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CC:

Applicant/Owner: Over Yonder Limited Partnerships, [dlang@atzgroup.com](mailto:dlang@atzgroup.com)  
Authorized Agent: Michael Rausch, [mike@johnsonssquared.com](mailto:mike@johnsonssquared.com)  
Architect: Johnson Squared Architects, [mike@johnsonssquared.com](mailto:mike@johnsonssquared.com)  
Biologist: Ecological Land Services Inc, [joanne@eco-land.com](mailto:joanne@eco-land.com)  
Engineer: Browne Wheeler Engineers Inc., [adam@brownewheeler.com](mailto:adam@brownewheeler.com)  
Geologist: Aspect Consulting LLC, [adennison@aspectconsulting.com](mailto:adennison@aspectconsulting.com)  
Interested Parties: Ellen Camm, [camm.ellen15@gmail.com](mailto:camm.ellen15@gmail.com); Nick Goins, [gogoins@comcast.net](mailto:gogoins@comcast.net); Brady Green – WDFW, [Brady.Green@dfw.wa.gov](mailto:Brady.Green@dfw.wa.gov); Matthew Evinger – DOE, [MEVI461@ECY.WA.GOV](mailto:MEVI461@ECY.WA.GOV)

Prosecutor's Office  
Assessor's Office  
DCD  
Kitsap Sun  
Point No Point Treaty Council  
Suquamish Tribe  
Skokomish Tribe  
Port Gamble S'Klallam Tribe  
Squaxin Island Tribe  
Puyallup Tribe  
Dept of Archaeological Historic Preservation  
WA Dept of Natural Resources  
WA Dept of Fish & Wildlife  
WA State Dept of Ecology-SEPA  
WA State Dept of Transportation  
Health District  
Public Works  
Parks  
Navy  
DE & PEP  
North Kitsap Fire District  
North Kitsap School District No. 400  
Puget Sound Energy  
Public Utility District No. 1  
WA Dept of Transportation/Aviation  
WA State Dept of Ecology-Shoreline Review  
Puget Sound Clean Air Agency  
Kingston CAC  
Cascade Natural Gas  
WA Department of Health

1 **BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY**

2 Phil Olbrechts, Hearing Examiner

<p>3 RE: Over Yonder LTD Partnership</p> <p>4 Accessory Dwelling Unit (CUP</p> <p>5 – ADU) 25-01579</p> <p>6 Shoreline Substantial</p> <p>7 Development Permit 23-05358</p> <p>8 Shoreline Conditional Use</p> <p>9 Permit 25-01573</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION</b></p>
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10 **INTRODUCTION**

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12 Over Yonder Limited Partnership requests a Conditional Use Permit (CUP), a  
13 Shoreline Substantial Development Permit (SSDP) and a Shoreline Conditional Use  
14 Permit (SCUP) to construct a 898sf detached Accessory Dwelling Unit (ADU) on a  
15 2.87-acre parcel at 32550 Hoffman Road NE in the Elgon area of Kitsap County. The  
16 applications are approved subject to conditions.

17 **ORAL TESTIMONY**

18 A computer-generated transcript of the hearing has been prepared to provide an overview  
19 of the hearing testimony. The transcript is provided for informational purposes only as  
20 Appendix A.

21 **EXHIBITS**

22 Exhibits 1-22 listed in the Index to the Record prepared by County staff were admitted  
23 during the hearing. The Staff PowerPoint Presentation and the Hearing Sign In Sheet  
24 were admitted during the hearing as Exhibits 23 and 24, respectively.

25 **FINDINGS OF FACT**

**Procedural:**

1. Applicant. Over Yonder Limited Partnership, 1816 SW 176<sup>th</sup> Street, Burien, WA 98166.

1 2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on March 26, 2026.

2 **Substantive:**

3 3. Site/Proposal Description. The Applicant requests a Conditional Use Permit, Shoreline Substantial Development Permit and a Shoreline Conditional Use Permit to construct an 898sf detached Accessory Dwelling Unit (ADU) at their home located at 32550 Hoffman Road NE in the Elgon area of Kitsap County. The rectangular 2.87-acre parcel is currently developed with a 2,048sf single-family residence, two detached garages, two sheds, a gate house, a boat house, and a man-made pond (Ex. 7). A central driveway connects the home to Hoffman Road. A high bluff separates the residence from the shoreline on the eastern property boundary. The property is forested with areas of maintained lawn and garden. The property abuts Puget Sound to the east and is within the Rural Conservancy Shoreline Designation. The property is outside the Urban Growth Area.

10 The ADU meets all required bulk and dimensional standards. The ADU will use the same entrance as noted on the Site Plan (Ex. 18). Conditions of approval will require the ADU design to maintain the appearance of the primary residence and to meet the remaining requirements of KCC 17.415.015.

13 Kitsap PUD #1 provides potable water. An existing septic system provides sanitary sewage disposal. The site has direct access to Hoffman Road NE. A condition of approval will require the project to comply with all Kitsap Public Health District regulations.

16 4. Characteristics of the Area. Properties to the north and south are developed with large lot single family residences. Puget Sound is to the east. The property to the west is vacant. The subject property and adjacent single-family homes are zoned Rural Residential. The undeveloped property to the west is zoned Rural Protection.

19 5. Adverse Impacts. No significant adverse impacts are anticipated from the proposal. The County issued an optional SEPA Determination of Non-Significant Impact (DNS) which was not appealed. Impacts are more directly addressed as follows:

- 21 A. Off-Street Parking. KCC 17.490.030 requires three off-street parking spaces, two for the single-family residence and one parking space for an ADU. A single parking space is proposed for the ADU with a walking path connecting the parking pad to the ADU. The proposed ADU, parking space, and walking path will be outside the 130 ft standard shoreline buffer and 15 ft setback with only the ADU located within the 200 ft shoreline jurisdiction. The project has two existing garages and ample driveway space to ensure the required parking spaces are provided.

1 B. Stormwater. As conditioned, the project will be developed in a manner  
2 consistent with the control of pollution and will prevent damage to the natural  
3 environment from stormwater. The stormwater quantity and quality control  
4 connect to an existing drainage conveyance to the base of the bluff above the  
5 ordinary high-water mark. The Applicant provided a Drainage Report (Ex. 8),  
6 a Stormwater Pollution Prevention Plan Narrative (Ex. 12), and Drainage Plans  
7 (Ex. 17). Additionally, the County analyzed the environmental impacts and  
8 issued an Optional SEPA DNS (Ex. 20). The County also provided a  
9 Stormwater Conditions Memo (Ex. 19).

10 The stormwater quantity and quality control connect to a four-inch diameter  
11 high density polyethylene tightline system leading to a dispersion tee at the base  
12 of the bluff landward of the Ordinary High Water Mark (OHWM) (Ex. 8). The  
13 County's Development Engineering staff reviewed the preliminary drainage  
14 report and the preliminary engineering plans and found them compliant with  
15 Kitsap County Code Title 12 Stormwater Drainage, as conditioned. A condition  
16 of approval will require the Applicant to comply with the Stormwater  
17 Conditions Memo (Ex. 19). The staff report states the Applicant has achieved  
18 no net loss of ecological functions both through the infrastructure design and  
19 because the project will be constructed outside of all critical areas and shoreline  
20 buffers (Findings of Fact 5C-E).

21 The project will manage stormwater through the existing piped infrastructure  
22 which discharges stormwater to the base of the bluff above the OHWM. Both  
23 the Washington Department of Ecology (Ex. 15) and WDFW (Ex. 14)  
24 expressed concern that the drainage design will result in erosion of the bluff and  
25 could result in impacts to ecological functions. **Therefore, a condition of  
approval** requires the Applicant to document a consultation with WDFW on  
whether an HPA permit is required and to acquire the HPA permit if it is  
required.

18 C. Flood Hazard. No impacts to or from the floodplain are anticipated. No portion  
19 of the proposed project will be in the FEMA floodplain (Ex. 7). All portions of  
20 the proposed project will be at least one foot freeboard above the floodplain.

21 D. Critical Areas. No impacts to critical areas are anticipated. There is a 1,750sf,  
22 Category III wetland and a type Ns stream offsite to the north. The Applicant's  
23 Critical Areas Report notes both the wetland and stream buffers are on the far  
24 side of a driveway which they argue creates functionally isolated buffers that  
25 will not impact the subject property (Ex. 7, page 7). The new ADU is outside  
of the off-site wetland and stream buffers.

The US Fish and Wildlife Service National Wetland Inventory maps and the  
Washington Department of Fish and Wildlife Priority Habitats and Species  
mapping indicate the presence estuarine and marine wetland along the shoreline

1 on the eastern half of the property (Ex. 7, Figure 5). There are no threatened or  
2 endangered species in the project area. The Critical Areas Report (Ex. 7)  
3 concludes that there are no wetlands or streams on the subject property (Ex. 7,  
4 page 7). The proposed ADU will be located on top of the coastal bluff and away  
5 from the Ordinary High Water Mark (OHWM) of Puget Sound.

6 The Applicant's Geotechnical Engineering Report (Ex. 10) states the new ADU  
7 will be located about 30 feet from the top of the coast bluff. The County maps  
8 the eastern shoreline as a high landslide hazard area surrounded by moderate  
9 landslide hazard areas. The east-facing steep slope along the shoreline is greater  
10 than 30% and stands about 65-feet in height. Based on the County's code, the  
11 standard setback should be 90 feet from the top of slope (KCC 19.400.425(B)).  
12 The Geotechnical Report analyzed the bluff based on several factors including  
13 soil parameters, surcharge loading from structures, groundwater, and seismic  
14 factors. The Geotechnical Report determined a conventional, grade-supported  
15 structure needs to be located at least 30 feet from the crest of the slope (Ex. 10,  
16 Pages 16-17). The Geotechnical Report recommended several steep slope  
17 management techniques.

18 The Geotechnical Report states the central third of the site, including the bluff,  
19 is mapped by the County as a high erosion hazard area though the authors of  
20 the report feel the erosion hazard at the site is relatively low based on the soils  
21 present and that the erosion hazard can be addressed through standard  
22 temporary erosion and sedimentation control (TESC) and best management  
23 practices (BMPs) during construction (Ex. 10, Page 14). A condition of  
24 approval requires the Applicant to implement the recommendations of the  
25 Geotechnical Report (Ex. 10, Pages 18-25).

E. No Net Loss of Ecological Function. The project as conditioned will result in  
no net loss of ecological functions in the shoreline environment. The Staff  
Report (Ex. 1) states the Applicant has achieved no net loss of ecological  
functions through the project design in that the ADU will be located out of all  
critical areas and shoreline buffers (See also Finding of Fact No. 5D).

F. Access, Traffic, Roads. The proposed ADU will use the same driveway entering  
the property that the primary residences uses. The access is from Hoffman Road  
NE, a County maintained right of way. The County Traffic division reviewed  
and approved the ADU proposal with no requested conditions of approval. The  
Applicant will be required to obtain a County right of way permit for any work  
in the right of way.

G. Fire Safety. Kitsap County Building and Fire Safety Division reviewed and the  
ADU and found no need for any conditions.

1 H. Water/Septic. As conditioned, there will be adequate water and septic services  
2 to serve the project. No adverse impacts to utilities are anticipated. Kitsap PUD  
3 #1 provides potable water. An existing septic system provides sanitary sewage  
4 disposal. Kitsap Public Health District approved the septic design. A condition  
of approval will require the project to comply with all Kitsap Public Health  
District regulations.

5 I. Compatibility. The proposal is compatible with surrounding uses. As identified  
6 in Finding of Fact No. 4, the immediate surrounding uses are all single-family  
7 residential. The proposed design is similar to the primary residence so no  
adverse aesthetic impacts are anticipated.

## 8 CONCLUSIONS OF LAW

### 9 Procedural:

10 1. Authority of Hearing Examiner. KCC 17.550.030 authorizes the hearing  
11 examiner to issue decisions on applications for zoning conditional use permits. KCC  
12 21.04.100.9 and KCC 22.500.100.D.2 classify shoreline conditional use permit as a  
13 Type III process. As outlined in KCC 21.04.110, the Type III process authorizes the  
14 hearing examiner to issue a final land use decision for the County after holding a public  
15 hearing. The shoreline substantial development permit is a Type II review process  
(KCC 21.04.100.12). All three decisions, the ADU-CUP, the SSDP and the SCUP have  
been consolidated for review as authorized by KCC 21.04.180.A and KCC  
22.500.100.A.3. KCC 22.500.100.D.4 requires approvals of shoreline conditional use  
permits to be submitted to the Department of Ecology for final approval.

### 16 Substantive:

17 2. Zoning Designation. The property is currently zoned Rural Residential  
18 (RR). The shoreline designation is Rural Conservancy.

19 3. Review Criteria. KCC 17.410.042 requires a conditional use permit for  
20 detached ADUs in the RR zone. KCC 17.550.030A governs the criteria for conditional  
21 use permits. KCC 22.500.100.B.3 sets the criteria for approval of shoreline substantial  
22 development permits. KCC 22.500.100.D.3 sets the criteria for approval of a shoreline  
conditional use permit. Pertinent criteria are quoted below and applied via  
corresponding conclusions of law.

### 23 Accessory Dwelling Unit - Conditional Use Permit

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

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

2 4. Criterion met. The criterion is met. The proposed ADU provides the ability to  
3 create an affordable housing unit which is a goal supported by several policies in the  
4 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 6 of the staff report (Exhibit 1).

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

7 5. Criterion met. The criterion is met. The proposal conforms to the County's zoning  
8 code as detailed in Section 9 of the staff report (Exhibit 1). Staff planning and public  
9 works have reviewed the proposal to ensure conformance to the County's zoning code  
10 for this level of review. The results of that work have been implemented in detailed  
11 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.

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

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

21 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.  
22 5.

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

1 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.  
2 5I and via its required conformance to the ADU standards of KCC 17.415.015B.

### 3 **Shoreline Substantial Development Permit**

4 The proposal necessitates a shoreline substantial development permit because it  
5 qualifies as substantial development within the shoreline jurisdiction. *See* KCC  
6 22.500.100.B.1. KCC 22.150.605 defines substantial development as any development  
7 that exceed a fair market value of \$7,047.00. The proposal exceeds this value. KCC  
8 22.500.100.B.3 sets the criteria for SSDPs, providing that an SSDP be granted only  
9 when “*the applicant can demonstrate that the proposed development is consistent with  
10 the policies and procedures of the Act [Shoreline Management Act] and this program,  
11 as well as criteria in WAC 173-27-150.*” As pertinent, WAC 173-27-150 requires  
12 conformance to the use regulations of the County’s shoreline master program in  
13 addition to its policies.

14 8. The proposal is found to comply with all applicable SSDP criteria. It is found to  
15 comply with SMP policies for the reasons identified in Section 9i of the staff report.  
16 It’s found to comply with general SMP regulations for the reasons identified at Pages  
17 8-10 of the staff report and Finding No. 5 of this decision. The project is an accessory  
18 dwelling unit, a permitted conditional use in the Rural Conservancy Shoreline zone  
19 (KCC 22.600.105 and KCC 22.600.170). This type of use is subject to the specific  
20 “residential” SMP use regulations of KCC 22.600.170.B. Those standards are quoted  
21 below and applied in corresponding conclusions of law.

#### 22 **KCC 22.600.170.B Development Standards**

23 *1. All new residential development, including subdivision of land, shall be designed,  
24 configured and developed in a manner that ensures no net loss of shoreline ecological  
25 function.*

9. Criterion met. As described in Finding of Fact No. 5, as designed and  
conditioned, the project will result in no net loss to the shoreline ecological functions.  
There are no wetlands, floodplains or landslide hazard areas impacting the property.  
The erosion hazard at the site is relatively low and can be addressed through standard  
temporary erosion and sedimentation control (TESC) and best management practices  
(BMPs) during construction (Finding of Fact No. 5D). The location for the ADU is  
outside of shoreline buffers. Stormwater measures ensure no pollution or scouring will  
occur (Finding of Fact No. 5B and Ex. 8, 11 and 19).

*2. All sewage disposal and water systems shall comply with state and local health  
regulations including but not limited to Kitsap County board of health Ordinance  
2008A-01 for on-site sewage requirements.*

10. Criterion met. As conditioned and described in Finding of Fact No. 5H, the project will comply with all local and state health regulations and all conditions of approval from Kitsap County PUD #1 and the Kitsap County Public Health District.

3. *New and remodeled residential development and new subdivisions shall be designed, located and constructed so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.*

11. Criterion met. As conditioned, the project will not require current or future shoreline stabilization. No new bluff walls or other stabilization structures are required to protect the new structure.

4. *New over-water residences, including floating homes, are prohibited. Where such homes were permitted or legally established prior to January 1, 2011, they shall be reasonably accommodated to allow improvements associated with life safety matters, property rights and considered a conforming use.*

12. Not applicable. No new overwater structures are proposed.

5. *Stormwater quality and quantity measures for residential development must comply with current codes.*

13. Criterion met. As conditioned and described in Finding of Fact No. 5B, the project will comply with current stormwater codes.

6. *Flood hazard reduction measures for residential development shall comply with Chapter 19.500, as incorporated here by Section 22.400.115 (Critical areas), and Section 22.400.150 (Flood hazard reduction measures) and shall be designed to prevent net loss of shoreline ecological functions.*

14. Criterion met. As described in Finding of Fact No. 5C, no impacts to or from a Flood Hazard area are anticipated as all proposed development is above the floodplain.

7. *New multi-unit residential development, including the subdivision of land for five or more parcels, shall provide for joint or community and/or public access, except where demonstrated to be infeasible due to any of the following: ...*

15. Not applicable. The proposal is not a multi-unit residential development.

8. *In cases where on-site access is infeasible, alternate methods of providing public access shall be considered, such as off-site improvements.*

16. Not applicable. The property has access to Hoffman Road NE. The primary and accessory dwelling will share the existing entrance.

9. *Lot area shall be calculated using only those lands landward of the OHWM.*

17. Not applicable. The new structure will not result in the creation of any new lots. There is no lot coverage maximum under the Rural Residential zone. The new ADU will comply with all zoning setbacks and with the shoreline buffer and setback.

10. *Single-family residential uses are a priority use only when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.*

18. Criterion met. As conditioned, the project will be developed in a manner consistent with the control of pollution and will prevent damage to the natural environment. Sources of potential pollution are the septic system, driveway and stormwater runoff. As described in Finding of Fact No. 5H, the septic system has been approved by the Kitsap County Health Department to accommodate the new development. A condition of approval will require the Applicant to satisfy all PUD and Health Department requirements. As described in Finding of Fact No. 5B, the Staff find the no net loss of ecological functions because the new ADU will be located outside of the shoreline buffer.

#### Shoreline Conditional Use Permit

**KCC 22.500.100.D.3:** *Shoreline CUPs shall be granted only after the applicant can demonstrate compliance with WAC 173-27-160 and this section as follows:*

a. *That the proposed use is consistent with the policies of RCW 90.58.020 and this program;*

19. Criterion met. The project as conditioned is consistent with the policies of RCW 90.58.020. No alterations to the shoreline itself are anticipated. The project will provide a long-term benefit by supplying additional housing opportunities, an important goal of the County's Comprehensive Plan. While providing for needed additional housing, it will not do so by creating any significant adverse impacts as determined in Finding of Fact No. 5. As conditioned, the project will provide no net loss of ecological functions (Finding of Fact No. 5E). As described in Finding of Fact No. 5B, the stormwater has been planned to eliminate the potential for erosion or pollution entering the shoreline environment. As noted in Conclusion of Law No. 11, the project has not proposed shoreline stabilization and is conditioned to not require future stabilization measures.

b. *That the proposed use will not interfere with the normal public use of public shorelines and does not conflict with existing water-dependent uses;*

1 20. Criterion met. There are no existing water dependent uses on the property  
2 and no public access to the shoreline exists. No new public use of the shorelines is  
3 proposed. Since the proposal is located entirely on public property landward of the s  
shoreline, it will have no impact on public use of public shorelines.

4 *c. That the proposed use of the site and design of the project are compatible with  
5 other authorized uses within the area and with uses planned for the area under the  
Comprehensive Plan and this program;*

6 21. Criterion met. The proposed ADU provides the ability to create an  
7 affordable housing unit which is a goal supported by several policies in the  
8 Comprehensive Plan in a manner consistent with the zoning established for the subject  
9 property. The proposal is also found consistent with the Comprehensive Plan for the  
10 reasons identified in Section 6 of the staff report (Exhibit 1). The proposal is found to  
11 comply with all applicable SMP criteria. It is found to comply with SMP policies for  
the reasons identified in Section 9i of the staff report. It is found to comply with general  
SMP regulations for the reasons identified at Pages 8-10 of the staff report and Finding  
No. 5 of this decision.

12 *d. That the proposed use will not result in significant adverse effects or a net loss to  
13 the shoreline ecosystem functions in which it is to be located;*

14 22. Criterion met. As described in Finding of Fact No. 5, as designed and  
15 conditioned, the project will result in no net loss to the shoreline ecological functions.  
16 The location for the ADU is outside of shoreline buffers. No other critical areas are on  
or impact the project site. As conditioned, stormwater measures ensure no pollution or  
scouring will occur (Finding of Fact No. 5B and Ex. 8, 11 and 19).

17 *e. That the public interest suffers no substantial detrimental effect;*

18 23. Criterion met. No substantial detrimental effect on the public interest is  
19 anticipated. As noted in Finding of Fact No. 5D, no impacts to critical areas are  
20 anticipated. The project as conditioned will result in no net loss of ecological function  
21 (Finding of Fact No. 5E). The project is compatible with the surrounding uses as  
22 described in Finding of Fact No. 5I. As conditioned, 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.

23 *f. That consideration has been given to the cumulative impact of additional requests  
24 for like actions in the area and shall not result in substantial adverse effects or net loss  
25 of shoreline ecosystem functions. For example, if CUPs were granted for other  
developments in the area where similar circumstances exist, the total of the conditional  
uses shall also remain consistent with the use preference policies and shall not produce*

1 *substantial adverse impacts to the shoreline environment. Consideration shall be*  
2 *demonstrated through preparation of a cumulative impacts report, if requested, that*  
3 *substantially conforms to the applicable provisions of Chapter 22.700 (Special*  
4 *Reports);*

5 24. Criterion met. As conditioned, no cumulative impacts are anticipated.  
6 Conditions of approval govern the size, location and features of the ADU to ensure that  
7 it conforms to code and is compatible with the surrounding uses. Any other ADU so  
8 conditioned will remain consistent with the use preferences of the County and will not  
9 produce adverse impacts to the shoreline environment. As noted in Finding of Fact No.  
10 5E, there will be no net loss to ecological functions.

11 *g. Other uses which are not classified or set forth in this program may be authorized*  
12 *as conditional uses provided the applicant can demonstrate consistency with the*  
13 *requirements of this section and the requirements for conditional uses contained in the*  
14 *master program;*

15 25. Not applicable. The accessory dwelling us is permitted via a conditional use  
16 permit.

17 *h. Uses which are specifically prohibited by this master program may not be*  
18 *authorized pursuant to this section.*

19 26. Not applicable. The accessory dwelling us is permitted via a conditional use  
20 permit.

## 21 **DECISION**

22 Based upon the conclusions of law above, the conditional use permit application,  
23 shoreline substantial development permit and shoreline conditional use permit are  
24 approved subject to the following conditions:

- 25 1. Subject to the conditions of the Geotechnical Engineering report prepared by  
Aspect Consulting, LLC dated September 27, 2023, associated with this permit and  
on file at the Department of Community Development.
2. Development associated with this permit shall not be used to justify future shoreline  
stabilization.
3. Subject to the conditions of the Critical Areas report prepared by Ecological Land  
Services, dated February 3, 2023, associated with this permit and on file at the  
Department of Community Development.
4. An Inadvertent Discovery Plan must be completed for subsequent permits prior to  
any ground disturbing actions. In the event that any ground-disturbing or other

1 project related activities associated with this development, or any future  
2 development of this site, uncover protected cultural materials (e.g., bones, shell,  
3 antler, horn or stone tools), developers and property owners must immediately stop  
4 work and notify Kitsap County, the Office of Archaeology & Historic Preservation  
5 and affected Indian tribes to comply with the Inadvertent Archaeological and  
6 Historic Resources Discovery Plan. (KCC 22.400.130)

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5. 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.

Uncovered cultural sites shall require a site inspection by a professional archaeologist in coordination with the affected tribe(s). Tribal historic preservation officers shall be provided the opportunity to evaluate and comment on cultural resources evaluations conducted by the professional archaeologist.

Work shall not recommence until authorized by the Office of Archaeology and Historic Preservation through an archaeological excavation and removal permit, which may condition development permits pursuant to KC 442-07.

6. A 130-foot native vegetation buffer must be maintained landward of Ordinary High Water, as depicted on the approved site plan. In addition, a building or impervious surface setback line of 15 feet is required from the edge of the buffer.

7. Required Minimum Zoning Setbacks-

- Minimum Front: 50' (East)
- Minimum Side: 20' (North)
- Minimum Side: 20' (South)
- Minimum Rear: 130' shoreline buffer + 15' Building Setback

8. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.

9. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the SDAP (or Building Permit if no SDAP required) application is deemed fully complete. 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 Code in effect at the time of SDAP application, or Building Permit if an SDAP is not required.

- 1 10. A Hydraulic Project Approval (HPA) permit may be required for work below the  
2 ordinary high-water mark or associated with the outfall. Prior to SDAP approval,  
3 the applicant shall submit an approved HPA from the Washington Department of  
4 Fish and Wildlife (WDFW), or documentation from WDFW specifying that a HPA  
5 is not required. Information regarding HPAs can be found at  
6 <https://wdfw.wa.gov/licenses/environmental/hpa> or by calling the Aquatic  
7 Protection Permitting System at (360) 902-2422.
- 8 11. If the project proposal is modified from that shown on the site plan approved for  
9 this permit application, Development Engineering will require additional review  
10 and potentially new conditions.
- 11 12. The Site Development Activity Permit (or Building Permit, if an SDAP is not  
12 required) shall include plans for construction of the road approach between the edge  
13 of existing pavement and the right-of-way line at all intersections with county or  
14 state rights-of-way. Approaches to county rights of way shall be designed in  
15 accordance with the Kitsap County Road Standards as established in Chapter 11.22  
16 of the Kitsap County Code. Approaches to state rights of way shall be designed in  
17 accordance with current WSDOT standards. Existing approaches may need to be  
18 improved to meet current standards.
- 19 13. Any work within the County right-of-way shall require a Public Works permit and  
20 possibly a maintenance or performance bond. This application to perform work in  
21 the right-of-way shall be submitted as part of the SDAP process, or Building Permit  
22 process, if a SDAP is not required. The need for and scope of bonding will be  
23 determined at that time.
- 24 14. The uses of the subject property are limited to the uses proposed by the applicant  
25 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. A Kitsap County Timber Harvest Permit will be required if greater than 5000 board  
feet of merchantable timber is harvested for the proposal.
16. The placement of residential development on the property shall be located to make  
installation of a shore protection structure unnecessary.
17. All required permits shall be obtained prior to commencement of land clearing,  
construction and/or occupancy.
18. 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

1 inspection. No certificate of occupancy will be granted until all impact fees are  
2 paid.

3 19. Any proposed modification (not including cosmetic work such as painting,  
4 papering and similar finish work), remodel or expansion of the accessory dwelling  
5 unit building, regardless of whether a building permit is required, shall be reviewed  
6 by the Department of Community Development and granted approval prior to such  
7 modification, expansion, construction and/or issuance of a building permit.

8 20. Only one accessory dwelling unit shall be permitted on the subject property.

9 21. The owner of the property must reside in either the primary residence or the  
10 accessory dwelling unit and only one of the structures may be rented at any one  
11 time.

12 22. The accessory dwelling unit's habitable area shall not exceed 50% of the primary  
13 residence or 900 square feet, whichever is smaller. The proposed ADU is 898  
14 square feet.

15 Any future expansion of the ADU will require a building permit and would have to  
16 comply with all code requirements in place at the time of the new building permit  
17 application.

18 23. The accessory dwelling unit shall be located within 150 feet of the primary  
19 residence.

20 24. The accessory dwelling unit shall be designed to maintain the appearance of the  
21 primary residence.

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

24 26. No mobile home or recreational vehicle shall be allowed as an accessory dwelling  
25 unit.

26 27. The accessory dwelling unit shall use the same side street entrance as the primary  
27 residence and shall provide one additional off-street parking space..

28 28. An accessory living quarters or guest house is not permitted on the same lot unless  
29 the accessory dwelling unit is removed and the ALQ or GH complies with all  
30 requirements imposed by the Kitsap County Code.

31 29. A property with a primary residence and an accessory dwelling unit cannot be  
32 segregated to create two separate legal lots unless it complies with all subdivision,  
33 zoning and density requirements in place at the time of a complete subdivision  
34 application.

1 30. The accessory dwelling unit cannot be sold separately from the primary residence  
2 unless it has legally been segregated onto its own lot.

3 Dated this 9<sup>th</sup> day of April 2026.

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Phil Olbrechts  
6 Kitsap County Hearing Examiner

7 **Appeal Right and Valuation Notices**

8 Pursuant to KCC 21.04.100 and KCC 21.04.110, this conditional use permit decision is  
9 a final land use decision of Kitsap County and may be appealed to superior court within  
10 21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C  
11 RCW. As regulated by Chapter 90.58 RCW, the shoreline substantial development  
12 permit is appealable to the Washington State Shoreline Hearings Board. The shoreline  
13 conditional use permit is subject to approval by the Washington State Department of  
14 Ecology and thereafter may be appealed to the Washington State Shoreline Hearings  
15 Board as well as regulated by Chapter 90.58 RCW.

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

March 26, 2026 Hearing Transcript

Over Yonder ADU-CUP, SSDP, SCUP

File No. 25-01579 (CUP-ADU), 25-01573 (SCUP), 23-05358 (SSDP)

*Note: This is a computer-generated transcript provided for informational purposes only. The reader should not take this document as 100% accurate or take offense at errors created by the limitations of the programming in transcribing speech. A recording of the hearing is available at the Kitsap County Department of Planning should anyone need an accurate rendition of the hearing testimony.*

Examiner Olbrechts (45:01):

All right, there it is. Okay. And this is file number 23-05358, 25-01573, 25-01579. And like the last hearing, need to get the exhibits entered into the record, and I just need to find that exhibit page. There it is. For this one, we have a total of 24 exhibits comprised of the staff report, and there's a cumulative impact analysis. And the floor plans for the project are critical errors report, stormwater report, geotechnical report, floor plan, stormwater, pollution prevention plan narrative, and a couple public comments from agencies that's in the site plan. That pretty much covers most of those documents. Does anyone have any objection to entry those exhibits one through 24 and need to see them? If you do and you're participating virtually, click on the virtual hand or if you're in the meeting room way, if you're a real hand. Note takers will admit one through 24.

(46:59):

Ms. Nitsch, let me swear you in. Just raise your right hand. Do you swear or affirm to tell the truth, nothing but the truth in this proceeding?

Planner Nitsch (47:05):

Yes, I

Examiner Olbrechts (47:05):

Do. Okay, great. Go ahead. All

Planner Nitsch (47:07):

Right, good morning. My name is Chelsea Nitsch. I'm an environmental planner with Kitsap County Department of Community Development. There we go. Slides are up. And I'm here today to bring forth the Over Yonder Limited Partnership conditional use permit for an accessory dwelling unit, a shoreline conditional use permit, and the shoreline substantial development permit to the hearing examiner today. Next slide, please. Here we go. And some background on the project to orient you to where it is, the parcel is a 2.87 acre parcel in Kingston and is rectangular in shape and orients east to west as shown on the screen. Puget Sound would be to the east with Hoffman Road Northeast to the west. And Hoffman Road Northeast is a county maintained right away and it provides direct access to the parcel. Next slide.

[\(48:03\)](#):

Oh, okay. You're welcome. Yeah, I bet. Sorry. I have the clicker now. As mentioned, this parcel is in Kingston within the rural residential zoning designation with a density of one to five dwelling units per acre. This parcel is also within the Rural Conservancy shoreline designation. It works. The property includes a single family residence and proposes an accessory dwelling unit ADU on the eastern edge of the property towards the eastern end of the property. Parcel characteristics include a conifers forest, an area of maintained lawn, a fenced garden located in the northwest corner, and a small manmade landscape pond lies just east of the fenced garden. A single family residence and garage exists on the eastern end of the parcel, and the driveway to Hoffman Road is located along the northern property boundary, and it separates the property from a wetland and stream located offsite to the north.

[\(49:09\)](#):

A high bluff separates the residence from shoreline on the eastern property boundary as shown on the screen with those contour lines. The project has a residential single family home replacement approval under permit number 24-00228 with a revision to that residential permit under permit 24-00228R, and that is to include additions and structural modifications.

[\(49:42\)](#):

The applicant requests approval of a shoreline substantial development permit, SSDP, the shoreline conditional use permit SCUP, and conditional use permit for an accessory dwelling unit, CUPADU, to construct an 898 square foot accessory dwelling unit within the 200 foot shoreline jurisdiction yet outside of that 130 foot standard shoreline buffer. The applicants over Yonder Limited Partnership completed their CUP, ADU, SCUP, and SSDP applications on the dates listed on the screen. The permits were deemed complete at various times due to the variation of times that each permit was submitted. Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA comment period previously occurred concurrently with the revised notice of application that was dated November 12th, 2025, and that notice of application included all three permits for this project. The SEPA appeal period expired December 12th of 2025. No appeals were filed. Therefore, the SEPA determination is final.

[\(51:02\)](#):

And this parcel contains the following mapped critical areas as shown on that photo there, and it contains hydric soils, erosion, and landslide hazard areas, as well as wetlands related to the shoreline, and is in a FEMA flood area, flood hazard area, excuse me. The proposed ADU will be situated outside of all of those listed areas and their buffers. The ADU will be placed in a relatively clear portion of the existing on the site. No trees or mature vegetation will be cleared within the steep slope and/or steep slope setback. The property includes a single family residence and proposes an accessory dwelling unit ADU in the southeastern corner of the property as shown here on this site plan. It might be a little tricky to see. There is a zoomed in version on the next slide to help. A single parking space is proposed for the ADU with a walking connection, connecting the parking pad to the ADU.

[\(52:03\)](#):

The proposed ADU parking space and walking path will all be outside of the 130-foot standard shoreline buffer and 15-foot building setback with only the ADU located within the 200-foot shoreline jurisdiction. Public comments were received from the Department of Ecology and Washington Department of Fish and Wildlife. These comments request confirmation that the development will not require future shoreline stabilization and that a hydraulic project approval would be acquired if necessary from the WDFW. The department has conditioned the project to address both of these comments.

[\(52:43\)](#):

Shoreline jurisdiction ... Oh, sorry. Next slide. Shoreline jurisdiction of Rural Conservancy requires a shoreline conditional use permit for ADUs, and so I have listed the relevant code sections here. This project is considered substantial development within the shoreline and does not meet exemption criteria, thus an SSDP was required. The rural residential zoning requires a conditional use permit for the detached ADU, so that is where the CUP ADU comes in. And the proposal addresses and meets the criteria for their respective permits as well as the listed code. Those specific components are addressed as staff comments within the staff report and further explain there if needed. Right. The following comprehensive plan goals and policies are most relevant to the application. They're listed here. These goals and policies are met since the proposed ADU parking space and walking path will all be situated outside of the 130-foot standard shoreline buffer and 15-foot building setback.

(53:48):

So the proposal is consistent with the comprehensive plan. To conclude, DCD recommends approval for all three permits, the CUP, ADU, SCUP, and SSDP as conditioned. Thank

Examiner Olbrechts (54:02):

You. Okay. Perfect. Yeah, just right on the mark. All right, let's move on to applicant comments. Do the applicants have any comments they want to make? Ms. Jones, is the applicant in the meeting room or?

Planner Nitsch (54:14):

I don't think the applicant is in the meeting room and I don't think I see them online either.

Examiner Olbrechts (54:19):

Okay. Well, let's move on to public comments. Anyone out in the public want to say anything? Just click on your virtual hand, the raise hand button. No takers there either. Looks like a pretty easy one, Ms. Nitsch, you got there. One quick question for you. You said there's no net loss. I think the staff report said no net loss because it's outside of the shoreline buffer. Is that the sole basis for coming to that conclusion?

Planner Nitsch (54:40):

Yes, that is correct. And because the proposal does not require the removal of any trees or native vegetation.

Examiner Olbrechts (54:46):

That was going to be my next question, so you kind of read my mind there. Perfect. Okay. Well, I guess I can close a hearing on this one. It's pretty straightforward. It meets the criteria really well, so it should be no problem in approving it. So we'll get that decision out in the next couple of weeks. And just because it involves a shoreline conditional use permit, if anyone is interested in this project, they should know that the Department of Ecology still has to approve it as well. So I think with that, we're done for the day, so thanks everybody. Perfect timing for me. I have a hearing at 10:00, so I was kind of looking at the clock there at the end, but we made it. So thanks a lot for all your great work. We'll see you next time. Have a great day.