

Kitsap Sun
Health District
Public Works
Parks
Navy
DSE
Kitsap Transit
South Kitsap Fire District
South Kitsap School District
Puget Sound Energy
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
Skokomish Tribe
PUBLIC UTILITY DIST NO 1
WA Dept of Fish & Wildlife
WA Dept of Archaeological Historic Preservation
WA Dept of Natural Resources
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Wetland Review
WA State Dept of Transportation

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

<p>RE: Ira Jay-Fritch & Erin Macy-Fritch & Janice E. Macy</p> <p>Accessory Dwelling Unit (CUP – ADU)</p> <p>File No. 23-01234</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.</p>

INTRODUCTION

Ira Jay-Fritch & Erin Macy-Fritch & Janice E. Macy request a Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) at 6877 Schweitzer PL SW Port Orchard. The application is approved subject to conditions.

ORAL TESTIMONY

Izzy Lotz, Associate Kitsap County Staff Planner, summarized the staff report. No other testimony was presented. Janice Macy, Applicant, testified that she had submitted her application because she hoped to reside on her daughter’s property. No other persons testified.

EXHIBITS

Exhibits 1-16 listed in the Index to the Record prepared by County staff were admitted during the hearing.

FINDINGS OF FACT

Procedural:

1. Applicants. Ira Jay-Fritch & Erin Macy-Fritch & Janice E Macy. 8951 Watson Pl NE, Bremerton, WA 98311.

1 2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the
2 application at 9:00 am on November 14, 2024.

3 **Substantive:**

4 3. Site/Proposal Description. Ira Jay-Fritch & Erin Macy-Fritch & Janice E.
5 Macy request a Conditional Use Permit to construct a detached Accessory Dwelling
6 Unit (ADU) at 6877 Schweitzer PL SW Port Orchard. The proposed ADU will be 884
7 square feet and located approximately 58 feet from a 1,764-square-foot single-family
8 residence. The proposed ADU will be the only ADU on the subject lot. As
9 conditioned, the owners of the property will reside in the subject property. The
10 proposed ADU will have the same pitched roof, roof material and siding as the primary
11 residence. The Kitsap Public Health District has approved the ADU for septic and
12 water service. The Ex. 9 site plan shows that the proposed ADU will use the same
13 driveway entering the property that the primary residences uses.

14 4. Characteristics of the Area. The subject property is bordered on all sides
15 but one by large heavily wooded lots that are developed with single-family residences
16 with an adjoining lot to the east appearing to be vacant as shown in the aerial
17 photograph of the staff report.

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

- 20 a. Off-Street Parking. KCC 17.490.030 requires three (3) parking off-street
21 spaces per single-family residence and one (1) parking space for an ADU. The
22 Applicant proposes four off-street parking spaces as required.
- 23 b. Stormwater. Development Services and Engineering reviewed and accepts the
24 concepts contained in this preliminary submittal and requires the conditions
25 stated in Section 13 of the staff report as an element of the land use approval.
- c. Critical Areas. County planning staff have found two wetlands on the parcel.
Based off the Wetland Delineation report by Crater Land Use Consulting dated
February 15, 2024, Wetland A was determined to be a category II wetland
requiring a 110' buffer. Wetland B was determined to be a category IV wetland
requiring a 40' buffer. The proposal is outside of the determined buffers. The
project has been conditioned for the buffer requirements. See Exhibit 7.
- d. Access, Traffic, Roads. The proposed ADU will use the same driveway
entering the property that the primary residences uses.
- e. Fire Safety. Kitsap County Building and Fire Safety Division reviewed and the
ADU and recommended a condition adopted by this decision requiring a fire
sprinkler system for the ADU.
- f. Water/Septic. The Kitsap County Health District approved the site for
additional sewage and water supply.

- 1 g. Compatibility. The proposal is compatible with surrounding uses. As
2 identified in Finding of Fact No. 4, surrounding uses are all separated by
3 numerous trees that should obscure the proposed increased density. With the
emphasis on similar architectural features, the increase in density is not likely
to make a significant aesthetic difference to surrounding neighbors.

4 CONCLUSIONS OF LAW

5 **Procedural:**

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

8 **Substantive:**

- 9 2. Zoning Designation. The property is currently zoned Rural Protection.
10
11 3. Review Criteria. KCC 17.410.042 requires a conditional use permit for
12 detached ADUs in the RP zone. KCC 17.550.030A governs the criteria for conditional
use permits. Pertinent criteria are quoted below and applied via corresponding
conclusions of law.

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

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

- 17 4. Criterion met. The criterion is met. The proposed ADU provides the ability to
18 create an affordable housing unit which is a goal supported by several policies in the
19 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).

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

- 22 5. Criterion met. The criterion is met. The proposal conforms to the County's zoning
23 code as detailed in Section 4 and 10 of the staff report (Exhibit 1). Staff planning and
24 public works staff have reviewed the proposal to ensure conformance to the County's
25 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.

1 The primary issue of zoning compliance is adherence to KCC 17.415.015B, which
2 adopts standards tailored to detached ADUs outside urban growth areas. Pursuant to
3 those standards, only one ADU is allowed per lot, the owner of the property must reside
4 in the primary residence or the ADU, the ADU shall not exceed 50% of the habitable
5 area of the primary residence, the ADU shall be located within 150 feet of the primary
6 residence unless involving a conversion of an existing structure such as that proposed,
7 the ADU shall be designed to maintain the appearance of the primary residence, all
8 setback requirements shall be met, all health district standards shall be met, ADUs may
9 not be mobile homes or recreational vehicles, and the ADU shall use the same access
10 as the primary residence and shall provide an additional parking space. The conditions
11 of approval recommended by staff require conformance to all of these standards. The
12 proposed design and site characteristics further establish conformance as detailed in
13 Findings of Fact No. 3 and 5.

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

16 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
17 5.

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

22 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
23 5g and via its required conformance to the ADU standards of KCC 17.415.015B.

24 DECISION

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

Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The accessory dwelling unit is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the accessory dwelling unit building, regardless of whether a building permit

1 is required, shall be reviewed by the Department of Community
2 Development and granted approval prior to such modification,
expansion, construction and/or issuance of a building permit.

- 3 4. Only one accessory dwelling unit shall be permitted on the subject
4 property.
- 5 5. The owner of the property must reside in either the primary residence or
6 the accessory dwelling unit and only one of the structures may be rented
at any one time.
- 7 6. The accessory dwelling unit's (ADU) habitable area shall not exceed
8 50% of the primary residence or 900 square feet, whichever is smaller.
9 The proposed size of the ADU is 884 square feet. Any future expansion
10 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.
- 11 7. The accessory dwelling unit shall be designed to maintain the
12 appearance of the primary residence.
- 13 8. No mobile home or recreational vehicle shall be allowed as an accessory
14 dwelling unit.
- 15 9. The accessory dwelling unit shall use the same side street entrance as the
16 primary residence and shall provide one additional off-street parking
space.
- 17 10. An attached accessory dwelling unit (formerly called accessory living
18 quarters) or guest house is not permitted on the same lot unless the
accessory dwelling unit is removed and the ADU-attached or GH
19 complies with all requirements imposed by the Kitsap County Code.
- 20 11. A property with a primary residence and an accessory dwelling unit
21 cannot be segregated to create two separate legal lots unless it complies
with all subdivision, zoning and density requirements in place at the time
22 of a complete subdivision application.
- 23 12. The accessory dwelling unit cannot be sold separately from the primary
residence unless it has legally been segregated onto its own lot.
- 24 13. The recipient of any conditional use permit shall file a Notice of Land
25 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.

1 The Notice of Land Use Binder shall serve both as an acknowledgment
2 of and agreement to abide by the terms and conditions of the conditional
3 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.

- 4 14. The uses of the subject property are limited to the uses proposed by the
5 applicant and any other uses will be subject to further review pursuant to
6 the requirements of the Kitsap County Code. Unless in conflict with the
7 conditions stated and/or any regulations, all terms and specifications of
8 the application shall be binding conditions of approval. Approval of this
9 project shall not, and is not, to be construed as approval for more
10 extensive or other utilization of the subject property.
- 11 15. The authorization granted herein is subject to all applicable federal, state,
12 and local laws, regulations, and ordinances. Compliance with such laws,
13 regulations, and ordinances is a condition to the approvals granted and is
14 a continuing requirement of such approvals. By accepting this/these
15 approvals, the applicant represents that the development and activities
16 allowed will comply with such laws, regulations, and ordinances. If,
17 during the term of the approval granted, the development and activities
18 permitted do not comply with such laws, regulations, or ordinances, the
19 applicant agrees to promptly bring such development or activities into
20 compliance.
- 21 16. The decision set forth herein is based upon representations made and
22 exhibits contained in the project application. Any change(s) or
23 deviation(s) in such plans, proposals, or conditions of approval imposed
24 shall be subject to further review and approval of the County and
25 potentially the Hearing Examiner.
17. This Conditional Use Permit approval shall automatically become void if
no development permit application is accepted as complete by the
Department of Community Development within four years of the Notice
of Decision date or the resolution of any appeals.
18. Any violation of the conditions of approval shall be grounds to initiate
revocation of this Conditional Use Permit.
19. 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.

Development Engineering

20. Building permits submitted for this development shall include

1 construction plans and profiles for all roads, driveways, storm drainage
2 facilities and appurtenances. No construction shall be started prior to said
3 plan acceptance.

- 4 21. Stormwater quantity control, quality treatment, and erosion and
5 sedimentation control, as required for the development, shall be designed
6 in accordance with Kitsap County Code Title 12 effective at the time the
7 Building Permit is deemed fully complete. If development meets the
8 thresholds for engineered drainage design, the submittal documents shall
9 be prepared by a civil engineer licensed in the State of Washington. The
10 fees and submittal requirements shall be in accordance with Kitsap
11 County Ordinances in effect at the time of Building Permit Application.

12 **Environmental**

- 13 22. A Wetland A 110 – foot native vegetation buffer & Wetland B 40 – foot
14 native vegetation buffer shall be retained along the perimeter of the
15 WETLANDS as depicted on the approved site plan and in accordance
16 with the Wetland Report by CRATER LAND USE CONSULTING,
17 dated February 15, 2024. In addition, a building or impervious surface
18 setback line of 15 feet is required from the edge of the buffer. Buffers or
19 setbacks shall remain undisturbed natural vegetation areas except where
20 the buffer can be enhanced to improve its functional attributes. Refuse
21 shall not be placed in buffers.

22 **Traffic and Roads**

23 23, None

24 **Fire Safety**

- 25 24. Due to Schweitzer PI SW not meeting fire access requirements the
proposed ADU will require an automatic fire sprinkler system.

Solid Waste

None

Kitsap Public Health District

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

Dated this 25th day of November 2024.

Phil Olbrechts

Phil Olbrechts,
Kitsap County Hearing Examiner

Appeal Right and Valuation Notices

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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.