



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

4/25/2025

To: Interested Parties and Parties of Record

RE: Project Name: Roland Gardner LLC - Conditional Use  
Permit for Accessory Dwelling Unit  
Applicant: Roland Gardner LLC  
PO BOX 830  
Wauna, WA 98395  
Application: CUP-ADU  
Permit Number: 24-02178

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 24-02178: Roland Gardner LLC - 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](mailto:help@kitsap1.com) or (360) 337-5777.

CC:

Applicant/Owner: Roland Gardner LLC, [golfballwackerguy@yahoo.com](mailto:golfballwackerguy@yahoo.com)  
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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

Water Purveyor: PUBLIC UTILITY DIST NO 1

Sewer Purveyor: PUBLIC UTILITY DIST NO 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 Dept of Transportation/Aviation

WA State Dept of Ecology-SEPA

WA State Dept of Ecology-Wetland Review

WA State Dept of Transportation

WA Dept of Archaeological Historic Preservation

WA Dept of Natural Resources

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**BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY**

Phil Olbrechts, Hearing Examiner

RE: Roland Gardner LLC  Accessory Dwelling Unit (CUP – ADU)  File No. 24-02178	<b>FINDINGS OF FACT, CONCLUSIONS  OF LAW AND DECISION.</b>
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**INTRODUCTION**

Roland Gardner LLC requests a Conditional Use Permit to construct an 897sf detached Accessory Dwelling Unit (ADU) at 2610 SW Glenacres Ct, Port Orchard, WA 98367. The application is approved subject to conditions.

The proposal has drawn an unusual amount of neighborhood concern for an ADU application. Those concerns are addressed in Finding of Fact No. 5d, 5e and 5f below. Overall, ADU and other County regulations address most concerns in detail. Those standards regulate noise, lighting and appearance. Pursuant to a staff recommendation, a condition of approval has been added requiring that the road maintenance agreement for SW Glenacres Ct. be updated to incorporate the subdivision creating the parcel subject to the ADU application. Concerns over use of a private shared well are beyond the scope of this ADU review. The hearing examiner has no authority to adjudicate rights to private wells.

**ORAL TESTIMONY**

Erin Lewis, Staff Planner, summarized her staff report. Ms. Lewis corrected the staff report during the hearing to note that the project connects to Glenwood Rd SW via SW Glenacres Ct. She identified that the ADU should be conditioned to require that the road maintenance agreement for the road serving the project site be updated to include parcels resulting from the subdivision of the project site.

## EXHIBITS

Exhibits 1-17 listed in the staff report were admitted during the hearing. An email from Hannah Elkins was entered as exhibit 18 and a road maintenance agreement was entered as Exhibit 19 during the hearing.

## FINDINGS OF FACT

### Procedural:

1. Applicant. Roland Gardner LLC, 2610 SW Glenacres Ct, Port Orchard, WA 98367.
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on April 10, 2025.

### Substantive:

3. Site/Proposal Description. Roland Gardner LLC requests a Conditional Use Permit to construct an 897sf detached Accessory Dwelling Unit (ADU) at 2610 SW Glenacres Ct, Port Orchard, WA 98367. The applicant intends on constructing a new 4,489-square-foot primary residence. The ADU will be located approximately 150 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 using the same style and colors of the primary residence and detached garage.. 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 stated in Section 13 of the staff report as an element of the land use approval.

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c. Critical Areas. County staff have found no critical areas affected by the proposal.

d. Access, Traffic, Roads. The proposed ADU will use the same driveway entering the property that the primary residences will use.

Concerns from surrounding neighbors were raised about road access. The proposal will need to use SW Glenacres Ct. to connect to County roads. SW Glenacres Ct. is subject to a private road maintenance agreement. The subject parcel is the result of a subdivision that occurred after execution of the road maintenance agreement. The ADU in conjunction with the subdivision will materially add to the vehicle trips of SW Glenacres Ct. Staff have recommended a condition of approval requiring that the road maintenance agreement be updated to reflect the additional lots created by the subdivision. This normally would be a problematical condition because it may involve a legal determination that the maintenance agreement isn't designed to address subdivisions. That is normally regarded as a private civil matter between the parties to the agreement. However, no one objected to the recommendation and it appears that staff found such a condition important and necessary to resolve neighborhood concerns. The CUP is conditioned accordingly.

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

The proposal drew an unusual amount of neighborhood concern over compatibility for an ADU application. The concerns included increased traffic, lighting and noise. Kitsap County has noise standards in place that regulate noise from residential areas as well as construction noise. See Chapter 10.28 KCC. Construction noise exceeding noise levels otherwise authorized in residential zones is limited to the hours between 7 am and 10 pm. KCC 10.28.040.

KCC 17.105.110 regulates lighting. It requires that lighting be shielded and directed downward and away from neighboring properties. Not more than one foot candle of illumination may leave the property boundaries.

The addition of one additional home will have nominal impacts on overall road use. Impacts to SW Glenacres Ct. are addressed in FOF No. 5d above.

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## 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.

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 5f 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:

### a. 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

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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 897 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



- 1 conditions of approval. Approval of this project shall not, and is not, to be construed  
2 as approval for more extensive or other utilization of the subject property.
- 3 17. The authorization granted herein is subject to all applicable federal, state, and local  
4 laws, regulations, and ordinances. Compliance with such laws, regulations, and  
5 ordinances is a condition to the approvals granted and is a continuing requirement  
6 of such approvals. By accepting this/these approvals, the applicant represents that  
7 the development and activities allowed will comply with such laws, regulations,  
8 and ordinances. If, during the term of the approval granted, the development and  
9 activities permitted do not comply with such laws, regulations, or ordinances, the  
10 applicant agrees to promptly bring such development or activities into compliance.
- 11 18. The decision set forth herein is based upon representations made and exhibits  
12 contained in the project application (24-02178). Any change(s) or deviation(s) in  
13 such plans, proposals, or conditions of approval imposed shall be subject to further  
14 review and approval of the County and potentially the Hearing Examiner.
- 15 19. This Conditional Use Permit approval shall automatically become void if no  
16 development permit application is accepted as complete by the Department of  
17 Community Development within four years of the Notice of Decision date or the  
18 resolution of any appeals.
- 19 20. Any violation of the conditions of approval shall be grounds to initiate revocation  
20 of this Conditional Use Permit.

21 **Development Engineering**

- 22 21. The information provided demonstrates this proposal is a Large Project as defined  
23 in Kitsap County Code Title 12 and as such will require a Full Drainage Site  
24 Development Activity Permit (SDAP) from Development Engineering.
- 25 22. 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.
- 23 23. The site plan indicates that greater than 1 acre will be disturbed during construction.  
24 This threshold requires a National Pollutant Discharge Elimination System  
25 (NPDES) Stormwater Construction permit from the State Department of Ecology.  
More information about this permit can be found at:  
<http://www.ecy.wa.gov/programs/wq/stormwater/construction/html> or by calling  
Melinda Wilson at 360-870- 8290, email [melinda.wilson@ecy.wa.gov](mailto:melinda.wilson@ecy.wa.gov). This permit  
is required prior to issuance of the SDAP.
- 24 24. The design of the infiltration facilities shall be in accordance with Vol. II, Ch. 5 of  
the Kitsap County Stormwater Design Manual.
- 25 25. The infiltration facilities shall remain off line until the drainage areas are stabilized  
and the water quality treatment facility is adequately established. Temporary  
erosion and sedimentation ponds shall not be located over infiltration facilities. In

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addition, retention ponds shall not be utilized as temporary erosion and sedimentation control ponds.

26. During construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection(s) to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report(s), properly stamped and sealed to Development Engineering.

27. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Engineering will require additional review and potentially new conditions.

**Environmental**

None

**Traffic and Roads**

None

**Fire Safety**

28. Plat documents filed in February 2019 require all dwelling be protected by a residential automatic fire sprinkler system. Residential sprinkler systems shall be filed under a separate permit.

29. Please note future development will require road (SW Glen Acres PL) to be 20' wide, all weather surface with turn around.

**Solid Waste**

None

**Kitsap Public Health District**

None

**Hearing Examiner.**

30. Prior to construction the road maintenance agreement, Ex. 19, shall be revised to incorporate the subdivision creating the subject lot. County staff may waive this requirement if the Applicant establishes that the road maintenance agreement is designed to address additional road usage created by subdivision.

Dated this 24<sup>th</sup> day of April 2025.



Phil Olbrechts,  
Kitsap County Hearing Examiner

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**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.