



## Notice of Hearing Examiner Decision

05/23/2024

To: Interested Parties and Parties of Record

RE:           Project Name: Phelps Accessory Dwelling Unit (ADU)  
                  Applicant: Daniel Phelps  
                                2633 Ash St Unit B  
                                Bremerton, WA 98310  
                  Application: Conditional Use Permit (CUP)  
                  Permit Number: 22-03487

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #22-03487 Phelps 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://www.kitsap.gov/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:   Owner/Applicant: Daniel Phelps, [antrondst@hotmail.com](mailto:antrondst@hotmail.com)  
      Architect: Wilson Architects PLLC, [rusty@wilsonarchitects.us](mailto:rusty@wilsonarchitects.us)  
      Health District  
      Public Works  
      Parks  
      Navy  
      DCD  
      DSE  
      Kitsap Transit  
      North Kitsap Fire District  
      North Kitsap School District

Puget Sound Energy  
Water Purveyor  
Sewer Purveyor  
Point No Point Treaty Council  
Suquamish Tribe  
Port Gamble S'Klallam Tribe  
Squaxin Island Tribe  
Puyallup Tribe  
WA State Dept of Ecology-SEPA  
WA State Dept of Transportation  
Interested Parties: None

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**BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY**

Phil Olbrechts, Hearing Examiner

RE: Phelps Conditional Use Accessory Dwelling Unit (CUP – ADU)  File No. 22-03487	<b>FINDINGS OF FACT, CONCLUSIONS  OF LAW AND DECISION.</b>
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**INTRODUCTION**

Daniel Phelps requests a Conditional Use Permit to convert an existing detached garage into an Accessory Dwelling Unit (ADU) on property located at 23804 Bond Rd NE Poulsbo. The application is approved subject to conditions.

**ORAL TESTIMONY**

Izzy Lotz, Kitsap County Associate Planner, summarized the staff report.

**EXHIBITS**

Exhibits 1-17 listed in the Index to the Record prepared by County staff were admitted during the hearing.

**FINDINGS OF FACT**

**Procedural:**

1. Applicant. Daniel Phelps, 2633 Ash St Unit B Bremerton, WA 98310.
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:30 am on May 9, 2024.

**Substantive:**

3. Site/Proposal Description. Daniel Phelps requests a Conditional Use Permit to convert an existing detached garage into an ADU on property located at 23804 Bond Rd NE Poulsbo. The project site is 0.81 acres in size. The proposed ADU

1 will be 900 square feet and approximately 31 feet from the 2,005-square-foot existing  
2 single-family residence. The ADU will be the only ADU on the parcel. The ADU will  
use the same driveway as the primary residence.

3 4. Characteristics of the Area. The subject property is bordered on all sides by  
4 Rural Residential zoned parcels that are developed with single-family homes or are  
vacant.

5 5. Adverse Impacts. No significant adverse impacts are anticipated from the  
6 proposal. Impacts are more directly addressed as follows:

- 7 a. Off-Street Parking. KCC 17.49.030 requires three (3) parking off-street spaces  
8 per single-family residence and one (1) parking space for an ADU. Staff have  
9 found that the off-street parking area proposed by the Applicants is sufficient  
to accommodate the required 4x9 foot parking spaces.
- 10 b. Stormwater. Development Engineering has reviewed the land use proposal and  
11 finds the concept supportable in its approach to civil site development. The  
comments are based on a review of the preliminary drainage plan.
- 12 c. Environmental/Critical Areas. There are no critical areas on the project site that  
trigger critical areas review.
- 13 d. Access, Traffic, Roads. The proposed ADU will use the same access as the  
14 primary residence as shown in the site plan, Ex. 1, p. 14. Development Services  
and Engineering reviewed the proposal for compliance with traffic and road  
15 standards and recommended approval with conditions. At building permit  
16 application, the applicants will be required to submit a Kitsap County Public  
Works Form 1601 for issuance of a concurrency certificate, as required by  
17 Kitsap County Code 20.04.030, Transportation Concurrency.
- 18 e. Fire Safety. The Kitsap County Fire Marshall's Office reviewed and approved  
the proposal.
- 19 f. Water/Sewer. Water and septic were approved by the Kitsap County Health  
District.
- 20 g. Compatibility. The proposal is compatible with surrounding uses. As  
21 identified in Finding of Fact No. 4, surrounding uses are all vacant or  
22 residential. The proposed ADU is will also be surrounded by numerous trees  
on all sides as shown in the aerial photograph of the staff report. The increase  
23 in density is not likely to make a significant aesthetic difference to surrounding  
neighbors. The ADU provides for similar appearance to the primary residence  
24 -- the proposed ADU will have the same pitched roof and siding.
- 25

## CONCLUSIONS OF LAW

### Procedural:

1. Authority of Hearing Examiner. KCC 17.550.030 authorizes the hearing examiner to issue decisions on applications for conditional use permits.

### Substantive:

2. Zoning Designation. The property is currently zoned Rural Residential.

3. Review Criteria. KCC 17.410.042 requires a conditional use permit for detached ADUs in the RR zone. KCC 17.550.030A governs the criteria for conditional use permit. Pertinent criteria are quoted below and applied via corresponding conclusions of law.

**KCC 17.550.030.A:** *The hearing examiner may approve, approve with conditions, or deny a hearing examiner conditional use permit. Approval or approval with conditions may be granted only when all the following criteria are met:*

**KCC 17.550.030.A.1:** *The proposal is consistent with the Comprehensive Plan;*

4. Criterion met. The criterion is met. The proposed ADU provides the ability to create an affordable housing unit which is a goal supported by several policies in the Comprehensive Plan in a manner consistent with the zoning established for the subject property. The proposal is also found consistent with the Comprehensive Plan for the reasons identified in Section 7 of the staff report (Exhibit 1).

**KCC 17.550.030.A.2:** *The proposal complies with applicable requirements of this title;*

5. Criterion met. The criterion is met. The proposal conforms to the County's zoning code as detailed in Section 10 of the staff report (Exhibit 1). Staff planning and public works staff have reviewed the proposal to ensure conformance to the County's zoning code for this level of review. The results of that work have been implemented in detailed conditions of approval, adopted by this decision. Nothing in the record suggests any outstanding compliance issues. More detailed compliance will be required during the building and civil permit review.

The primary issue of zoning compliance is adherence to KCC 17.415.015B, which adopts standards tailored to detached ADUs outside urban growth areas. Pursuant to those standards, only one ADU is allowed per lot, the owner of the property must reside in the primary residence or the ADU, the ADU shall not exceed 50% of the habitable area of the primary residence, the ADU shall be located within 150 feet of the primary residence, the ADU shall be designed to maintain the appearance of the primary residence, all setback requirements shall be met, all health district standards shall be

1 met, ADUs may not be mobile homes or recreational vehicles, and the ADU shall use  
2 the same access as the primary residence and shall provide an additional parking space.  
3 The conditions of approval recommended by staff require conformance to all of these  
standards. The proposed design and site characteristics further establish conformance  
as detailed in Findings of Fact No. 3 and 5.

4 **KCC 17.550.030.A.3.:** *The proposal will not be materially detrimental to existing or*  
5 *future uses or property in the immediate vicinity; and*

6 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.  
7 5.

8 **KCC 17.550.030.A.4:** *The proposal is compatible with and incorporates specific*  
9 *features, conditions, or revisions that ensure it responds appropriately to the existing*  
10 *character, appearance, quality or development, and physical characteristics of the*  
11 *subject property and the immediate vicinity.*

12 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.  
13 5g and via its required conformance to KCC 17.415.015B.

## 14 **DECISION**

15 Based upon the conclusions of law above, the conditional use permit application is  
16 approved subject to the following conditions:

### 17 **a. Planning/Zoning**

- 18 1. All required permits shall be obtained prior to commencement of land  
19 clearing, construction and/or occupancy.
- 20 2. The accessory dwelling unit is subject to the payment of impact fees.  
21 Impact fees must be paid at time of permit issuance, or if deferred, must  
22 be paid prior to final inspection. No certificate of occupancy will be  
23 granted until all impact fees are paid.
- 24 3. Any proposed modification (not including cosmetic work such as  
25 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.

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 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.

**b. Development Engineering**

19. 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.

20. If the project proposal is modified from that shown on the site plan accepted for review September 1st, 2022, approved for this permit application, Development Services and Engineering will require additional review and potentially new conditions.

**c. Environmental**

**d. Traffic and Roads**



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21. 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 SDAP process, or Building Permit process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

**e. Fire Safety**

None

**f. Solid Waste**

None

**h. Kitsap Public Health District**

22. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

Dated this 23<sup>rd</sup> day of May 2024.

*Phil Olbrechts*

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Phil Olbrechts,  
Kitsap County Hearing Examiner

**Appeal Right and Valuation Notices**

Pursuant to KCC 21.04.100 and KCC 21.04.110, this conditional use permit decision is a final land use decision of Kitsap County and may be appealed to superior court within 21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C RCW.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.