



Hearing Examiner Staff Report and Recommendation

Report Date: 05/21/2020
Hearing Date: 05/28/2020

Application Submittal Date: 09/16/2019
Application Complete Date: 10/31/2019

Project Name: Dakan Accessory Dwelling Unit (ADU)
Type of Application: Conditional Use Permit (CUP-ADU)
Permit Number: 19-04275

Project Location

12991 Wicks End Lane SW
Port Orchard, WA 98367
Commissioner District #2

Assessor's Account

052201-2-050-2009

Applicant/Owner of Record

Eve and Douglas Dakan
12991 Wicks End Lane SW
Port Orchard, WA 98367

Recommendation Summary

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

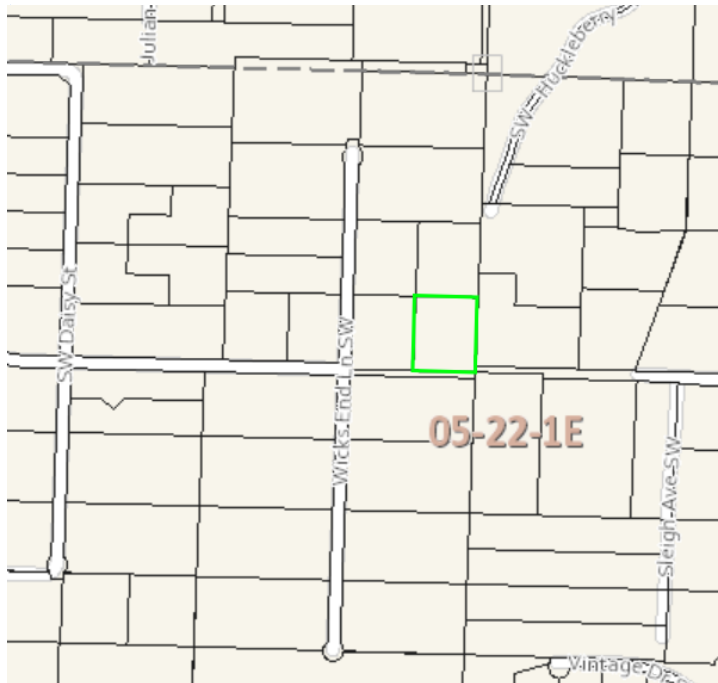
1. Background

The 2.51-acre parcel is partially cleared and developed with an existing 1,880 square foot single-family residence. There is a Category III wetland in the northwest corner. The site is relatively flat, with a slight easterly decline east of the existing house.

2. Project Request

The proposal is for approval of a Conditional Use Permit (CUP) for an Accessory Dwelling Unit (ADU). The proposed ADU will be 900 square feet with a new 837 square foot gravel driveway off of the existing. Off-street parking is provided for both the single-family residence and ADU. The ADU will not require any additional clearing, but 225 sq. ft. of wetland buffer averaging is required to accommodate the on-site septic drainfield for the ADU. The project will be served by public water.

VICINITY MAP



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 11/06/2019 (Exhibit 15). A Determination of Nonsignificance (DNS) was issued on 03/24/2020 (Exhibit 20). SEPA noted the following information/SEPA mitigation conditions have been imposed and are listed under conditions at the end of this report:

The proposal will be conditioned for Stormwater Control per Kitsap County Code Title 12, Zoning per Kitsap County Code Title 17, and for Critical Areas per Kitsap County Code Title 19.

The SEPA appeal period expired 04/07/2020. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The 2.51-acre parcel is partially cleared and developed with an existing 1,880 square foot single-family residence. There is a Category III wetland in the northwest corner. The site is relatively flat, with a slight easterly decline east of the existing house.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	NA per 17.420.052	Two dwelling units: One Single-Family Residence and one Accessory Dwelling Unit
Maximum Density	NA per 17.420.052	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA per 17.420.052	NA
Minimum Lot Width	140 feet	NA

Minimum Lot Depth	140 feet	NA
Maximum Height	35 feet	<35 feet
Maximum Impervious Surface Coverage	NA per 17.420.052	NA
Maximum Lot Coverage	NA per 17.420.052	NA

Staff Comment: There are no changes proposed to the lot size or configuration. Changes to impervious surface is not applicable since there is no maximum impervious surface coverage for the Rural Residential zone.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (South)	50-feet	155-feet to ADU
Side (West)	20-feet; 5-feet for accessory structures	20-feet to ADU
Side (East)	20-feet; 5-feet for accessory structures	258-feet to ADU
Rear (North)	20-feet; 5-feet for accessory structures	200-feet to ADU

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Manufactured Home	Rural Residential (RR)
South	Single-Family Residence	Rural Residential (RR)
East	Single-Family Residence	Rural Residential (RR)
West	Single-Family Residence	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Washington Water Service
Power	Puget Sound Energy
Sewer	On-site septic
Police	Kitsap County Sherriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District

5. Access

Access to the parcel is off an existing private 30-foot access and utility easement that runs along the south end of the parcel. The driveway to the property enters at the

southwest corner. A small driveway will extend north to the ADU off the existing driveway within the parcel.

6. Site Design

Site design will be analyzed further in this staff 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.

House, 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)
Title 19	Critical Areas Ordinance
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 24 Exhibits.

Exhibit #	Document	Dated	Date Received
1	Project Application		10/30/2019
2	Project Narrative		10/30/2019
3	Authorization Forms		10/30/2019
4	Concurrency Test		10/30/2019

5	Elevations – ADU		10/30/2019
6	Elevations – SFR		10/30/2019
7	Floor Plan – ADU		10/30/2019
8	Floor Plan – SFR		10/30/2019
9	Health District Approval		10/30/2019
10	SEPA Checklist		10/30/2019
11	Stormwater Worksheet		10/30/2019
12	SWPPP Drawing		10/30/2019
13	SWPPP Narrative		10/30/2019
14	Water Availability Letter		10/30/2019
15	Notice of Application	11/06/2019	
16	Site Plan		03/04/2020
17	Site Plan – Exterior Elevations		03/04/2020
18	Wetland Certification		03/04/2020
19	Preliminary Conditions Memo – Vickery	03/20/2020	
20	SEPA Determination of Non-Significance (DNS)	03/24/2020	
21	Notice of Public Hearing	05/13/2020	
22	Certification of Public Notice	05/18/2020	
23	Staff Report	05/21/2020	
24	Staff Presentation		

9. Public Outreach and Comments

Public comment occurred with the NOA and SEPA comment periods. None were received.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
NA	NA	NA

Issue Ref. No.	Issue	Staff Response
NA	NA	NA

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 on 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 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 1,880-square feet (Exhibit 8). 50% of the habitable area of the single-family residence is 940-square feet. Hence the accessory dwelling unit is limited to 900-square feet. The proposed ADU has a habitable area of 900-square feet, which meets this requirement (Exhibit 7).

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 proposed ADU are approximately 50-feet apart, satisfying this requirement.

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

Staff Comment: The ADU and house will share a similar siding, roofing, windows and color as well as matching covered porches.

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

Staff Comment: All zoning setbacks are met or exceeded.

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

Staff Comment: The ADU has been approved by Kitsap Public Health. A new septic tank and drainfield are to be installed for the ADU.

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

Staff Comment: The ADU is not a mobile home or recreational vehicle.

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 ADU is using the same entrance driveway as the primary residence and providing two additional parking spaces.

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

Staff Comment: On review of the primary and ADU floor plans, there are no accessory living quarters on this lot.

b. Lighting

Lighting standards do not apply to this project.

c. Off-Street Parking

Parking requirements are satisfied. 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)	3 per unit and 1 additional space for accessory dwelling units or accessory living quarters.	3+1 =4	2 existing for the SFR and 2 additional for the ADU = 4 parking spaces
Total			

d. Signage

No signage is proposed with this project.

e. Landscaping

Landscaping requirements are not applicable to this project.

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

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

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. Conditions are applied as found in section 13 of this staff report and the DSE Preliminary Conditions Memo, dated 03/20/2020 (Exhibit 19).

i. Environmental

A Category III wetland was delineated in the northwest corner of the property. A 60-foot buffer and additional 15-foot building setback from the outer buffer edge was determined through a Single-Family Wetland Certification (Exhibit 18). Since the ADU is required to have a stand-alone septic drainfield, buffer averaging per KCC 19.200.220(B)(1) is proposed to accommodate the new drainfield. 225-square feet of the buffer will be reduced for the drainfield, and added onto the buffer along the westerly edge of the property, nearest the ADU. There is no clearing proposed per the submitted site plan and no other critical areas.

j. Access, Traffic and Roads

Reviewed and conditioned in section 13 below.

k. Fire Safety

This proposal has been reviewed and approved by the Kitsap County Fire Marshal's office.

l. Solid Waste

No review needed. Typical Waste Management services are provided with primary dwelling service.

m. Water/Sewer

The proposal will be serviced by on-site septic as reviewed and approved by Kitsap Public Health. A Binding Water Availability Letter has also been submitted, with water provided by Washington Water Service.

n. Kitsap Public Health District

The proposal has been reviewed and approved by Kitsap Public Health.

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 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 (CUP) request for the Dakan ADU 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 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 900 square feet.
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 a minimum of 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 (19-04275). 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. Development Engineering

20. 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.
21. 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.
22. Erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, October 31, 2020.

c. Environmental

23. A 60-foot averaged wetland buffer and 15-foot building setback shall be maintained from the Category III wetland in the northwest corner of the parcel, per the Single-Family Wetland Certification by Ecological Land Services, dated 2/19/20. The outer edge of the averaged wetland buffer shall be flagged prior to start of construction. Permanent wetland buffer signs shall be placed prior to final building permit inspection by the wetland specialist, spaced 50-feet apart and visible from sign-to sign.

d. Traffic and Roads

24. 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.
25. 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 building permit. 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:



Name, Staff Planner / Project Lead

5/12/20
Date

Report approved by:



Shawn Alire , Department Manager / Supervisor

5/21/20
Date

Attachments:

- Attachment A – ADU Floor Plan
- Attachment B – Zoning Map

CC:

Applicant/Owner: Eve Dakan, xena10000@hotmail.com
Project Representatives: Emily Wold, info@belledesignseattle.com
Paul Newman, paul@nwasphalt.com

Interested Parties:

- Kitsap County Health District, MS-30
- Kitsap County Public Works Dept., MS-26
- DCD Staff Planner: Candy Vickery

