



Hearing Examiner Staff Report and Recommendation

Report Date: June 15, 2023
Hearing Date: June 22, 2023

Application Submittal Date: September 12, 2022
Application Complete Date: October 28, 2022

Project Name: Lafayette Accessory Dwelling Unit (ADU)
Type of Application: Conditional Use Permit (CUP)
Permit Number: 22-04411

Project Location

5960 Watauga Beach Drive E
Port Orchard, WA 98366
Commissioner District #2

Assessor's Account

092402-1-029-2002

Applicant/Owner of Record

Lafayette Investment Group LLC
23 Via Soria
San Clemente, CA 92673

Recommendation Summary

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

VICINITY MAP



1. Background

Applicant proposes to convert a portion of the existing detached garage to an accessory dwelling unit on an approximate 0.90-acre parcel. The site is currently developed with a 2,624-square-foot single-family residence and a detached garage. Adequate vehicular access exists via an existing driveway that intersects Watauga Drive E. The proposed stormwater facilities include downspout splashblocks for stormwater quantity control.

2. Project Request

The applicants, Lafayette Investment Group LLC (Rick Hanley) seek approval for a Conditional Use Permit (CUP) to allow the conversion of an existing carport/garage to an ADU on their 0.90-acre parcel. Kitsap County Code 17.410.042.100 requires a CUP for a detached ADU in the Rural Residential zone.

3. SEPA (State Environmental Policy Act)

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 “major” 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.

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 November 15, 2022. A Determination of Nonsignificance (DNS) was issued on June 6, 2023.

The SEPA appeal period expired June 20, 2023. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The parcel is shaped like a trapezoid and faces Puget Sound toward the east. On the eastern side of the property, the property slopes upward.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	NA	
Maximum Density	1 du/5 acres	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140'	NA
Minimum Lot Depth	140'	NA
Maximum Height	35 feet	35
Maximum Impervious Surface Coverage	NA	
Maximum Lot Coverage	NA	NA

Staff Comment: Lot is already existing. No newly created lots within this proposal.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (East)	20 feet (see footnote 1)	~250
Side (North)	5'	7' 6" from existing garage, 65' from ADU portion
Side (South)	5'	3' 6" (footnote 2)
Rear (East)	10'	34'

1. Property is zoned Rural Residential but because the property is less than 1-acre, urban setbacks can be used per Kitsap County Code 17.420.060 Foot note 42.b
2. Existing carport/garage does not meet the 5' setback required on the southern property line. However, the structure was legal established and permitted in 2005, Permit #: 05-24283. Kitsap County 17.420.060.a allows "building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel; providing, that no structure or portion of such addition may further project beyond the established building line." Because the proposed ADU is going the same footprint as the legally established carport/garage, the ADU may use the 3' 6" existing setback.

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Residential (RR)
South	Single-family residence	RR
East	Undeveloped land	RR
West	Single-family residence	RR

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District

5. Access

Access is through driveway off Watauga Beach Drive E.

6. Site Design

Site design is evaluated under the "Planning Analysis" under Section 10.

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 (amended in 2018 and 2020).

The following Comprehensive Plan goals and policies are most relevant to this application:

Land Use Policy 50

Limit the designed rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.

Land Use Policy 51

Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.

Land Use Policy 53

Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not draw population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designation, zoning designation, and zoning code provisions.

Housing, Human Services 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 21 Exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
1	STAFF REPORT	06/15/2022	
2	Site Plan		9/30/2022

3	Permit Questionnaire Form		9/30/2022
4	SEPA Checklist		9/30/2022
5	ADU Floor Plan		9/30/2022
6	SFR Floor Plan		9/30/2022
7	Water Availability Letter Wavier		9/30/2022
8	Stormwater Worksheet		9/30/2022
9	Photos of the house (5 submitted)		9/30/2022
10	Water Bill		9/30/2022
11	Notice of Application	11/15/2022	
12	Revised Site Plan		04/20/2023
13	Picture of Garage (2 pictures)		04/20/2023
14	IRS Documentation		4/28/2023
15	Health District Building Site Application (BSA)		05/01/2023
16	Stormwater Conditions Memo	05/26/2023	
17	SEPA Determination	06/06/2023	
18	Notice of Public Hearing	06/07/2023	
19	Certification of Public Notice	06/14/2023	
20	Staff Presentation		
21	Hearing Sign In		

9. Public Outreach and Comments

The Notice of Application was sent out on November 15, 2022. No comments were received.

10. Analysis

a. Planning/Zoning

Kitsap County Code 17.415.015.B: In order to encourage the provision of affordable housing, an accessory dwelling unit (ADU), detached, located outside an urban growth area shall meet the following criteria:

1. Only one ADU shall be allowed per lot;

Staff Comment: 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;

Staff Comment: The property is owned by the Lafayette Investment Group LLC. Richard Hanley plans to reside in the existing primary residence. Mr. Hanley has provided IRS document showing that he is a member of the investment group (Exhibit

14). Also submitted is a utility bill from West Sound Utility on the subject property showing Mr. Hanley's name on it (Exhibit 10).

Mr. Hanley has told staff his plans are to move from California back to Washington once the ADU permit is approved.

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;

Staff Comment: The existing primary residence is 2,673 square feet allowing up to a 900-square-foot ADU. The proposed ADU is 898 square feet meeting the sizing requirement.

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);

Staff Comment: The proposed ADU is approximately 79 feet from the primary residence.

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

Staff Comment: The ADU and the primary residence are similar in appearance. Both structures will have the same siding and roof pitch.

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

Staff Comment: The existing carport/garage is considered legal nonconforming meaning the structure received a building permit previously under the regulations in place at the time of construction. The structure was legal established and permitted in 2005, Permit 05-24283. Kitsap County 17.420.060.a allows "building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel; providing, that no structure or portion of such addition may further project beyond the established building line." Because the proposed ADU is going the same footprint as the legally established carport/garage, the ADU may use the 3' 6" existing setback.

The proposed ADU meets all other zoning setbacks.

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

Staff Comment: 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;

Staff Comment: 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; and

Staff Comment: The ADU will use the same entrance as the primary residence which is a driveway off Watauga Beach Drive E.

10. An ADU is not permitted on the same lot where an accessory dwelling unit, attached (ADU-A), exists.

Staff Comment: No other ADUs are present or proposed.

b. Lighting

Lighting is not analyzed for ADU proposals.

c. Off-Street Parking

Parking requirement is met. Please see Table 5 below.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
	3 per unit 1 additional space for accessory dwelling units	4 (720 square feet)	Existing Drive way is ~ 1700 square feet exceeding requirement.
Total	4		<4

d. Signage

No signage was proposed in this application.

e. Landscaping

Landscaping is not analyzed for ADUs.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site		
Required Buffer(s)		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

f. Frontage Improvements

Frontage improvements are no required for this proposal.

g. Design Districts/Requirements

The subject property is not within a design district.

h. Development Engineering/Stormwater

Development Engineering has reviewed the land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Site Plan and Septic Design Plan accepted for review on September 30th, 2022, and as revised by additional materials accepted for review 04/20/2023 to Kitsap County Development Services and Engineering.

i. Environmental

Environmental analysis was based on Kitsap County GIS data on Parcel Search. There are moderate slopes (greater than 15%) at the eastern portion of the parcel but the proposed ADU exceeds the 25' buffer and 15' building setbacks of for moderate slopes.

j. Access, Traffic and Roads

Access, traffic and roads were reviewed and approved with one condition—see Section 13.

k. Fire Safety

The proposed single-family residence does not meet or exceed 5000 square feet and is accessed off an approved fire access road. No fire marshal requirements applicable.

l. Solid Waste

Solid Waste was approved with no conditions.

m. Water/Sewer

Site has approved water and on-site sewage through West Sound Utility District.

n. Kitsap Public Health District

Kitsap County Public Health District has reviewed and approved the proposal.

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 request 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 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 ADU building, regardless of whether a building permit is required, shall be reviewed by the Department of Community Development and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
4. Only one ADU shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time. The accessory dwelling unit's ADU habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. 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 ADU shall be located within 150 feet of the primary residence.
7. The ADU shall be designed to maintain the appearance of the primary residence.
8. No mobile home or recreational vehicle shall be allowed as an ADU.
9. The ADU 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 (A-ADU) or guest house (GH) is not permitted on the same lot unless the ADU is removed and the A-ADU or GH complies with all requirements imposed by the Kitsap County Code.
11. A property with a primary residence and an ADU cannot be segregated to create two separate legal lots unless it complies with all subdivision, zoning and density requirements in place at the time of a complete subdivision application.
12. The ADU 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. Building permits submitted for this development 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.

20. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Building Permit is deemed fully complete. If development meets the thresholds for engineered drainage design, 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 Ordinances in effect at the time of Building Permit Application.

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.

c. Environmental

No conditions

d. Traffic and Roads

22. At building permit application, submit Kitsap County Public Works Form 1601 for issuance of a concurrency certificate, as required by Kitsap County Code 20.04.030, Transportation Concurrency.

e. Fire Safety

No Conditions

f. Solid Waste

No conditions

g. Kitsap Public Health District

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

Report prepared by:

Katharine Shaffer

June 9, 2023

Katharine Shaffer, Planning Supervisor/ Project Lead

Date

Report approved by:



June 12, 2023

Scott Diener, Planning Manager

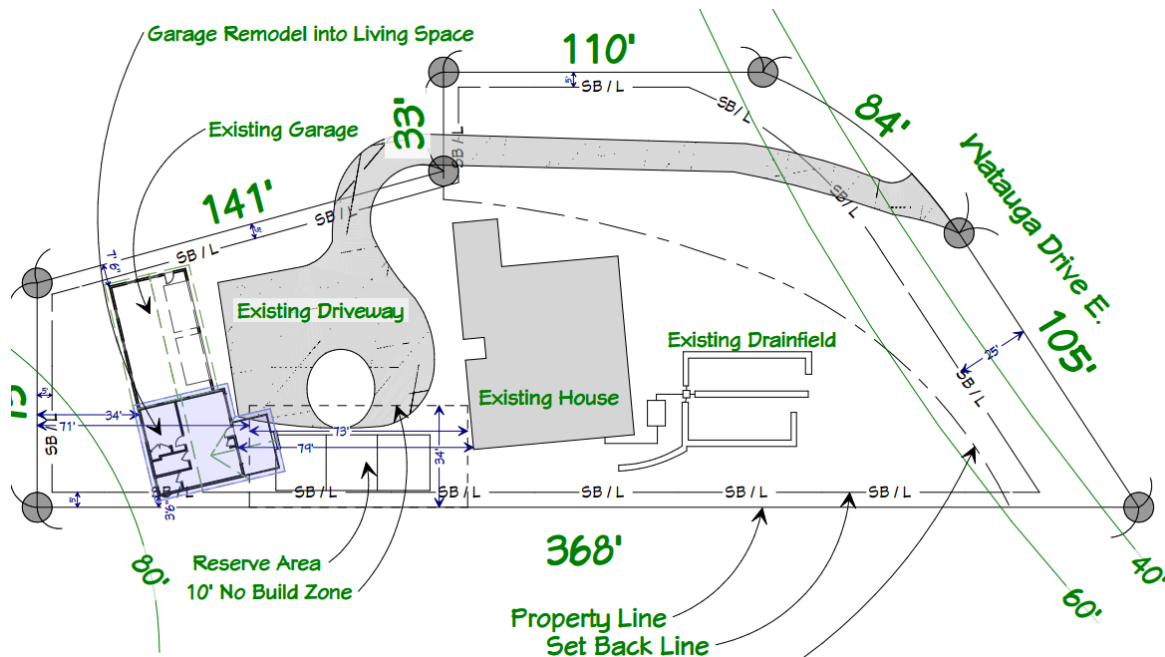
Date

Attachments:

Attachment A – Zoning Map

CC: Lafayette Investment Group LLC, 23 VIA SORIA SAN CLEMENTE, CA 92673
Authorized Agent: Enloe Custom Construction, enloecustom@gmail.com
Designer: Selby Design Ltd, pt.selby@yahoo.com
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer
Interested Parties: None

Site Plan



Attachment A – Zoning Map

