



Notice of Hearing Examiner Decision

06/01/2023

To: Interested Parties and Parties of Record

RE: Project Name: Van Winkle Accessory Dwelling Unit (ADU)
 Applicant: Ian & Brianna Van Winkle
 961 NW GUSTAFSON RD
 SILVERDALE, WA 98383-9683
 Application: Conditional Use Permit (CUP-ADU)
 Permit Number: #22-03490

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #22-03490 Van Winkle Accessory Dwelling Unit (ADU) – 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 or (360) 337-5777.

CC: Applicant/Owner: Ian & Brianna Van Winkle, rip@ianvanwinkle.com
Health District
Public Works
Parks
Navy
DSE
Kitsap Transit
Central Kitsap Fire District
Central 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 Dept of Fish & Wildlife
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Transportation
Interested Parties: None

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 22-03490
)	
Ian and Brianna Van Winkle)	Van Winkle Accessory Dwelling Unit
)	
)	
<u>For Approval of a Conditional Use Permit</u>)	FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to allow the conversion of the second floor of an existing storage unit into a 567 square foot detached accessory dwelling unit, on an approximately 1.00-acre property at 4961 NW Gustafson Road, 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 April 27, 2023. The record was left open until May 4, 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 May 4, 2023.

Testimony:

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

Darren Gurnee, County Planner
Ian Van Winkle, Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated April 20, 2023
2. ADU Floor Plan and Elevations, received August 2, 2022
3. Single-Family Residence Floor Plan and Elevations, received August 2, 2022
4. Permit Questionnaire, dated July 15, 2022
5. SEPA Environmental Checklist, dated July 27, 2022
6. Stormwater Drainage Waiver, received August 2, 2022
7. Water Availability Letter, dated April 11, 2022
8. County Health Officer Decision for Onsite Sewage System and Water Supply, dated June

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- 15, 2022; Building Site Application, dated April 13, 2022; Water Availability Letter, dated April 11, 2022; Notice of Pending Building Site Application with Public Water Supply, dated May 25, 2022
9. Memorandum from County Development Services and Engineering, dated September 19, 2022
 10. Notice of Application, dated December 2, 2022
 11. Project Narrative, received March 13, 2023
 12. Site Plan, received March 13, 2023
 13. Determination of Nonsignificance, dated April 5, 2023
 14. Notice of Public Hearing, dated April 12, 2023
 15. Certification of Public Notice, dated April 17, 2023
 16. Staff Presentation
 17. Hearing Sign-In

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Ian and Brianna Van Winkle (Applicant) request a conditional use permit (CUP) to convert the second floor of an existing storage unit into a 567 square foot detached accessory dwelling unit on a one-acre property that is developed with a 1,620 square foot single-family residence, driveway, and primary and reserve septic drainfields. Conversion of the second floor of the storage unit would include installation of a kitchen, full bathroom, washer and dryer, and one bedroom. The Applicant would also update the heating system, door, and windows, and add insulation and fire sprinklers. The existing septic system would be expanded to accommodate the ADU. Access to the site would be provided by the existing driveway that connects to Gustafson Road. The property is located at 4961 NW Gustafson Road.¹ *Exhibit 1, Staff Report, pages 1 through 3; Exhibits 2 through 4; Exhibit 12.*
2. Kitsap County (County) determined that the application was complete on August 3, 2022. On December 2, 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 April 12, 2023, the County mailed notice of the open record hearing

¹ The property is identified by Kitsap County Assessor's Tax Account No. 082501-2-066-2005. *Exhibit 1, Staff Report, page 1.*

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. The County did not receive any comments on the proposal in response to its notice materials. *Exhibit 1, Staff Report, pages 1 and 6; Exhibit 10; Exhibit 14; Exhibit 15.*

State Environmental Policy Act

3. 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. After reviewing the Applicant’s environmental checklist and other information on file, the County 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 5, 2023, with an appeal deadline of April 19, 2023. The DNS was not appealed. *Exhibit 1, Staff Report, page 2; Exhibit 5; Exhibit 13; Exhibit 15.*

Comprehensive Plan and Zoning

4. The property is designated “Rural Residential” 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, 4, and 5.

5. The subject property and all surrounding properties are zoned “Rural Residential” (RR). The RR zone “promotes low-density residential development and agricultural activities that are consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services.” *KCC 17.130.010*. Detached ADUs are allowed in the RR zone with a conditional use permit. *KCC 17.410.042*. ADUs in the RR 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 150 feet from the front property line to the west, 101 feet from the side property line to the north, 84 feet from the side property line to the south, and 38 feet from the rear property line to the east. Additionally, detached ADUs located outside an urban growth area (UGA) are subject to the special use provisions of *KCC 17.415.015.B*. The proposed ADU’s compliance with these special use provisions is discussed in detail below. *Exhibit 1, Staff Report, pages 2, 3, 6, and 15; Exhibit 11.*

Existing Property and Proposed Development

6. The one-acre property slopes down the northeast portion of the site to the southwest. As noted above, the property is currently developed with a single-family residence, detached storage unit, a driveway, and primary and reserve drain fields. The site does not contain any critical areas. All surrounding properties are developed with single-family residences. *Exhibit 1, Staff Report, pages 1 through 3, and 16; Exhibit 12.*
7. The proposed ADU would be located approximately 50 feet from the primary residence. Access to the proposed development would be provided by the existing driveway serving the residence, a private easement that connects to Gustafson Road (a County-maintained road). The proposal includes one additional parking space for the proposed ADU. County Development Services and Engineering provided a memorandum, dated September 19, 2022. The Department reviewed and approved the proposal for compliance with stormwater and road standards, with conditions, including limiting new and/or replaced hard surfaces to less than 2,000 square feet; requiring additional review if

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the project proposal is modified from that which is shown on the site plan; and requiring that the Applicant obtain a Public Works permit for any work within the County right-of-way. Sewer services would be provided by the existing on-site septic system, which would be expanded. Silverdale Water District provided a Binding Water Availability Letter for the proposal on April 11, 2022. The County Health Officer approved the onsite sewage system and water for the proposal on May 25, 2022, and June 15, 2022, respectively. The Kitsap County Health District reviewed and approved the proposal. *Exhibit 1, Staff Report, page 1, 3, and 7 through 9; Exhibits 6 through 9; Exhibit 11; Exhibit 12.*

Conditional Use Permit

8. 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 RR 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*. The criteria are listed below, together with County staff’s analysis (in italics):

- The proposal is consistent with the Comprehensive Plan. *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 Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions. *The proposal complies or would comply with requirements of KCC Title 17 and complies with or will comply with all of the other applicable provisions of KCC 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 would not be 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. *The proposal would be 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.

9. ADUs in the RR zone are also required to satisfy the ADU special use provisions of KCC 17.415.015.B. County staff reviewed the proposal and determined that it would satisfy these provisions. 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. *The Applicant proposes only one ADU-detached. There are no other ADUs present or proposed on the property.*
 2. Owner of the property must reside in either the primary residence or the ADU. *The owner would reside in the single-family residence.*
 3. The ADU-detached 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 exterior measurements. *The proposed ADU-detached is 567 square feet. The primary residence is 1,620 square feet. Fifty percent of 1,620 square feet is 810 square feet; therefore, the ADU-detached is limited to 810 square feet (the smaller value).*
 4. The ADU-detached shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure. *The proposed single-family residence and the proposed ADU are approximately 50 feet apart, satisfying this requirement.*
 5. The ADU-detached shall be designed to maintain the appearance of the primary residence. *The single-family residence and the proposed ADU would be similar in appearance. The structure includes horizontal lap siding, dark asphalt shingle roof, and window treatments that would match the aesthetic of the existing house.*
 6. All setback requirements for the zone in which the ADU-detached would be located shall apply. *The proposed ADU would comply with all setback requirements applicable to the RR zone.*
 7. The ADU-detached shall meet applicable health district standards for water and sewage disposal. *Kitsap County Health District reviewed and approved the proposed ADU.*
 8. No mobile homes or recreational vehicles shall be allowed as an ADU-detached. *There are no mobile homes or recreational vehicles present on the subject property or proposed in the application. Conditions of approval would not allow the Applicant to locate either on the property, or add other existing accessory structures convert to guest houses or additional ADUs.*
 9. An ADU-detached shall use the same side street entrance as the primary residence and shall provide additional off-street parking. *The submitted site plan shows that the proposed ADU would use an existing driveway utilized by the single-family residence. The proposal includes a dedicated parking space for the ADU and overflow parking to serve both the residence and ADU.*
 10. An ADU-detached is not permitted on the same lot where an Accessory Dwelling Unit - Attached exists. *There are no present or proposed accessory living quarters.*

Exhibit 1, Staff Report, pages 6 and 7.

Testimony

10. County Planner Darren Gurnee 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. He explained that the proposed ADU would be located on a one-acre property and would be associated with a 1,620 single family residence that would be occupied by the Applicant. He noted that there are no critical areas on the property and that the DNS was not appealed. He stated that the County supports growth in rural areas to provide more opportunities for affordable housing. He noted that the proposal is not for an after-the-fact permit. Mr. Gurnee explained that the property is located within the RR zone and that the proposed ADU would meet all setback requirements for the RR zone. He noted that the proposed ADU and existing single-family residence would have similar architectural styles and share the easement connecting to Gustafson Road to the west of the property. He stated that the surrounding area is developed with similar residential and accessory structures. He explained that the property contains a shed on the eastern parcel line that is nonconforming but that the shed was created prior to alterations to the parcel lines and was not being addressed during this permit process. Mr. Gurnee detailed how, with conditions, the proposal would be consistent with the goals and policies of the County Comprehensive Plan and would meet all the special-use criteria under KCC 17.415.015.B. *Testimony of Mr. Gurnee.*
11. Applicant Ian Van Winkle explained that he purchased the property last year and believed that the previous owner had already obtained all of the necessary permits for development on the property. He explained that the septic system had not yet been upgraded but the improvements had already been designed and approved. He clarified that shed was more of a parking stall with an overhang (similar to a carport) and that the structure to be converted into an ADU had been on the property before the subject parcel and the parcel to the south had been split. *Testimony of Mr. Van Winkle.*

Staff Recommendation

12. Mr. Gurnee testified that County staff recommends approval of the conditional use permit application, with conditions. *Exhibit 1, Staff Report, pages 10 through 13; Testimony of Mr. Gurnee.*

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

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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.

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 Residential (RR) 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 a 1,620 square foot single-family residence on the property. The proposed ADU would measure 567 square feet, which is below the maximum permitted for an ADU associated with a 1,620 square foot primary residence.

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The proposed ADU would be sited approximately 50 feet from the existing single-family residence and would be designed to maintain the appearance of the single-family residence by incorporating horizontal lap siding, a dark asphalt shingle roof, and similar window treatments. The proposed ADU would meet all applicable setback requirements for the RR zone and would be accessed by the existing driveway serving the single-family residence. The proposal provides a dedicated parking space for the ADU. The proposed ADU would be served by an on-site septic system that would be expanded to accommodate the proposal, and potable water would be provided by municipal water. 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, 5 – 12.*

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 did not receive any comments on the proposal in response to its notice materials. 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 (DNS) on April 5, 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 RR 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 – 12.*

DECISION

Based on the preceding findings and conclusions, the request for a conditional use permit to allow conversion of the second floor of a storage unit to a 567 square foot detached accessory dwelling unit at 4961 NW Gustafson Road, is **APPROVED**, subject to the following conditions:

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

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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.
6. The ADU's habitable area shall not exceed 50 percent of the primary residence or 900 square feet, whichever is smaller.
7. 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.
8. The accessory dwelling unit shall be located within 150 feet of the primary residence.
9. The accessory dwelling unit shall be designed to maintain the appearance 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 accessory dwelling unit.
12. The accessory dwelling unit shall use the same access as the primary residence and shall provide one additional off-street parking space.
13. 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.
14. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.

15. 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.
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. 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.
18. 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.
19. 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.
20. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
21. New and/or replaced hard surfaces do not exceed the 2,000 square foot threshold; nor does the project exceed 7,000 square feet of disturbed area. While a formal plan is not required, the Applicant must consider all elements required of a stormwater pollution

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prevention plan and make allowances for managing erosion and sediment discharge on site. Per KCC Title 12, if the project exceeds either of the thresholds noted above, then additional review for stormwater management will be required.

22. 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 if no SDAP is required). The need for and scope of bonding will be determined at that time.
23. If access to the property serves more than two homes, it shall meet all the requirements for fire access, or a residential sprinkler system can be installed (in the ADU).

DECIDED this 1st day of June 2023.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center