



## Notice of Administrative Decision

**Date:** 07/12/2022

**To:** Susan Hardy and James Hardy, giacomohardy@hotmail.com

**RE: Permit Number:** 21-05459  
**Project Name:** HARDY - Permit non-conforming Accessory Dwelling Unit  
**Type of Application:** Accessory Dwelling Unit

The Kitsap County Department of Community Development has **APPROVED** the land use application for 21-05459: **HARDY - Permit non-conforming Accessory Dwelling Unit – Accessory Dwelling Unit**, subject to the conditions outlined in this Notice and included Staff Report.

**THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.**

The written appeal shall be made on, or attached to, an appeal form found on DCD's website: <https://www.cognitofirms.com/KitsapCounty1/RequiredPermitQuestionnaireAppealObjectionOfAnAdministrativeDecision>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact [help@kitsap1.com](mailto:help@kitsap1.com) or (360) 337-5777. Please note DCD is open Monday to Friday from 8:00am to 12:00pm except holidays.

**CC:** Interested Parties:  
None  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Colin Poff  
DCD File #21-05459



developed with a single-family home and associated driveway and septic drain field. Additional structures include a detached garage and detached shop, as well as this non-conforming ADU. The home uses a private well for water. The site slopes gently from South to the Northwest. There is an offsite stream and wetland to the northwest, however, the developed area of the lot is not within the stream/wetland buffer.

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

Comprehensive Plan: Rural Residential Zone: Rural Protection (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	1 story structure
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 RP zone.

**Table 2 - Setback for Zoning District**

	Standard	Proposed
Front (east)	50 feet standard	Meets Standard
Side (south)	20 feet; 5 feet for accessory structures	Meets Standard
Side (north)	20 feet; 5 feet for accessory structures	Meets Standard
Rear (west)	20 feet; 5 feet for accessory structures	Meets Standard

Applicable footnotes: None

*Staff Comment:* The ADU meets all dimensional requirements of the RR zone.

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

Surrounding Property	Land Use	Zoning
North	Single-family residences	Rural Residential (RR)

South	Single-family residences	Rural Residential (RR)
East	Single-family residences	Rural Residential (RR)
West	Single-family residences/ wetland	Rural Residential (RR)

\*See Attachment A – Zoning Map

**Table 4 - Public Utilities and Services**

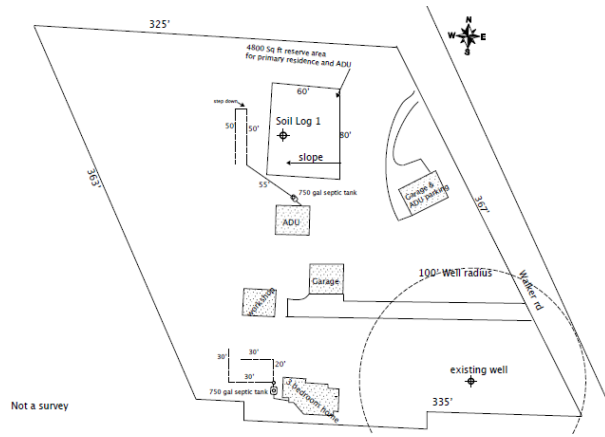
	Provider
Water	Private Well
Power	Puget Sound Energy
Sewer	Onsite Septic System
Police	Kitsap County Sherriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District

**5. Access**

The site will be accessed from the east via Courter Lane NW. The ADU can also be accessed from a separate driveway and parking area than the primary residence, which also originates from Courter Lane NW. This is an existing driveway that has historically been used for the ADU as well as another detached garage.

**6. Site Design**

The submitted site plan shows the existing primary residence, existing drainfield and existing well location. The plan also shoes the existing non-conforming ADU and two other detached structures.



**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 the following Exhibits.

Exhibit #	Document	Date Received/ Accepted
1	ADU Septic and Well	10/13/21
2	Elevation Photos of ADU and SFR	5/23/22
3	FloorPlan Hardy Farmhouse	10/13/21
4	Site Plan	5/23/22
5	SEPA Waiver Request	10/13/21
6	Stormwater Drainage Waiver	10/13/21
7	Existing ADU Drawings (2 sheets)	10/13/21
8	HD Application	10/13/21
9	Water Availability	10/13/21
10	Response to RFI	5/23/22
11	MLS NW Walker Rd 2020	5/23/22
12	MLS Property Details	5/23/22

**9. Public Outreach and Comments**

A Notice of Application was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an

opportunity for public comment. No comments were received.

## 10. Analysis

### a. Planning/Zoning

Per KCC 17. 410.060.B.3, to encourage the provision of affordable and independent housing for a variety of households, an ADU may be located in residential zones, subject to the following criteria (*italicized*). Staff comments are provided below:

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

Staff Comment: The subject property is not located within the 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. However, existing non-conforming ADU's may be reviewed pursuant to an administrative Type II procedure per KCC 17.410.060.B.3.m, and a CUP is not required.

*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 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 applicant submitted a floorplan showing that the ADU does not meet this standard and is approximately 1400 square feet in size. The ADU is an existing non-conforming ADU and reviewed under the standards of KCC 17.410.060.B.3.m

*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 ADU are approximately 130-140 feet apart, satisfying this requirement.

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

Staff Comment: The ADU is within an existing structure. The structure will utilize the same primary and trim colors of the primary residence. A condition of approval has been added to ensure the ADU maintains the general appearance of the primary home.

*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.

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

Staff Comment: The project received health district approval for water and onsite sewage on 6/22/2022.

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

Staff Comment: There are no mobile homes or recreational vehicles on the property that are used as an ADU or residence.

*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 has two access points and the ADU can be accessed from either. The secondary access has been used for the ADU but also services a separate garage. The ADU may continue to utilize this access. Additional off-street parking is available.

*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 in the listed exhibits.

**Existing, non-conforming ADU Criteria**

An existing, non-conforming ADU may be permitted when the criteria stated within KCC 17.410.060.B.3.m are met (*italicized*). Staff comments are provided below:



*(a) All the requirements of this section;*

Staff Comment: See review of ADU requirements above. The non-conforming ADU also meets all eligibility criteria in KCC 17.410.060.B.3.i.

*(b) All the applicable zoning, health, fire safety and building construction requirements:*

Staff Comment: This permit has been reviewed for consistency with applicable zoning, health fire safety and building construction requirements.

*(i) The applicable requirements shall be those in effect when the accessory dwelling was constructed. The burden of proof of when the accessory dwelling was constructed shall be upon the applicant and may consist of dated aerial photography, tax assessments, surveys or similar documents.*

Staff Comment: The ADU was constructed prior to the sale of the property to the current residence and was reviewed under applicable requirements at that time. It is believed that the structure was originally a barn in 1938, which was converted to an ADU in the early 1990's as records show the septic drain field was added at this time. This is confirmed by aerial imagery.

*(ii) If the applicant cannot prove a date of construction, the applicable requirements shall be those currently in effect on the date of application.*

Staff Comment: Not applicable, see response above.

*(iii) If the applicant can only show a date range for construction, the applicable requirements shall be the latest requirements of the range;*

Staff Comment: Not applicable, see response above.

*(c) Proof of adequate potable water;*

Staff Comment: The project received health district approval for water and onsite sewage on 6/22/2022.

*(d) Proof of adequate sewage disposal systems for both the principal and the accessory dwelling. Proof shall be shown by Kitsap County health district approval; and*

Staff Comment: The project received health district approval for water and onsite sewage on 6/22/2022.

(e) *Verification by Kitsap County inspection staff that the accessory dwelling is habitable.*

Staff Comment: A condition of approval has been added that the unit will be inspected to determine it is habitable.

**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 ADUs. 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**

No new development is proposed. Development Services and Engineering has reviewed land use proposal has no comments.

**i. Environmental**

The site slopes gently from South to the Northwest. There is an offsite stream and wetland to the northwest, however, the developed area of the lot is not within the stream/wetland buffer. No additional environmental reports or studies were required.

**j. Access, Traffic and Roads**

Development Services and Engineering has reviewed the proposal for compliance with traffic and road standards and has no comments at this time.

**k. Fire Safety**

The Kitsap County Fire Marshall's Office reviewed and approved the proposal and has approved with conditions.

**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 from onsite private systems. The Kitsap County Health District has reviewed this project and has no additional comments at this time.

**n. Kitsap Public Health District**

The project received health district approval for water and onsite sewage on 6/22/2022. No additional comments at this time.

**11. Review Authority**

The Director has review authority for this Type II Permit application under KCC 21.04. The Director may approve, approve with conditions, or deny this application.

**12. Findings**

The Department of Community Development has determined that this application meets the requirements to permit an existing non-conforming ADU based on the criteria outlined at KCC 17.410.060.B.3.m. This is detailed above in section 10 Analysis.

**13. Decision**

Based upon the analysis above and the decision criteria, the Department of Community Development recommends that the request for Hardy ADU (21-05459) be **approved**, subject to the following conditions:

**a. Planning/Zoning**

1. The decision set forth herein is based upon representations made and exhibits

- contained in the project application #21-05459 Hardy ADU. 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.
2. 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.
  3. The ADU is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
  4. Per KCC 17.410.060.B.3.m.iii.e, an inspection shall be required to verify that the Accessory Dwelling Unit is habitable.
  5. 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.
  6. Only one ADU shall be permitted on the subject property.
  7. 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 proposed size of the ADU is non-conforming to the standard code requirement that the ADU's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The ADU size shall not be increased.
  8. The ADU shall be located within 150 feet of the primary residence.
  9. The ADU shall be designed to maintain the appearance of the primary residence. In accordance with the approved plans and narrative, the ADU shall use the same primary and trim colors of the primary residence.
  10. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
  11. No mobile home or recreational vehicle shall be allowed as an ADU.
  12. An accessory living quarters or guest house 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.
  13. A property with a primary residence and an ADU cannot be segregated to create two separate legal lots unless it complies with all subdivision, zoning and density requirements in place at the time of a complete subdivision application.
  14. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.

15. The recipient of any administrative 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 administrative 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.
16. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the 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.
17. If the ADU is modified or rebuilt, it shall be in conformance with all non-conforming regulations per KCC 17.570.
18. 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.
19. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #21-05459. 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.
20. Any violation of the conditions of approval shall be grounds to initiate revocation of this Permit.

**b. Environmental**

21. None at this time.

**c. Development Engineering**

22. None at this time.

**d. Traffic and Roads**

23. None at this time.

**e. Fire Safety**

## 24. Kitsap County Code 14.04.730 Fire department access:

IFC Section 503, including those provisions that are not adopted by the Washington State Building Code in WAC 51-54A-0503, is hereby adopted in its entirety by Kitsap County as IFC Section 503 as set forth in the 2018 International Fire Code and as amended in subsections (A) through (D) of this section.

A. IFC Section 503.1.1 is amended by the addition of an additional exception 1.4, as follows:

503.1.1 Buildings and facilities. Approved fire apparatus access roads shall be provided for every building, facility or portion of building or facility hereafter constructed or moved into or within the jurisdiction. The fire apparatus access shall comply with the requirements of this section...

Exceptions:

1. The fire code official is authorized to increase the dimension of 150 feet where:

1.1 The building or facility is equipped with an approved automatic fire sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.

1.2 Fire apparatus access roads cannot be installed in conformance with these Standards due to topography, waterways, non-negotiable grades, critical areas or other similar conditions, and an approved alternative means of fire protection is provided.

1.3 There are not more than two (2) Group R-3 (single-family dwellings) occupancies.

1.4 Where the fire apparatus access road serves only residential accessory building/occupancies (private garages, carports, sheds, agricultural buildings), as defined by the International Building Code.

25. \*Please perform one of the following w/ building permit:

1) Submit documentation of road construction meeting access requirements per code.

2) Improve access to meet current code.

3) Equip the residence (ADU) with an automatic fire sprinkler system. Automatic sprinkler system will require a separate permit.

26. Access roads shall comply with the following:

- Unobstructed width of 20 feet and height of 13 feet 6 inches.
- Shall be designed and maintained to support a 60,000 pound fire apparatus and be provided with an all weather driving surface.
- Inside turning radius shall be a minimum of 25 feet
- Dead end access roads exceeding 150 feet in length shall be provided with an

approved turnaround.

- Road shall not be more than 12% grade.

Please contact DFM Greg Gentile at [ggentile@co.kitsap.wa.us](mailto:ggentile@co.kitsap.wa.us) with questions.

**f. Solid Waste**

None at this time.

**g. Kitsap Public Health District**

None at this time.

**Report prepared by:**



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Colin Poff, Staff Planner / Project Lead

July 6, 2022

Date

**Report approved by:**

*Scott Diener*

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Scott Diener, Manager, DSE

July 6, 2022

Date

**Attachments:**

Attachment A – Zoning Map

Attachment B – Critical Areas Map

CC: Applicant: Susan and James Hardy  
Interested Parties: N/A  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Colin Poff  
DSE Manager: Scott Diener  
Blueline: Caitlin Hepworth: [chepworth@TheBluelineGroup.com](mailto:chepworth@TheBluelineGroup.com)

Site Plan

