



## Notice of Hearing Examiner Decision

08/09/2023

To: Interested Parties and Parties of Record

RE:           Project Name: Sullivan Accessory Dwelling Unit  
                  Applicant: Lindsey & Lukas Sullivan  
                                  12717 Seabeck Highway NW  
                                  Seabeck, WA 98380  
                  Application: Conditional Use Permit (CUP-ADU)  
                  Permit Number: 22-02873

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #22-02873 Sullivan Accessory Dwelling Unit Conditional Use Permit (CUP-ADU)**, subject to the conditions outlined in this Notice and included Decision.

**THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.**

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

<https://kitsapgov.com/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>

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.

CC: Applicant/Owner: Lindsey & Luka Sullivan, [lukassullivan@yahoo.com](mailto:lukassullivan@yahoo.com)  
Authorized Agent: Warren Kitchel, [olekitch@aol.com](mailto:olekitch@aol.com)  
Biologist: BGE Environmental LLC – Robbyn Myers, [bgerobbbyn@comcast.net](mailto:bgerobbbyn@comcast.net)  
Engineer: Mike Wnek, [mike@wnekeng.com](mailto:mike@wnekeng.com)  
Project Manager: AC Site Management – Kurt Russell,  
[acsitemanagement@gmail.com](mailto:acsitemanagement@gmail.com)  
Health District  
Public Works  
Parks  
Navy

DSE

Kitsap Transit

Central Kitsap Fire District

Central Kitsap School District

Puget Sound Energy

Point No Point Treaty Council

Suquamish Tribe

Port Gamble S'Klallam Tribe

Squaxin Island Tribe

Puyallup Tribe

WA Dept of Fish & Wildlife

WA Dept of Transportation/Aviation

WA State Dept of Ecology-SEPA

WA State Dept of Ecology-Wetland Review

WA State Dept of Transportation

Interested Parties: Theodore Genengels, [tedgenengels@icloud.com](mailto:tedgenengels@icloud.com); Suquamish Tribe – Rod Malcom, [rmalcom@suquamish.nsn.us](mailto:rmalcom@suquamish.nsn.us)

**BEFORE THE HEARING EXAMINER  
FOR KITSAP COUNTY**

In the Matter of the Application of	)	No. 22-02873
	)	
<b>Lindsey and Lukas Sullivan</b>	)	<b>Sullivan Accessory Dwelling Unit</b>
	)	
	)	
<u>For Approval of a Conditional Use Permit</u>	)	FINDINGS, CONCLUSIONS, AND DECISION

**SUMMARY OF DECISION**

The request for a conditional use permit to construct an 892-square-foot, detached accessory dwelling unit (ADU), on an irregularly shaped 4.99-acre property developed with an existing single-family residence, at 12717 Seabeck Highway NW, is **APPROVED**. Conditions are necessary to address specific impacts of the proposal.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on June 8, 2023. The record was left open until June 15, 2023, to allow any member of the public having difficulty participating at the hearing through remote access to provide written comments in lieu of live testimony. No additional comments were submitted and, accordingly, the record closed on June 15, 2023.

Testimony:

The following individual presented testimony under oath at the open record hearing:

Katharine Shaffer, County Planning Supervisor  
Lukas Sullivan, Applicant  
Amanda Walston, County Clerk to the Hearing Examiner

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated June 1, 2023
2. Application Materials, received June 9, 2022
3. ADU Floor Plans, received June 9, 2022
4. Water Availability Submittal Waiver, received June 9, 2022
5. Engineered Project Plans, received June 9, 2022
6. Stormwater Worksheet, received June 9, 2022
7. Notice of Application, dated July 12, 2022

*Findings, Conclusions, and Decision*  
*Kitsap County Hearing Examiner*  
*Sullivan Accessory Dwelling Unit CUP*  
*No. 22-02873*

8. SEPA Environmental Checklist, dated June 4, 2022
9. Kitsap Public Health District Final Permit Approval (Septic), dated October 21, 2020
10. ADU Design Narrative, received October 3, 2022
11. Geotechnical Report, Allen Hart Engineering Geologist, dated April 28, 2018
12. Final Site Plan, received February 7, 2023
13. Determination of Nonsignificance, dated April 4, 2023
14. County Development Engineering Memorandum, dated October 26, 2022
15. Notice of Public Hearing, dated May 24, 2023
16. Certification of Public Notice, dated May 24, 2023
17. Staff Presentation, dated June 8, 2023
18. Hearing Sign-In Sheet
19. Comments from the Suquamish Tribe, received June 8, 2023

The Hearing Examiner enters the following findings and conclusions based upon the admitted testimony and exhibits:

### **FINDINGS**

#### Application and Notice

1. Lindsey and Lukas Sullivan (Applicant) request a conditional use permit (CUP) to allow construction of a detached, 892-square-foot accessory dwelling unit (ADU), on an irregularly shaped 4.99-acre property. The property is currently developed with an existing, 2,160-square foot single-family home in which the Applicant resides. The property is located at 12717 Seabeck Highway NW, in the Seabeck area of unincorporated Kitsap County.<sup>1</sup> *Exhibit 1, Staff Report, pages 1 and 2; Exhibits 2 through 5; Exhibit 8.*
2. Kitsap County (County) determined that the application was complete on June 23, 2022. On July 15, 2022, the County provided notice of the application consistent with the requirements of Kitsap County Code (KCC) 21.04.210 by publishing notice in the County's publishing newspaper of record and by mailing or emailing notice to property owners within 800 feet of the site and to reviewing departments and agencies. The County's notice materials stated that written comments on the proposal could be submitted up until seven days before the date of the open record hearing associated with the application. On May 24, 2023, the County mailed notice of the open record hearing associated with the application to interested parties and property owners within 800 feet of the site, published notice in the County's publishing newspaper of record, and posted notice on the property. *Exhibit 1, Staff Report, pages 1 and 6; Exhibit 7; Exhibit 15; Exhibit 16.*

---

<sup>1</sup> The property is identified by Kitsap County Assessor's Tax Account No. 212501-1-003-1008. *Exhibit 1, Staff Report, page 1.*

3. The County received one comment on the proposal in response to its notice materials. Specifically, the Suquamish Tribe expressed a preference for attached or “internal” ADUs over detached structures as this reduces the amount of on-site impervious surfaces impacting the environment. The Suquamish Tribe further noted that the property is located within a Critical Aquifer Recharge Area (CARA) and that development of an internal/attached ADU would have fewer impacts on the CARA and, also, on any potential erosion hazard areas. In response to this concern, the County noted that Chapter 19.600 KCC governs CARAs and that detached ADUs, like the one proposed by the Applicant, are allowed and not enumerated as the type of development activity that poses a significant threat to groundwater quality. *Exhibit 1, Staff Report, pages 1 and 6; Exhibit 19.*

#### State Environmental Policy Act

4. The County acted as lead agency and analyzed the environmental impacts of the project as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The County consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355. No comments specific to SEPA were received. The County reviewed the Applicant’s environmental checklist and other information on file and determined that the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a Determination of Nonsignificance (DNS) on April 4, 2023, with an appeal deadline of April 18, 2023. The DNS was not appealed. *Exhibit 1, Staff Report, page 2; Exhibit 7; Exhibit 8; Exhibit 13.*

#### Comprehensive Plan and Zoning

5. The property is designated “Rural Protection” by the County Comprehensive Plan. County staff identified the following Comprehensive Plan policies as relevant to the proposal:
  - Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, that cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service. [Land Use Policy 50]
  - Permit residential uses in rural areas consistent with the planned rural character of the surrounding area. [Land Use Policy 51]
  - 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 designations, zoning designations, and zoning code provisions. [Land Use Policy 53]

- Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing. [Housing, Human Services Policy 5]
- Adopt regulatory changes to allow non-traditional housing types. [Housing, Human Services Policy 7]
- 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 11]
- Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply. [Housing, Human Services Policy 12]
- Identify and remove impediments to creating housing for harder to house populations. [Housing, Human Services Policy 13]
- Disperse affordable housing opportunities throughout the County. [Housing, Human Services Policy 14]

*Exhibit 1, Staff Report, pages 2 through 4.*

6. The subject property is zoned “Rural Protection” (RP). Properties to the north, east, and west are also zoned RP, while property to the south is zoned “Rural Residential.” The surrounding area generally consists of single-family residential development or undeveloped land. The RP zone “promotes low-density rural development and agricultural activities that are consistent with rural character and protects environmental features such as significant visual, historical and natural features, wildlife corridors, steep slopes, wetlands, streams and adjacent critical areas.” *KCC 17.140.010*. Detached ADUs are allowed in the RP zone with a conditional use permit. *KCC 17.410.042*. ADUs in the RP zone are required to have front yard setbacks of 50 feet, and side and rear yard setbacks of 5 feet. *KCC 17.420.052*. In accord with these requirements, the proposed ADU structure would be set back approximately 891 feet from the front property line to the north, 112 feet from the side property line to the east, 74 feet from the side property line to the west, and 40 feet from the rear property line to the south. Additionally, detached ADUs located outside an urban growth area (UGA) are subject to the special use provisions of *KCC 17.415.015*. The proposed ADU’s compliance with these special use provisions is discussed in detail below. *Exhibit 1, Staff Report, pages 1, 3, and 4.*

#### Existing Property, Critical Areas, and Proposed Development

7. As noted above, the 4.99-acre property is currently developed with an existing 2,160 square-foot single-family residence. The subject parcel is rectangularly shaped and slopes from the north to the south, with much of the property being wooded. While there is a seasonal stream off-site from the property, County staff determined that all

development would occur outside any required 50-foot stream buffer and 15-foot structural setbacks required by the municipal code. In addition, as explained above, the property is within a CARA but, as already noted, ADUs are permitted and, accordingly, no further studies associated with the CARA are required. *Exhibit 1, Staff Report, pages 2 through 4.*

8. The property is located in a moderate geologic erosion hazard area and includes slopes of up to 17 percent in places. Engineering Geologist Allen Hart prepared a Geologic Assessment (GA) for the Applicant, dated April 28, 2018. The GA determined that the proposal would not substantially encroach on areas of the property with steeper slopes; would not result in the substantial modification or disturbance of any steep slopes on the property; and would not hazard or jeopardize slope stability on-site or on adjacent properties. The GA also determined that there is no evidence of recent, past, or ongoing slope soil movement on-site or in the vicinity, and that slopes in the project area are stable and do not represent a hazard. County staff concurred with the GA and recommend conditions associated with further site development consistent with those included in the Geological Assessment. *Exhibit 1, Staff Report, page 9; Exhibit 11; Exhibit 17.*
9. The proposed ADU would be located approximately 29 feet south of the primary residence. Access to the ADU would be provided by the existing driveway, which connects to Seabeck Highway NW, a County-maintained road. One additional parking space would be provided for the ADU, such that four parking spaces will be available on the paved area near the existing residence. The primary residence is already served by a private well and septic system, which would also serve the ADU.

The Kitsap County Public Health District reviewed and approved use of the existing well and septic system for the proposal. The Kitsap County Fire Marshal's Office reviewed and approved the proposal without required conditions. County Development Services and Engineering reviewed the proposal, including a Preliminary Drainage Plan submitted by the Applicant and Preliminary Engineering Plans, and approved it with conditions relating to stormwater management and general site development, noting that the proposal is supportable in its approach to civil site development. *Exhibit 1, Staff Report, pages 1 through 8; Exhibit 5; Exhibit 6; Exhibit 9; Exhibit 14; Exhibit 18.*

#### Conditional Use Permit

10. The County zoning code makes some uses conditional in certain zoning districts. A *conditional use* is an activity specified by the zoning code "as a principal or accessory use that may be approved or denied based on consistency with specific criteria." *KCC 17.110.175.* As noted above, the Applicant requests a CUP to construct an ADU, which is listed as a conditional use in the RP zoning district. *KCC 17.410.042.* County staff

reviewed the proposal and determined that it would satisfy the criteria for a CUP under KCC 17.550.030.A, noting:

- The proposal is consistent with the Comprehensive Plan.
- 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 the Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions.
- The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
- 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.

*Exhibit 1, Staff Report, page 10.*

11. ADUs in the RP zone are required to satisfy the ADU special use provisions of KCC 17.415.015.B. This code was recently adopted, effective June 28, 2022, and (as detailed below) both County staff and the Applicant agreed that it would be appropriate to review the proposal under the new code provisions despite the application being deemed complete just prior to the new code taking effect. The ADU special use provisions are listed below, together with County staff's analysis (in italics):
  1. Only one ADU shall be allowed per lot. *Only one ADU is proposed and there are no existing ADUs on the subject property.*
  2. Owner of the property must reside in either the primary residence or the ADU. *The owners of the property, Lindsey and Lukas Sullivan, will reside in the primary residence.*
  3. The ADU shall not exceed 50 percent of the square footage of the habitable area of the primary residence or 900 square feet, whichever is smaller. Dimensions are determined by interior measurements. *The proposed ADU is 892 square feet and the existing primary residence has 2,160 habitable square feet. The size of the existing primary residence allows for a 900 square foot ADU. The proposed ADU is 892 square feet and meets this requirement. There is a proposed basement/garage under the ADU which does not count toward habitable area. It will not be heated and used for storage.*
  4. The ADU shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure. *The proposed ADU is approximately 29 feet from the primary residence.*
  5. The ADU shall be designed to maintain the appearance of the primary residence. *The proposed ADU will have the same pitched roof and siding.*
  6. All setback requirements for the zone in which the ADU would be located shall apply. *All setbacks for the proposed ADU are met.*



7. The ADU shall meet applicable health district standards for water and sewage disposal. *The Kitsap County Health District approved the site for additional sewage and water supply.*
8. No mobile homes or recreational vehicles shall be allowed as an ADU. *The proposed ADU is stick-built and not a mobile home or recreational vehicle.*
9. An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking. *The proposed ADU will use the same driveway entering the property that the primary residences uses. In addition, parking for the ADU and primary residences meet the requirements of Kitsap County Code 17.490.030 which requires 4 total spaces.*
10. An ADU is not permitted on the same lot where accessory living quarters exist. *No other ADUs are present or proposed.*  
*Exhibit 1, Staff Report, pages 6 and 7.*

#### Testimony

12. County Planning Supervisor Katharine Shaffer testified generally about the proposal and how it would meet the specific requirements for approval of a conditional use permit to allow construction of an ADU. She noted that the proposed ADU would be located on a lot that is developed with an existing 2,160 square-foot residence. She described the subject property, noting that the development would occur away from any critical areas, well outside any possible buffers. She noted, however, that there are some steep slopes on site but that the Geologic Assessment that was prepared determined that the proposed ADU would not have detrimental impacts on slope stability for the subject property or other property in the vicinity. Ms. Shaffer testified that the project could vest to the version of the municipal code related to ADUs that was in effect prior to the current code being adopted but acknowledged that analysis of the proposal would not change in either case. She noted that County staff would support reviewing the proposal under the newer version of the ADU code so long as the Applicant concurred with that approach.  
*Testimony of Ms. Shaffer.*
13. Applicant/Property Owner Lukas Sullivan testified that he bought the property to build a single-family residence for his family and, ultimately, decided to add an ADU that his in-laws could stay in. Mr. Sullivan explained that site development (including of the single-family residence) began in 2018 and his family looks forward to completing this final step of the development process. In response to a query by the Hearing Examiner, Mr. Sullivan stated that he had no issues with the ADU being reviewed under the ‘new’ provisions that the County adopted approximately one week after the current project application was deemed complete. He also noted that he reviewed the conditions of approval recommended by the County and has no concerns with them. *Testimony of Mr. Sullivan.*

14. Amanda Walston, who serves as the County’s Clerk to the Hearing Examiner, testified about the notice that was provided in relation to the application and hearing and explained that an incorrect permit number was briefly listed on the hearing agenda. All other applicable information associated with the proposal, however, remained correct and the agenda was updated as soon as the error was identified. *Testimony of Ms. Walston.*

Staff Recommendation

15. Ms. Shaffer testified that County staff recommend approval of the conditional use permit application, with conditions. *Exhibit 1, Staff Report, pages 11 through 15; Testimony of Ms. Shaffer.*

**CONCLUSIONS**

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for a conditional use permit. *KCC 2.10.070; 17.550.020.*

Criteria for Review

The Hearing Examiner may approve, approve with conditions, or deny a conditional use permit. Approval or approval with conditions may be granted by the Hearing Examiner only when all the following criteria are met:

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of [the zoning code];
3. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity; and
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.

*KCC 17.550.030.A.*

As a condition of CUP approval, the Hearing Examiner may:

1. Increase requirements in the standards, criteria, or policies established by [the zoning code];
2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;
3. Require structural features or equipment essential to serve the same purpose set forth in Chapter 17.420;
4. Include requirements to improve compatibility with other uses permitted in the same zone, protecting them from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical

hazards, and similar matters. The hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by [the zoning code] as pertaining to any use nor otherwise reduce the requirements of [the zoning code] in matters for which a variance is the remedy provided;

5. Assure that the degree of compatibility with the purpose of [the zoning code] shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;
7. Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
8. Impose any requirement that will protect the public health, safety, and welfare.

*KCC 17.550.030.B.*

“If the approval criteria are not met or conditions cannot be imposed to ensure compliance with the approval criteria, the conditional use permit shall be denied.” *KCC 17.550.030.C.*

In addition to the criteria listed above, ADUs are subject to the following special use provisions of KCC 17.415.015.B:

1. Only one ADU shall be allowed per lot;
2. Owner of the property must reside in either the primary residence or the ADU;
3. The ADU shall not exceed fifty percent of the square footage of the habitable area of the primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by interior measurements;
4. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (e.g., garage);
5. The ADU shall be designed to maintain the appearance of the primary residence;
6. All setback requirements for the zone in which the ADU is located shall apply;
7. The ADU shall meet the applicable health district standards for water and sewage disposal;
8. No mobile homes or recreational vehicles shall be allowed as an ADU;
9. An ADU shall use the same side-street entrance as the primary residence and shall provide additional off-street parking; and
10. An ADU is not permitted on the same lot where an accessory dwelling unit, attached (ADU-A), exists.

*Findings, Conclusions, and Decision  
Kitsap County Hearing Examiner  
Sullivan Accessory Dwelling Unit CUP  
No. 22-02873*

The criteria for review adopted by the Kitsap County Board of Commissioners are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

#### Conclusion Based on Findings

- 1. With conditions, the proposed ADU would be consistent with the special use provisions of KCC 17.415.015.B.** The proposed ADU would be located within the Rural Protection (RP) zoning district, outside the boundary of an urban growth area, and would therefore be allowed with a conditional use permit. The Applicant proposes to construct only one ADU, and there are no other ADUs, accessory living quarters, mobile homes, or recreational vehicles currently located or proposed to be located on the property. The Applicant would reside in the ADU or the primary residence. The proposed ADU would measure 892 square feet, which is below the maximum permitted for an ADU associated with a 2,160 square foot primary residence. The proposed ADU would be sited approximately 29 feet from the single-family residence and would be designed to maintain the appearance of the single-family residence. The proposed ADU would meet all applicable setback requirements for the RP zone and would be accessed by the existing driveway serving the single-family residence, which would provide the additional parking space required for the ADU. The proposed ADU would be served by an on-site septic system, and existing well. The Kitsap County Health District has approved the water and septic systems proposed for the project, with conditions that have been incorporated with County staff's recommended conditions of CUP approval. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with applicable statutes, ordinances, and regulations. *Findings 1, 4 – 15.*
  
- 2. With conditions, the proposed project would be meet the criteria for CUP approval under KCC 17.550.030.A.** The County provided reasonable notice and opportunity to comment on the proposal. The County received one comment on the proposal in response to its notice materials. The Suquamish Tribe raised concerns about more impervious surface being created from development of a detached (versus internal or attached) ADU, as well as general concerns on the impacts development may have on the Critical Aquifer Recharge Area (CARA) and area slopes. The County determined that the proposal would not require further analysis in terms of impacts to the CARA, because this type of residential development is not identified as a hazard to such resource. In addition, the County reviewed the Geologic Assessment submitted by the Applicant and concurred with its determination that the proposal would not have detrimental impacts on slope stability in the area. In addition, the County analyzed the environmental impacts of the proposal, determined that the proposed use would not have a probable significant

adverse impact on the environment, and issued a Determination of Nonsignificance on April 18, 2023. The DNS was not appealed.

The proposed ADU would be consistent with the County Comprehensive Plan policies that permit low-density residential uses in rural areas and generally encourage diverse, affordable housing options suitable to meet the needs of county residents. The Kitsap County Health District approved the proposed water and septic systems, with conditions that have been incorporated with County staff's recommended conditions of CUP approval. As conditioned, the proposed ADU would comply with all applicable provisions of the County zoning code, including setback requirements for the RP zone and the specific ADU special use provisions of KCC 17.415.015.B. The project's compliance with these special use provisions would ensure that the project would not be materially detrimental to other uses or property in the vicinity and would be compatible with the existing character of the subject property and property in the vicinity. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with relevant federal, state, and local statutes, ordinances, and regulations. *Findings 1 – 15.*

### DECISION

Based on the preceding findings and conclusions, the request for a conditional use permit to construct an 892-square-foot, detached accessory dwelling unit, on an irregularly shaped 4.99-acre property developed with an existing single-family residence, at 12717 Seabeck Highway NW, is, is **APPROVED**, subject to the following conditions:

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The accessory dwelling unit 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.

*Findings, Conclusions, and Decision*  
*Kitsap County Hearing Examiner*  
*Sullivan Accessory Dwelling Unit CUP*  
*No. 22-02873*

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 892 square feet of habitable space. 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. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit.
9. The accessory dwelling unit shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
10. An attached accessory dwelling unit (formerly called accessory living quarters) or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the ADU-attached or GH complies with all requirements imposed by the Kitsap County Code.
11. 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.
12. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
13. 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.
14. 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.

15. 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.
16. The decision set forth herein is based upon representations made and exhibits contained in the project application. 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.
17. 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.
18. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
19. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time this permit application was deemed fully complete. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Code in effect at the time of SDAP application, or Building Permit if an SDAP is not required.
20. The proposal indicates that the project will create additional hard surfaces not accounted for in the Drainage Report and Engineering Plans (dated July 1, 2019 and prepared for associated Single Family Residence permit #19-02166). The existing infiltration trench shall be evaluated for additional capacity by the engineer of record. If the additional hard surfaces cannot connect to the existing infiltration trench, then stormwater mitigation shall be provided in accordance with Kitsap County Code Title 12.
21. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.

22. The project shall follow the recommendations of the submitted in Geologic Assessment Report prepared by Allen L. Hart, dated April 28, 2018.
23. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

DECIDED this 9<sup>th</sup> day of August 2023.



---

ANDREW M. REEVES  
Hearing Examiner  
Kitsap County