. The parcel has two fronts. The north side would have been rear, however must meet the front setbacks as described above due to an access easement.)		

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residential use and undeveloped land	Rural Residential
South	Single-family residential use	Rural Residential
East	Single-family residential use with	Rural Residential

	potentially some agricultural use	
West	Single-family residential use and undeveloped land.	Rural Residential

Table 4 - Public Utilities and Services

	Provider
Water	Well
Power	Puget Sound Energy
Sewer	None
Police	Kitsap County Sherriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Access

Access is from a private easement along the southern end of the parcel that gains access from Hansville Road, Northeast, a county-maintained road.

6. Site Design

Single family residential development does not require site design such as landscaping and signs. No specific site designs are proposed beyond the ADU being consistent with the appearance of the existing single-family residence.

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 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 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 14	Building and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrence Ordinance

Chapter 21.04	Land Use and Development Procedures
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8. Documents Consulted in the Analysis

To date, the index to the record consists of Exhibits 29.

Exhibit #	Document	Date Accepted
1	Project Application	10/17/18
2	Project Narrative	10/17/18
3	Submittal Waiver Form	10/17/18
4	PW Concurrency Test Application	10/17/18
5	Floor Plans: Single-Family Residence	10/17/18
6	Floor Plans: ADU	10/17/18
7	Elevations: Single-Family Residence	10/17/18
8	Elevations: ADU	10/17/18
9	Site Plan	10/17/18
10	Stormwater Worksheet	10/17/18
11	State Environmental Policy Act (SEPA) Checklist	10/22/18
12	Notice of Complete Application	10/29/18
13	Notice of Application	11/09/18
14	Memorandum of Preliminary Conditions	01/02/19
15	Information Request	01/09/19
16	Photos of Single-Family Residence Elevations	01/16/19
17	Revised Site Plan	01/18/19
18	Response Letter to Information Request	01/18/19
19	SEPA Determination of Non-Significance	01/25/19
20	Map - Zoning	02/07/19
21	Map - Critical Areas	02/07/19
22	Map - Aquifer Recharge	02/07/19
23	Map - Comprehensive Plan	02/07/19
24	Map - Assessor Parcel	02/07/19
25	Map - Aerial	02/14/19
26	Notice of Public Hearing	03/05/19
27	Certification of Public Notice	03/07/19
28	Staff Report	03/07/19
29	Staff PowerPoint Presentation for Hearing	03/14/19

9. Public Outreach and Comments

One adjacent property owner inquired on the notice of application seeking clarification on the proposal, specifically the location, and the county noticing process. No formal comments were provided on the proposal.

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 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. The parcel is currently developed with one existing single-family residence.

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 existing single-family residence has a habitable area of 2,082 square feet. 50% of the habitable area of the proposed single-family residence is 1,041 square feet, hence, the accessory dwelling unit is limited to 900 square feet. The proposed accessory dwelling unit is proposed to have a habitable area of 875 which meets 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: The single-family residence and the proposed ADU are approximately 80 feet apart satisfying this requirement.

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

Staff Comment: The proposed ADU has a similar appearance to the existing single-family residence. The proposed ADU will have similar style, color, craftsman, roofing and siding to the existing primary residence. (Exhibits 7 and 8, and Attachments A and B).

- 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 ADU. 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 and 21 requires compliance with the Health District standards.

- 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 property is accessed through a private easement off Hansville Road Northeast. There is one driveway from the easement on the subject parcel for both the residence and the ADU. The proposed ADU required a minimum of one additional parking space in addition to the existing parking required for the existing single-family residence. The proposed parking area for the ADU is located next to the ADU separate from that of the primary residence. There is plenty of space on the parcel to meet the minimum parking area and will also be verified at the time of the building permit application.

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

Staff Comment: Exhibits 5 and 6 and Attachment C shows the floor plans of the proposed single-family residence and no accessory living quarters.

b. Lighting

Lighting standards do not apply to this project, pursuant to KCC 17.420.030(A).

c. Off-Street Parking

Parking requirements are satisfied, please see Table 5 below.

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	1 proposed space located next to the ADU. See site plan at the end of this report or Exhibit XX

d. Signage

No signage is proposed with this project.

e. Landscaping

Landscaping requirements are not applicable to this project, pursuant to KCC 17.420.030(A) and KCC 17.500.010.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	Not Applicable	Not Applicable
Required Buffer(s) 17.500.025	Not Applicable	Not Applicable
North	Not Applicable	Not Applicable
South	Not Applicable	Not Applicable
East	Not Applicable	Not Applicable
West	Not Applicable	Not Applicable
Street Trees	Not Applicable	Not Applicable

f. Frontage Improvements

Frontage improvements are not required for this project.

g. Design Districts/Requirements

Subject property is not located within a design district.

h. Development Engineering/Stormwater

The proposal was reviewed and approved with the following comments and conditions. Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on review of the Conditional Use Permit application materials received October 16, 2018 and January 18, 2019 to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires the following conditions as an element of the land use approval. These conditions have been incorporated in the proposed conditions number 22 and 23 below.

i. Environmental

The proposal was reviewed and approved by an environmental reviewer. The environmental review completed for the application included a State Environmental Policy Act (SEPA) review. A SEPA Determination of Non-Significance was issued on January 25, 2019. A seasonal stream was identified on site plan to be located over 100 feet away. This meets the Critical Areas Ordinance which requires a 50-foot buffer for streams. Proposed condition number 24 requires this buffer and will be confirmed in the building permit application with required buffer signs to be posted as well at the time of the building permit as identified in proposed condition number 25.

j. Access, Traffic and Roads

The proposal was reviewed and approved with the following condition. At the time of the building permit, a Concurrency Test (KCPW Form 1601) application will be required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project. This requirement has been proposed as condition number 26.

k. Fire Safety

The proposal was reviewed and approved by the Fire Marshal.

l. Solid Waste

Solid waste review is not required for this project.

m. Water/Sewer

The proposal is not subject to review under public sewer and water. The proposal will utilize an on-site sewage disposal system for sanitation and a well for water. Both uses are required to comply with Kitsap Public Health District regulations.

n. Kitsap Public Health District

Kitsap Public Health District has reviewed and approved the application identifying there is an approved building clearance for the ADU which will be verified with the building permit application as well. The permit includes proposed conditions for compliance with Health District Standards under proposed condition number 8 and 21.

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 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 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 other applicable provisions of Kitsap County Code and all 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.
5. A SEPA Determination of Non-Significance was issued on January 25, 2019.

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 request for Pregartner/Miller Accessory Dwelling Unit be approved, subject to the following 26 conditions:

a. Planning/Zoning

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 (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 accessory dwelling unit (ADU) 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 (ADU) and only one of the structures may be rented at any one time.

6. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 875 square feet (as indicated in Exhibit 5 and 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.

7. The accessory dwelling unit (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 accessory dwelling unit (ADU).

10. The accessory dwelling unit (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 accessory dwelling unit (ADU) is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code (KCC).

12. A property with a primary residence and an accessory dwelling unit (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 accessory dwelling unit (ADU) 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 (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.

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 (#18-05021). 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.

20. At the time of the building permit application, the building permit site plan shall identify the minimum property setbacks as follows: 50 foot front, and 5 feet for side.

21. At the time of the building permit application, Health District documentation shall be submitted verifying approved sanitation and water availability.

b. Development Engineering

22. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require that the building permit application materials demonstrate compliance with basic erosion and sediment control measures and compliance with the requirements of Kitsap County Code Title 12 at the time of building permit application.

23. If the project proposal is modified from that shown on the submitted site plan dated January 18, 2019, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

24. The subject property has a non-fish bearing stream that requires a 50' buffer and a 15' building setback. Permit approval subject to chapter 19.300.315 of Kitsap County Code, which states that buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.

25. Critical area buffer signs are required for the non-fish bearing stream. The signs shall be placed at the edge of the 50' buffer. This can be inspected at the time of the building permit.

d. Traffic and Roads

26. 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.

Report prepared by:

Anna Bausher
Anna Bausher, Staff Planner/Project Lead

3/6/19
Date

Report approved by:

Shawn Aire
Shawn Aire, DSE Supervisor

3/6/19
Date

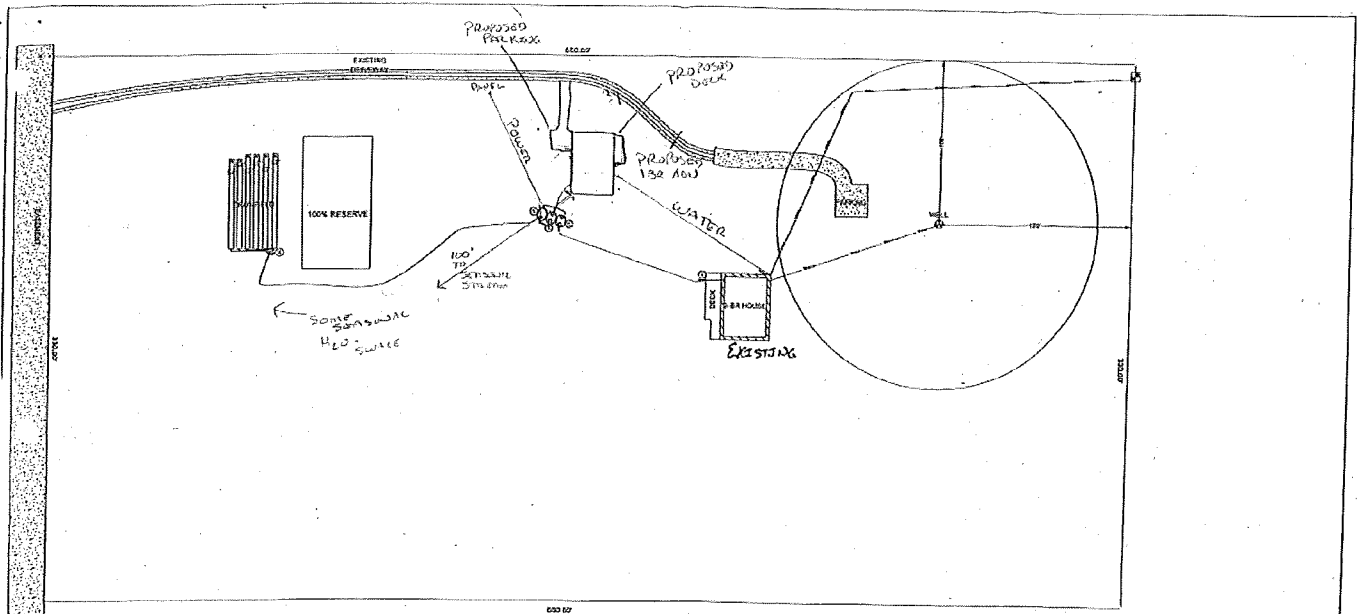
Attachments:

- Attachment A - Single Family Residence Building Elevations and Photos
- Attachment B - Accessory Dwelling Unit Building Elevations
- Attachment C - Single Family Residence and ADU Floor Plans
- Attachment D - Zoning Map, etc.

CC:

Applicant/Owner: David Pregartner and Rene Miller: dpillshere@yahoo.com;
dpillshere@yahoo.com
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26

Site Plan



THIS IS NOT A SURVEY. ALL PROPERTY LINES/BOUNDARIES HAVE BEEN DEMONSTRATED BY THE OWNER(S) AND/OR THEIR AGENT(S).

- * ALL MEASUREMENTS WERE TAKEN FROM KNOWN POINTS DEMONSTRATED BY THE PROPERTY OWNER.
- * ALL MEASUREMENTS WERE TAKEN WITH AN OPEN-REEL FIBERGLASS TAPE MEASURE.
- * NO FOUNDATION SPOILS OR BURNING ON DRAINFIELD AREAS.
- * DUE TO UNFORESEEN WATER TABLES, A CURTAIN DRAIN MAY BE REQUIRED.
- * DIRECT ALL DOWNSPOUT/SURFACE WATER AWAY FROM DRAINFIELD AREAS.
- * ALL TANK ACCESS COVERS ARE RISERED TO FINISHED GRADE.

LEGEND

- ▲ = WELL LOG
- = NO BUILD ZONE
- - - = CLEARING LIMITS
- - - = LOW VASCAR
- ⊙ = TREES - 12" DIA
- ⊙ = CLEAN OUT
- ⊙ = 1000 GAL SEPTIC TANK
- ⊙ = 1500-GAL PUMP TANK

SCALE 1" = 50'

DATE-	9 OCTOBER 2017
NAME-	PREGARTNER
TAX ID-	332802-1-008-2005
STREET-	HANSVILLE ROAD NF



Southeast Corner



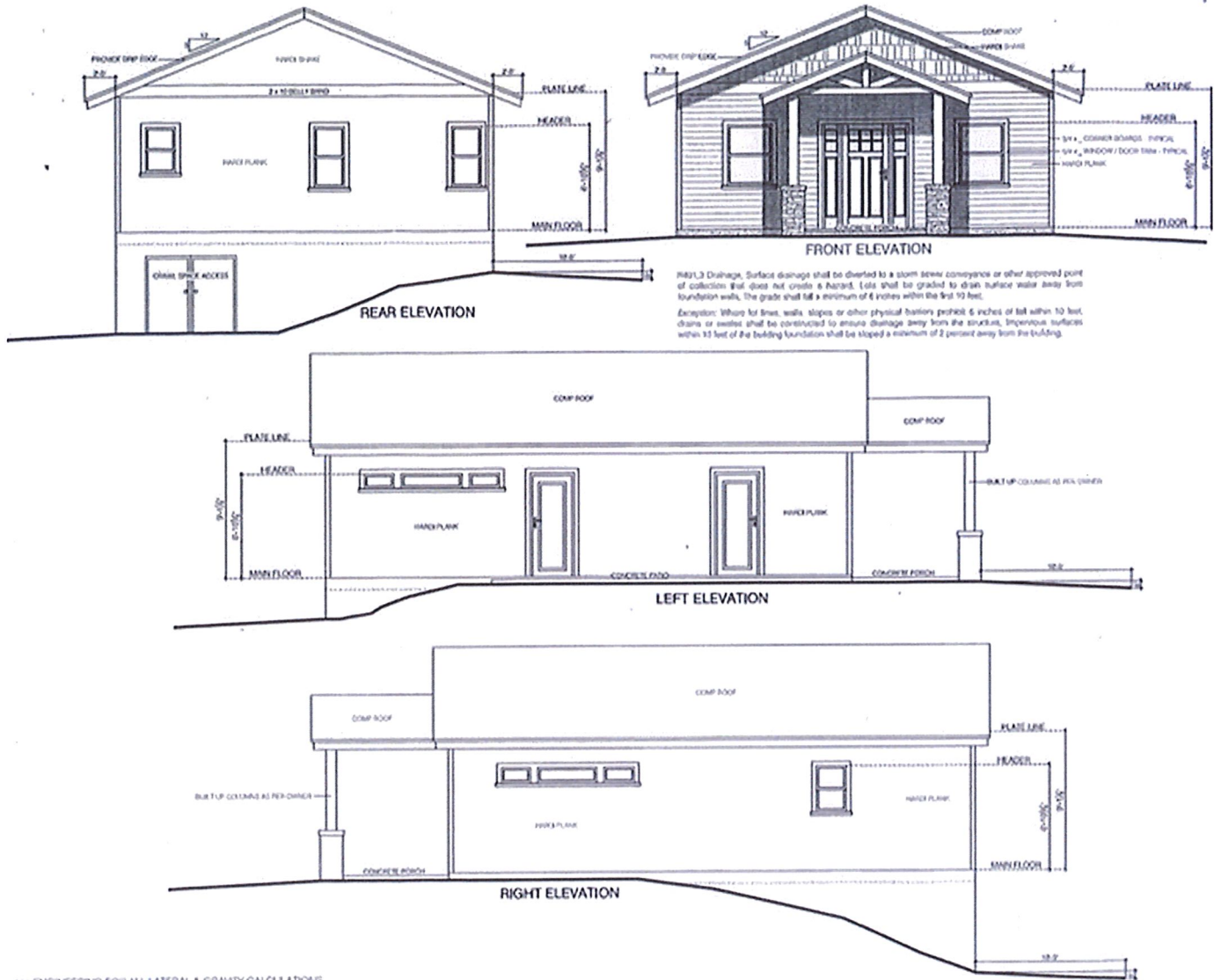
Northwest Corner



Northeast Corner

Attachment B:

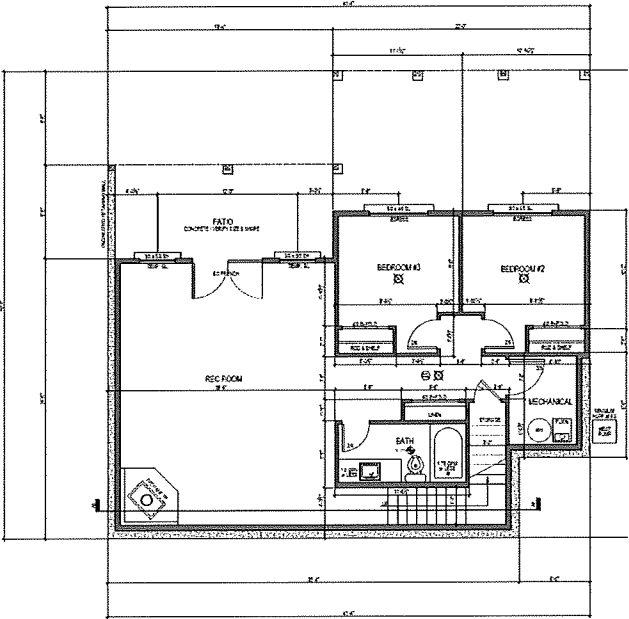
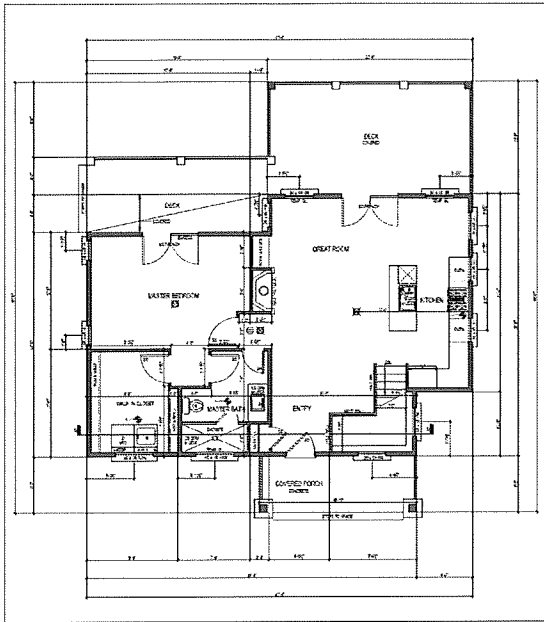
Accessory Dwelling Unit Building Elevations



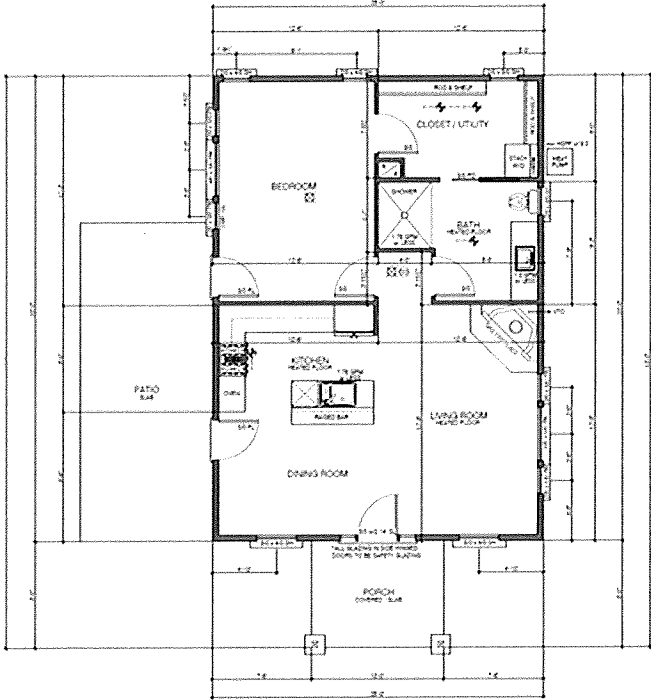
see ENGINEERING FOR ALL LATERAL & GRAVITY CALCULATIONS

Attachment C:

Single Family Residence and Accessory Dwelling Unit Floor Plans:



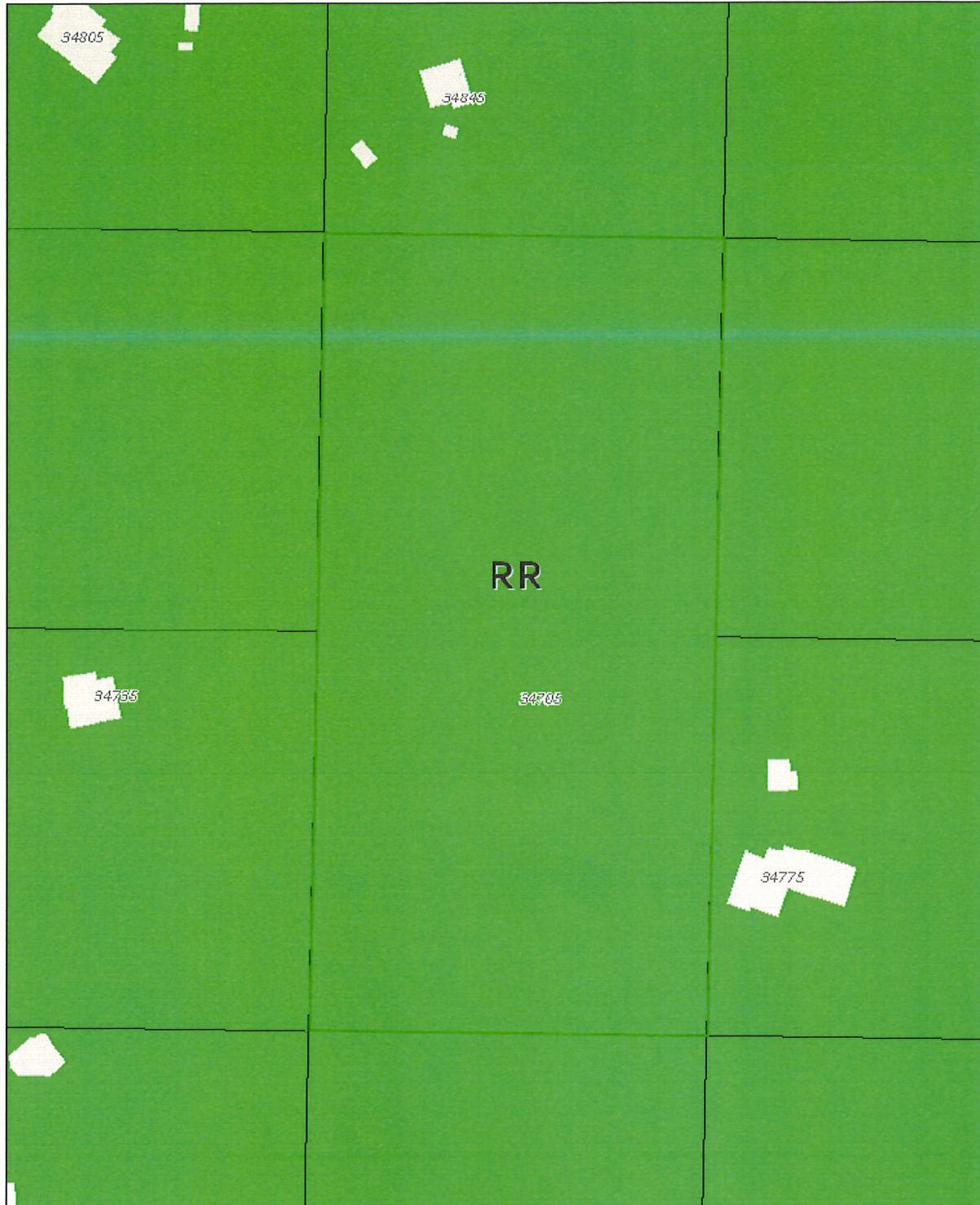
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ADU

Attachment D:

Zoning Map (Rural Residential):



Comments

Parcel No: 332802-1-006-2005 TaxPayer: PREGARTNER DAVID CRAIG & MILLER RENE GWEN Site Address: 34705 HANSVILLE RD NE

** This map is not a substitute for field survey ** Map Scale: 1 inch = 100 feet

Kisap Co. Parcel Search Application



Printed February 7, 2019