



Rafe Wysham
Director

KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

To enable the development of quality, affordable, structurally safe and environmentally sound communities.

Notice of Hearing Examiner Decision

6/30/2025

To: Interested Parties and Parties of Record

RE: Project Name: Lindberry - Conditional Use Permit for
Additional Dwelling Unit
Applicant: Roy & Shannah Lindberry
14176 Colony Ave SE
Port Orchard, WA 98367
Application: CUP-ADU
Permit Number: 24-00348

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 24-00348: Lindberry - Conditional Use Permit for Additional Dwelling Unit (CUP-ADU)**, subject to the conditions outlined in this Notice and included Decision.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

<https://www.kitsap.gov/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC:

Applicant/Owner: Roy & Shannah Lindberry, rlindberry@yahoo.com

Authorized Agent: David Kerr, dlkscottish@yahoo.com

Interested Parties: None

Prosecutor's Office

Assessor's Office

DCD
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
WA Dept of Fish & Wildlife
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Wetland Review
WA State Dept of Transportation
Department of Archaeological Historic Preservation
WA Department of Natural Resources

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

4 Phil Olbrechts, Hearing Examiner

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RE: Roy and Shannah Lindberry 6 7 Accessory Dwelling Unit (CUP – ADU) 8 9 File No. 24-00348	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.
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10 **INTRODUCTION**

11 Roy and Shannah Lindberry request a Conditional Use Permit to construct an 624sf
12 detached Accessory Dwelling Unit (ADU) at 14176 Colony Ave SE, Port Orchard. The
13 application is approved subject to conditions.

14 **ORAL TESTIMONY**

15 Erin Lewis, Staff Planner, summarized her staff report. No one else testified.

16 **EXHIBITS**

17 Exhibits 1-19 listed in the June 5, 2025 staff report were admitted during the hearing.
18 A March 12, 2024 geotechnical report prepared by Envirotech Engineering was
19 admitted as Ex. 20.

20 **FINDINGS OF FACT**

21 **Procedural:**

- 22 1. Applicant. Roy and Shannah Lindberry, 14176 Colony Ave SE, Port
23 Orchard, WA 98367.
- 24 2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the
25 application at 9:00 am on June 12, 2025.

Substantive:

3. Site/Proposal Description. Roy and Shannah Lindberry request a Conditional Use Permit to construct an 624sf detached Accessory Dwelling Unit (ADU) at 14176 Colony Ave SE, Port Orchard. The applicant intends on constructing an 855 square foot ADU on a lot developed with a 2,445 square foot primary residence and a 624 square foot detached garage. The ADU will be located approximately 55 feet from the primary residence where it will be accessed using the same driveway. The project site is located outside of a UGA. The ADU is designed to maintain the appearance of the primary residence with shared style on siding, windows, and roof pitch. The Kitsap Public Health District has approved the project site for additional water and sewage disposal.

4. Characteristics of the Area. The subject property is bordered on all sides by large wooded lots.

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

- a. Off-Street Parking. KCC 17.490.030 requires three (3) off-street parking spaces per single-family residence and one (1) parking space for an ADU. The project site has sufficient parking area to accommodate four parking spaces.
- b. Stormwater. Development Services and Engineering reviewed and accepts the concepts contained in this preliminary submittal and requires the conditions adopted by this decision as an element of the land use approval.
- c. Critical Areas. County staff have found no critical areas affected by the proposal. A geotechnical assessment was conducted for the project site and no geologic hazards were found to constrain development. See Ex. 20.
- d. Access, Traffic, Roads. The proposed ADU will use the same driveway entering the property that the primary residences will use.
- e. Water/Septic. The Kitsap County Health District approved the site for additional sewage and water supply.

A concern was raised about excess demand upon a share well that apparently will serve the project site. That is a private civil matter that is outside the jurisdiction of the hearing examiner.
- f. Compatibility. The proposal is compatible with surrounding uses. As identified in Finding of Fact No. 4, surrounding uses are all large heavily wooded lots and the project site is 4.21 acres, which provides significant buffering space to

surrounding uses. With similar appearance to the primary residence, the ADU conversion will not create any aesthetic impacts to surrounding uses.

CONCLUSIONS OF LAW

Procedural:

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

Substantive:

2. Zoning Designation. The property is currently zoned Rural Residential (RR).

3. Review Criteria. KCC 17.410.042 requires a conditional use permit for detached ADUs in the RR zone. KCC 17.550.030A governs the criteria for conditional use permits. Pertinent criteria are quoted below and applied via corresponding conclusions of law.

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

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

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

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

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

The primary issue of zoning compliance is adherence to KCC 17.415.015B, which adopts standards tailored to detached ADUs outside urban growth areas. Pursuant to those standards, only one ADU is allowed per lot, the owner of the property must reside in the primary residence or the ADU, the ADU shall not exceed 50% of the habitable area of the primary residence, the ADU shall be located within 150 feet of the primary residence unless involving a conversion of an existing structure such as that proposed, 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.

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

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

KCC 17.550.030.A.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.*

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

DECISION

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 (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 accessory dwelling unit (ADU) shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the accessory dwelling unit (ADU) and only one of the structures may be rented at any one time.
6. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 855 square feet. 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.
7. The accessory dwelling unit (ADU) shall be located within 150 feet of the primary residence.
8. The accessory dwelling unit (ADU) shall be designed to maintain the appearance of the primary residence.
9. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
10. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
11. The accessory dwelling unit (ADU) shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
12. An accessory living quarters (ALQ) or guest house (GH) is not permitted on the same lot unless the accessory dwelling unit (ADU) is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code (KCC).
13. A property with a primary residence and an accessory dwelling unit (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.
14. The accessory dwelling unit (ADU) cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
15. The recipient of any conditional use permit shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by

the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the Department at the applicant's expense.

16. The uses of the subject property are limited to the uses proposed by the applicant and any other uses will be subject to further review pursuant to the requirements of the Kitsap County Code (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.
17. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.
18. The decision set forth herein is based upon representations made and exhibits contained in the project application 24-03283. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
19. This Conditional Use Permit approval shall automatically become void if no development permit application is accepted as complete by the Department of Community Development within four years of the Notice of Decision date or the resolution of any appeals.
20. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
21. Issuance of this permit certifies that the applicant has read and examined this application and knows the same to be true and correct. All provisions of Laws and Ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state/local law regulating construction or the performance of construction.

Development Engineering

22. 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.

23. 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.

Environmental

None

Traffic and Roads

None

Fire Safety

None

Solid Waste

None

Kitsap Public Health District

None

Dated this 27th day of June 2025.



Phil Olbrechts,
Kitsap County Hearing Examiner

Appeal Right and Valuation Notices

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.

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