



Hearing Examiner Staff Report and Recommendation

Report Date: April 6, 2023
Hearing Date: April 13, 2023

Application Submittal Date: October 18, 2022
Application Complete Date: November 21, 2022

Project Name: Gray- Conditional Use Permit for an Accessory Dwelling Unit
Type of Application: CUP-ADU
Permit Number: 22-05101

Project Location

23072 INDIANOLA RD NE
Poulsbo, WA 98370
Commissioner District #1

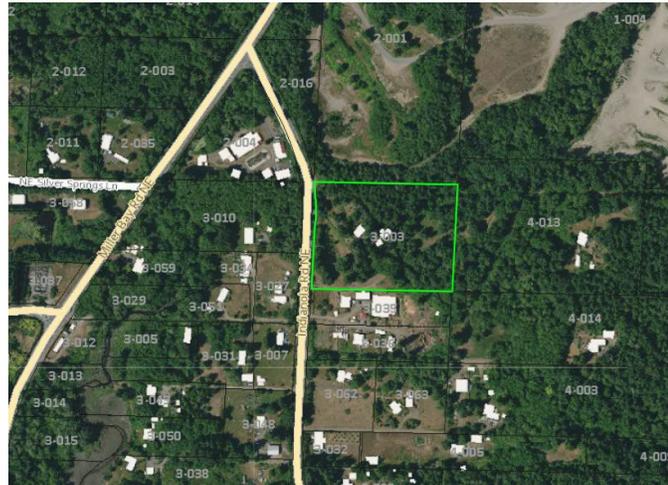
Assessor's Account

042602-3-003-2001

Applicant/Owner of Record

Lauren Gray/Lauren Christen Patterson &
Nathan Zaid Gray
23072 Indianola Rd NE
Poulsbo, WA 98370

VICINITY MAP



Recommendation Summary

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

1. Background

Lauren Gray (hereafter, “the Applicant”) proposes to convert the existing single-family residence (SFR) into an 884-square foot Accessory Dwelling Unit (ADU). Per Kitsap County Code (KCC) section 17.110.020, an ADU proposed outside of an Urban Growth Area (UGA) boundary requires a Conditional Use Permit (CUP). The project site is located outside of a UGA; therefore, a CUP approval is required.

The site is existing development with a 1,610 square-foot home, a 456-square foot cabin, a 924-square-foot detached garage, a 200 square-foot carport, paved driveway, and septic system. Building permit 22-02501 has been issued to remove the cabin/SFR and build a new 2,697 square-foot SFR.

2. Project Request

Applicant is requesting an “after-the-fact” Conditional Use Permit (CUP) to convert a legal nonconforming 2 story duplex into a 1-story Accessory Dwelling Unit (ADU), with non-

habitable storage on the lower level, to come into compliance with today's Kitsap County Code (KCC). Applicant proposes to decommission 726 square-feet of the existing 1,610 square-foot SFR and permit the remaining 884 square-foot habitable space as an ADU.

3. History

The parcel was originally developed in 1950 for residential use as an SFR, then in 1963 a Cabin/SFR and a detached garage was built. A building permit for the new proposed SFR was issued December 1, 2022. The expansion of the legally existing nonconforming SFR is the reason that all uses need to be in conformance with current code. The cabin/SFR will be removed.

Drinking water is provided by a two-party well, approved by the Kitsap County Health Division September 16, 2011. Sanitary sewage disposal provided by an on-site septic system (OSS) was approved July 11, 2022. An existing driveway from Indianola Rd. N.E. provides adequate vehicular access and was approved for fire access. There is no proposed construction to the existing structure or proposed disturbance associated with this CUP, therefore stormwater has no concerns.

The ADU meets all applicable provisions applying to special uses per KCC section 17.410.060 as well as criteria for CUP approval per KCC section 17.550.030.A. This project is vested to code in effect at time of Notice of Complete Application, November 22, 2022. The proposal is not subject to changes made to KCC Title 17 Zoning effective June 28, 2022.

4. 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 December 2, 2022, (Exhibit 12). A Determination of Nonsignificance (DNS) was issued on

March 7, 2023, (Exhibit 13). SEPA noted the project has been conditioned to follow Kitsap County Title 12 for Stormwater controls listed under conditions b. 22-24 at the end of this report. The SEPA appeal period expires March 21, 2023. As of the writing of this staff report, no appeals have been filed; therefore, the SEPA determination is final.

5. Physical Characteristics

According to the Kitsap County Assessor, the subject site is 7.45 acres or 324,522 square feet. The parcel is roughly square in shape and approximately 75%, mostly wooded with the remaining portion as lawn, hard surfaces from existing structures, a driveway including parking, and a waterbody feature.

The GIS parcel map shows critical areas consisting of a fish bearing stream entering property from the northeast corner, heading in a southern direction, meandering into a waterbody at the western side, then exiting the property at the northern west perimeter. GIS maps also indicate some landslide/high erosion hazard areas at the eastern portion of the parcel.

Existing development is located primarily in the center of the parcel and consists of a new primary SFR, the ADU proposed to be converted from the previously construction SFR, and an existing detached garage. A shared driveway from Indianola Rd. N.E. to the SFR and ADU, approximately 137 linear feet from the north property boundary, is existing. There is a 20-foot-wide driveway easement at the southern property boundary, recorded under Auditors No. 1107667, dated August 8, 1975, to benefit parcel 042602-4-013-2007 to the east. Proposed and existing drainfields are located at the northern and center portions of the lot. The parcel is zoned Rural Protection and meets the minimum lots size requirements.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Protection Zone: Rural Protection	Standard	Proposed
Minimum Density	N/A	1 dwelling unit/7.45 acres, existing
Maximum Density	N/A	
Minimum Lot Size	10 acres	N/A
Maximum Lot Size	N/A	N/A
Minimum Lot Width	140	N/A
Minimum Lot Depth	140	N/A
Maximum Height	35 feet	2 stories, <35 feet
Maximum Impervious Surface Coverage	N/A	N/A
Maximum Lot Coverage	N/A	N/A

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50 feet	180 feet
Side (North)	100 feet	190 feet
Side (South)	20 feet	255 feet
Rear (East)	20 feet	425 feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Resource Mining/Forest Land	Mineral Resource (MRO) Rural Wooded (RW)
South	Single-family Residence (SFR)	Rural Protection (RP)
East	SFR	RP
West	Indianola Rd. N.E. (Collector) / Tribal Land beyond	RP Tribal Lands

Table 4 - Public Utilities and Services

	Provider
Water	Two Party Well
Power	Puget Sound Energy
Sewer	On-Site Septic (OSS)
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

6. Access

Vehicular access exists via an existing driveway from Indianola Rd. N.E., which is a collector arterial road classification and county maintained right of way (ROW).

7. Site Design

The ADU will be located approximately 100 feet westerly of the primary residence.

8. 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 Goals and Policies

Land Use Policy 50

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

Land Use Policy 51

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

Land Use Policy 53

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

Housing, Human Services Goals and Policies

Housing, Human Services Policy 5

Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing.

Housing, Human Services Policy 7

Adopt regulatory changes to allow non-traditional housing types.

Housing, Human Services Policy 11

Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class.

Housing, Human Services Policy 12

Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply.

Housing, Human Services Policy 13

Identify and remove impediments to creating housing for harder to house populations.

Housing, Human Services Policy 14

Disperse affordable housing opportunities throughout the County.

The County's development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

9. 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 19 Exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
1	STAFF REPORT	04/06/2023	
2	Historic Property Records/Photos (1963-1990)	03/22/1980	10/31/2022
3	Septic Approval	07/11/2022	11/21/2022
4	ADU Photos		11/21/2022
5	ADU Floor Plan		11/21/2022
6	SFR Approved Building Plans	08/10/2022	11/21/2022
7	Habitat Management Plan	03/21/2022	11/21/2022
8	Approved Building Site Plan (22-2501)	04/22/2022	11/21/2022
9	SEPA Checklist	11/17/2022	11/21/2022
10	Well Site Inspection Application	07/07/2011	11/21/2022
11	Geological Site Assessment	02/23/2022	12/01/2022
12	Notice of Application	12/02/2022	
13	SEPA Determination	03/07/2023	
14	Assessor Data		03/13/2023
15	Suquamish Tribe Comments	03/15/2023	03/15/2023
16	Notice of Public Hearing	03/29/2023	
17	Certification of Public Notice	03/31/2023	
18	Staff Presentation	04/13/2023	
19	Hearing Sign In		

10. Public Outreach and Comments

A Notice of Application was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment. To date, no adjacent neighbors have commented on the proposal. One comment letter was received from the Suquamish Tribe (Exhibit 15).

11. Analysis

a. Planning/Zoning

Per KCC section 17.410.060.B.3, to encourage the provision of affordable and independent housing for a variety of households, an ADU may be located in residential zones, subject to the following criteria (*italicized*). Staff comments are provided below:

- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary;

Staff Comment: *The subject property is not located within the UGA.*

- b. An ADU shall be subject to a CUP in those areas outside an urban growth boundary;

Staff Comment: *The subject property is located outside of an UGA. This application is a CUP for an ADU.*

- c. Only one ADU shall be allowed per lot;

Staff Comment: *This application proposes only one ADU. There are no other ADUs present or proposed.*

- d. Owner of the property must reside in either the primary residence or the ADU.

Staff Comment: *The owner currently resides in the existing ADU.*

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

Staff Comment: *The proposed ADU is 884 square feet of conditioned area. The new proposed primary residence is 2,697 square feet. Fifty percent of the proposed primary residence is 1,348.5 square feet. The County rounds up to 1,349 square feet. The ADU is limited to 900 square feet (the smaller value). Please note: Applicant provided documentation supporting the primary SFR as 2,697 sf per original building permit (#22-02501), not 1,810 sf as listed on Assessor's webpage. DCD accepts the documentation provided by applicant, for allowable ADU size limits.*

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

Staff Comment: *The proposed single-family residence and the proposed ADU are approximately 100 feet apart, satisfying this requirement.*

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

Staff Comment: The new proposed SFR and the proposed 884 square foot second story ADU with unconditioned storage area below shall be similar in appearance and made conditions of approval at the end of this report.

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

Staff Comment: The proposal meets all required setback for the Rural Protection (RP) zone.

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

Staff Comment: The Kitsap County Health District reviewed and approved the ADU.

- j. No mobile homes or recreational vehicles shall be allowed as an ADU;

Staff Comment: There are no mobile homes or recreational vehicles present on the subject property or proposed in this application.

- k. An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking; and

Staff Comment: The submitted site plan shows the proposed ADU will use the existing driveway utilized by the single-family residence.

- l. An ADU is not permitted on the same lot where an accessory living quarter exists.

Staff Comment: There are no present nor proposed accessory living quarters.

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

The proposal includes on additional parking space for the ADU.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	During subdivision, 2 per unit + 0.5 per unit on street/set aside; for historical lots/lots	3	3 SFR—existing

Accessory Dwelling Unit (ADU)	with no standing requirement, 3 per unit. 1 additional space for accessory dwelling units	1	3 ADU-Proposed
Total	4	4	6

d. Signage

No signage is proposed or required.

e. Landscaping

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

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	N/A	N/A
Required Buffer(s) 17.500.025	N/A	N/A
North	N/A	N/A
South	N/A	N/A
East	N/A	N/A
West	N/A	N/A
Street Trees	N/A	N/A

f. Frontage Improvements

Not applicable; there are no frontage improvement requirements for an ADU. However, there are access requirements that limit access to one road approach off a County road. This is addressed under the access heading.

g. Design Districts/Requirements

Not applicable; the subject property is not located within a design district.

h. Development Engineering/Stormwater

Approved by reviewer since no proposed construction to existing structure or proposed disturbance associated with this CUP.

i. Environmental

Environmental concerns are addressed and conditioned at the end of this report (Section C).

j. Access, Traffic and Roads

Since this proposal is to convert an ADU from the existing legal nonconforming SFR use/structure, no review is required.

k. Fire Safety

Fire has approved application for provided fire access.

l. Solid Waste

Solid Waste review was not required for this proposal.

m. Water/Sewer

Water and onsite septic (OSS) were approved by the Kitsap Public Health; therefore, a separate review was not applicable.

n. Kitsap Public Health District

Review for the OSS, a two-party well for drinking water, and an irrigation well were approved by Kitsap County Health District.

12. 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 Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. 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.

13. Findings

1. The proposal is consistent with the Comprehensive Plan.

Staff comment: The proposal supports the intent to increase affordable housing options in Kitsap County while limiting the density in the rural areas to ensure the preservation of those areas.

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.

Staff comment: The applicants are bringing the ADU into compliance with today's county code and will no longer be considered legally nonconforming. There will be 2 dwelling units rather than 3 as discussed in the applicant's submission. This proposal meets all the required

regulations applicable per KCC.

3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.

Staff comment: The proposal is consistent with the existing residential use of the property and the surrounding properties.

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.

Staff comment: The design, size, and placement of the proposed ADU effectively utilizes the existing features of the property while complementing the surrounding neighborhood characteristics.

14. 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 (CUP-ADU) request for Gray 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. If archaeological resources are uncovered during excavation, developers and property owners must immediately stop work and notify Kitsap County, the Office of Archaeology and Historic Preservation and affected Indian tribes
3. 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.
4. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the ADU building, regardless of whether a building permit is required, shall be reviewed by the DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
5. Only one ADU shall be permitted on the subject property.
6. 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.
7. The ADU's conditioned area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 884 square feet (Exhibit 5). Any future expansion of the ADU will require a building

permit and would have to comply with all code requirements in place at the time of the new building permit application.

8. The ADU shall be located within 150 feet of the primary residence.
9. The ADU 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 ADU.
12. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
13. An Accessory Living Quarters (ALQ) or Guest House (GH) is not permitted on the same lot unless the ADU is removed and the ALQ or GH complies with all requirements imposed by the KCC.
14. 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.
15. The ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
16. The recipient of any CUP 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 CUP and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the DCD at the applicant's expense.
17. 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 KCC. 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.
18. 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.
19. 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.

20. This CUP approval shall automatically become void if no development permit application is accepted as complete by the DCD within four years of the Notice of Decision date or the resolution of any appeals.
21. Any violation of the conditions of approval shall be grounds to initiate revocation of this CUP.

b. Development Engineering

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 process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.
23. 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.
24. 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

25. Subject to the conditions and mitigation of the Habitat Management Plan (HMP) Report provided by Peninsula Environmental Group Inc., dated March 21, 2022.

d. Traffic and Roads

26. None

e. Fire Safety

27. None

f. Solid Waste

28. None

g. Kitsap Public Health District

29. None

Report prepared by:

Jenny Kreifels _____ March 10, 2023
Jenny Kreifels, Staff Planner Date

Report approved by:

Katharine Shaffer _____ March 28, 2023
Katharine Shaffer, Current Planning Supervisor Date

Attachments:

- Attachment A – Site Plan
- Attachment B – Critical Areas Map
- Attachment C – Zoning Map

CC: Applicant/Owner: Lauren Gray - laurenpatternsongray@gmail.com
Interested Parties: Jon and Donna Kott- djkott@hotmail.com
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Jenny Kreifels
DCD Land Use File
DCD Building Permit File

Attachment C – Zoning Map

