



Notice of Hearing Examiner Decision

11/13/2024

To: Interested Parties and Parties of Record

RE: Project Name: ANG/MCNABB - Conditional Use Permit for Accessory Dwelling Unit
 Applicant: Christine Ang & David McNabb
 3169 SW HAWK RIDGE WAY
 PORT ORCHARD, WA 98367
 Application: CUP-ADU
 Permit Number: 24-00732

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 24-00732: ANG/MCNABB - Conditional Use Permit for Accessory 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: Authorized Agent: Shanea Bowman, bowmanpermits@outlook.com
 Applicant/Owner: Christine Ang & David McNabb, 3169 SW HAWK RIDGE WAY
 PORT ORCHARD, WA 98367
 Interested Parties:
 None
 Prosecutor's Office
 Assessor's Office
 DCD

Kitsap Sun
Health District
Public Works
Navy
DSE
Kitsap Transit
North Kitsap Fire District
North Kitsap School District
Puget Sound Energy
Water Purveyor: KPUD 1
Sewer Purveyor: KPUD 1
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 State Dept of Ecology-SEPA
Dept of Archaeological Historic Preservation
WA Dept of Natural Resources
WA State Dept of Transportation

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

RE: Christine Ang & David McNabb Accessory Dwelling Unit (CUP – ADU) File No. 24-00732	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.

INTRODUCTION

Christine Ang & David McNabb request a Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) at 7936 NE Weavers Pass Dr. Hansville. The application is approved subject to conditions.

ORAL TESTIMONY

Kate Millward, Kitsap County Staff Planner, summarized the staff report. No other testimony was presented.

EXHIBITS

Exhibits 1-22 listed in the Index to the Record prepared by County staff were admitted during the hearing.

FINDINGS OF FACT

Procedural:

1. Applicants. Christine Ang & David McNabb, 3169 SW Hawk Ridge Way Port Orchard, WA 98367.
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on October 24, 2024.

Substantive:

1
2 3. Site/Proposal Description. Christine Ang & David McNabb request a
3 Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) at
4 7936 NE Weavers Pass Dr. Hansville. The proposed ADU will be 874 square feet and
5 located approximately 102 feet from a 1,764-square-foot single-family residence. The
6 proposed ADU will be the only ADU on the subject lot. As conditioned, the owners
7 of the property will reside in the subject property. The ADU is designed to maintain
8 the appearance of the primary residence, using similar roof style, siding, orientation of
9 siding, color scheme and windows. The Kitsap Public Health District has approved the
10 ADU for septic and water service. The Ex. 17 site plan shows that the proposed ADU
11 will use the same driveway entering the property that the primary residences uses.

12
13 4. Characteristics of the Area. The subject property is bordered on all sides by
14 large heavily wooded lots that are either developed with single-family residences or
15 maintained as forest land. The surrounding lots are zoned either Rural Wooded (RW)
16 or Rural Residential (RR). The project site is located outside an urban growth area.

17
18 5. Adverse Impacts. No significant adverse impacts are anticipated from the
19 proposal. Impacts are more directly addressed as follows:

- 20
21 a. Off-Street Parking. KCC 17.490.030 requires three (3) parking off-street
22 spaces per single-family residence and one (1) parking space for an ADU. The
23 Applicant proposes four off-street parking spaces as required.
- 24 b. Stormwater. Development Services and Engineering reviewed and accepts the
25 concepts contained in this preliminary submittal and requires the conditions
stated in Section 13 of the staff report as an element of the land use approval.
- c. Critical Areas. The proposal is encumbered with a wetland and a mapped high
erosion hazard and moderate landslide hazard in the northeast corner. The
proposal complies with all critical area standards that apply to the wetland and
steep slope. The wetland is a Class IV wetland and all proposed development
will occur outside the Class IV buffer. The proposal will also be built more
than 30 feet from the steep slopes of the property as required by the County's
critical areas ordinance and recommended in the Applicants' geotechnical
report, Ex. 5.
- 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 heavily wooded
3 residential on large lots. The proposed ADU will also be surrounded by
4 numerous trees and/or significant separation on all sides as shown in the aerial
5 photograph of the staff report. With the emphasis on similar architectural
6 features, the increase in density is not likely to make a significant aesthetic
7 difference to surrounding neighbors.

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 conditional use permits.

12 Substantive:

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

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

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

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

23 4. Criterion met. The criterion is met. The proposed ADU provides the ability to
24 create an affordable housing unit which is a goal supported by several policies in the
25 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

1 suggests any outstanding compliance issues. More detailed compliance will be
2 required during the building and civil permit review.

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

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

18 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
19 5.

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

24 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
25 5g and via its required conformance to the ADU standards of KCC 17.415.015B.

26 **DECISION**

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

29 **Planning/Zoning**

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

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

- 5 4. Only one accessory dwelling unit (ADU) shall be permitted on the
6 subject property.
- 7 5. The owner of the property must reside in either the primary residence or
8 the accessory dwelling unit (ADU) and only one of the structures may be
9 rented at any one time.
- 10 6. The accessory dwelling unit's (ADU) habitable area shall not exceed
11 50% of the primary residence or 900 square feet, whichever is smaller.
12 The proposed size of the ADU is 874 square feet.
- 13 7. Any future expansion of the ADU will require a building permit and
14 would have to comply with all code requirements in place at the time of
15 the new building permit application.
- 16 8. The accessory dwelling unit (ADU) shall be located within 150 feet of
17 the primary residence.
- 18 9. The accessory dwelling unit (ADU) shall be designed to maintain the
19 appearance of the primary residence.
- 20 10. No mobile home or recreational vehicle shall be allowed as an accessory
21 dwelling unit (ADU).
- 22 11. An accessory living quarters (ALQ) or guest house (GH) is not permitted
23 on the same lot unless the accessory dwelling unit (ADU) is removed
24 and the ALQ or GH complies with all requirements imposed by the
25 Kitsap County Code (KCC).
12. 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.
13. The accessory dwelling unit (ADU) cannot be sold separately from the
primary residence unless it has legally been segregated onto its own lot.
14. 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.
15. 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.

1 Approval of this project shall not, and is not, to be construed as approval
2 for more extensive or other utilization of the subject property.

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

24 **Development Engineering**

- 25 20. 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.
- 21 21. Stormwater quantity control, quality treatment, and erosion and
22 sedimentation control, as required for the development, shall be designed
23 in accordance with Kitsap County Code Title 12 effective at the time the
24 Building Permit is deemed fully complete. If development meets the
25 thresholds for engineered drainage design, the submittal documents shall
be prepared by a civil engineer licensed in the State of Washington. The
fees and submittal requirements shall be in accordance with Kitsap
County Ordinances in effect at the time of Building Permit Application.

26 **Environmental**

- 27 22. Permit approval subject to chapter 19.300.315 of Kitsap County Code,
28 which states that buffers or setbacks shall remain undisturbed natural
29 vegetation areas except where the buffer can be enhanced to improve its
30 functional attributes. Refuse shall not be placed in buffers.
- 31 23. A 40-foot native vegetation buffer must be maintained along the
delineated wetland boundary as depicted on the approved site plan. In
addition, a building or impervious surface setback line of 15 feet is

1 required from the edge of the buffer.

2 Prior to occupancy, the wetland buffer boundary shall be permanently
3 identified with critical area buffer signs. Signs shall be placed along the
4 designated boundary spaced approximately 50-feet apart, visual from
5 sign to sign. Signs must be attached to existing trees with diameter
6 breast height greater than 4 inches. Alternative methods include 4x4
7 posts, metal posts or split rail fencing.

8 Signs are provided at issuance and installation of the signs is required
9 prior to final inspection and Certificate of Occupancy (CO).

10 **Traffic and Roads**

11 24. The accessory dwelling unit (ADU) shall use the same side street
12 entrance as the primary residence and shall provide one additional off-
13 street parking space.

14 **Fire Safety**

15 25. A fire suppression system is required for this project as a alternative
16 means and method for fire apparatus access.

17 **Solid Waste**

18 No conditions

19 **Kitsap Public Health District**

20 No conditions

21 **Hearing Examiner**

22 26. Construction of the ADU shall conform to the recommendations of the
23 Applicants' geotechnical report and addendums, Ex. 4, 5 and 16.

24 Dated this 12th day of November 2024.

25 _____
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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