



Hearing Examiner Staff Report and Recommendation

Report Date: 1/20/2022
Hearing Date: 1/27/2022

Application Submittal Date: 9/13/2021
Application Complete Date: 9/13/2021

Project Name: Nail – Conversion from Special Care Unit to Accessory Dwelling Unit
Type of Application: Conditional Use Permit
Permit Number: 21-04571

Project Location

2155 Opdal Road East
Port Orchard, WA
County Commissioner District 2

Assessor's Account

202402-1-035-2009

Applicant/Owner of Record

Orville Nail, Junior & Kristin Nail
2155 Opdal Road East
Port Orchard, WA 98366

Recommendation Summary

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

VICINITY MAP



1. Background

Orville Nail Junior and Kristin Nail (hereafter, “the Applicant”) proposes to convert an existing Special Care Unit to 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; therefore, CUP approval is required.

The site is developed with a two-story 2,198-square-foot primary dwelling built in 1985, an 896-square-foot manufactured home built in 1978 currently serving as a special care unit, and a 2,568-square-foot detached garage built in 1991.

2. Project Request

The Applicant has requested approval for a Conditional Use Permit (CUP) that would permit an existing special care unit to be used as an ADU for occupation as a rental unit. There are an existing well and septic system on site. The proposed ADU will utilize the existing well

connection, and a new septic drainfield will be installed to accommodate the proposed ADU. 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)

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 October 15, 2021 (Exhibit 8). A Determination of Nonsignificance (DNS) was issued on December 22, 2021 (Exhibit 9). The SEPA appeal period expired January 5, 2022. No appeals were filed; therefore, the SEPA determination is final.

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 “significant adverse” 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.

4. Physical Characteristics

According to the Kitsap County Assessor, the subject site is 0.81 acres. The central portion of the site is developed with the existing primary dwelling, the northeastern portion of the site is developed with the existing detached garage, and the existing special care unit is located along the southern property line. The well is located just west of the primary dwelling, and the septic drainfields are located to the east of the proposed ADU. There are no mapped critical areas on site.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	N/A	1 dwelling unit/1.9 acres, existing
Maximum Density	1 dwelling unit/5 acres	
Minimum Lot Size	5 acres	0.81 acres, existing

Maximum Lot Size	N/A	0.81 acres, existing
Minimum Lot Width	140 feet	160 feet, existing
Minimum Lot Depth	140 feet	220 feet, existing
Maximum Height	35 feet	Two-story, <35 feet
Maximum Impervious Surface Coverage	N/A	5,618 square feet, all structures and paved areas are existing
Maximum Lot Coverage	N/A	N/A

Applicable footnotes:

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50 feet	68 feet
Side (North)	20 feet; 5 feet for accessory structures	141 feet
Side (South)	20 feet; 5 feet for accessory structures	5 feet
Rear (East)	20 feet; 5 feet for accessory structures	87 Feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence	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	Private Well
Power	Puget Sound Energy
Sewer	Septic
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

5. Access

The subject site gains access via Opdal Road East, a County-maintained road. There are currently two existing driveways, the southern driveway will be restored to landscaping,

and a fence will be constructed to remove this access. The northern driveway will provide access to the primary dwelling and proposed ADU, and no new access is proposed.

6. Site Design

See attached 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 in 2018 and 2020.

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 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 1-13.

Exhibit #	Document	Dated	Date Received
-----------	----------	-------	---------------

1	STAFF REPORT	01/20/2022	
2	Required Permit Questionnaire		09/13/2021
3	Site Plan		09/13/2021
4	Project Narrative	05/25/2021	09/13/2021
5	ADU Conversion Elevations & Floor Plans	05/25/2021	09/13/2021
6	Septic Design	05/29/2020	09/13/2021
7	SEPA Environmental Checklist	08/19/2021	09/13/2021
8	Notice of Application	10/15/2021	
9	SEPA Determination of Nonsignificance	12/22/2021	
10	Notice of Public Hearing	01/12/2022	
11	Certification of Public Notice	01/18/2022	
12	Staff Presentation		
13	Hearing Sign-In		

9. Public Outreach and Comments

A Notice of Application (Exhibit 8) 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 currently resides in the existing single-family residence.

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

Staff Comment: The proposed ADU is 896 square feet. The existing residence is 2,198 square feet. 50 percent of 2,198 is 1,099 square feet; therefore, the ADU is limited to 900 square feet (the smaller value).

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

Staff Comment: The proposed single-family residence and the proposed accessory dwelling unit are approximately 53 feet apart, satisfying this requirement.

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

Staff Comment: The single-family residence and the ADU are similar in appearance. Please see Exhibit 5. The structure, and siding match the aesthetic of the existing house and garage.

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

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

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

Staff Comment: The application was routed to Kitsap County Health District and approved with no conditions.

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 3) shows the proposed ADU will use the existing north driveway utilized by the single-family residence. The driveway will provide an additional off-street parking space. The southern driveway will be landscaped to match the rest of the site and fenced off to prevent access.

I. 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 5).

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

The proposal includes one additional parking space for the ADU.

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
Total	1	1	1

d. Signage

No signage is proposed or required.

e. Landscaping

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

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s)		
North	NA	NA

South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

f. Frontage Improvements

The proposal is is exempt from these requirements.

g. Design Districts/Requirements

The property is not located within a design district and is exempt from these requirements.

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 conditions as noted below.

i. Environmental

The request is for approval of a Conditional Use Permit to build an 896-square-foot ADU. There are no environmental concerns or conditions for this proposal.

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 noted below.

k. Fire Safety

The Kitsap County Fire Marshall’s Office reviewed and approved the proposal with no conditions.

l. Solid Waste

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

m. Water/Sewer

The application included an approved Building Site Application that shows approval for water and sewer from Kitsap County’s Health Department, Exhibit 6. Potable water is proposed to be provided by an on-site one-party well; sanitary sewage disposal is proposed to be provided by an on-site septic system, with separate tanks for the single-family residence and the ADU.

n. Kitsap Public Health District

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

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 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 request for Nail – Conversion from Special Care Unit to Accessory Dwelling Unit 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 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 existing size of the ADU is 896 square feet (Exhibit 5). 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 #21-04571. 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. Building permits submitted for development of this project shall include construction plans and profiles for all roads, driveways, storm drainage facilities and appurtenances. No construction shall be started prior to said plan acceptance.
21. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the project development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, September 21, 2021. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of Building Permit Application.
22. If the project proposal is modified from that shown on the submitted site plan accepted for review September 13, 2021, Development Services and Engineering will require additional review and potentially new conditions.

c. Traffic and Roads

23. The existing southerly road approach shall be removed, and the shoulder, ditch and ground surface within the right of way shall be restored to match existing right of way conditions. This condition will be verified by inspection associated with required building permit.
24. 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.

d. Fire Safety

N/A

e. Solid Waste

N/A

f. Kitsap Public Health District

N/A

Report prepared by:



Roxanne Robles, Staff Planner / Project Lead

1/18/2022

Date

Report approved by:



Scott Diener, Department Manager / Supervisor

1/18/2022

Date

Attachments:

Attachment A – Site Plan

CC: Applicant/Owner: kristinnail@gmail.com
Agent: bannoneng1@comcast.net
Kitsap County Health District, MS-30
Kitsap County Public Works Dept, MS-26

DCD Staff Planner: Roxanne Robles

Attachment A
Site Plan

