



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

2/28/2025

To: Interested Parties and Parties of Record

RE: Project Name: FRASIER - Conditional Use for
Accessory Dwelling Unit
Applicant: Ben & Shawna Frasier
14025 South Keyport Rd NE
Poulsbo WA 98370
Application: CUP-ADU
Permit Number: 24-02208

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **FRASIER - Conditional Use 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:

Applicant/Owner: Ben & Shawna Frasier, benfrasier@outlook.com

Interested Parties:

Christy Palmer – Kitsap Law Group,

christy@kitsaplawgroup.com

Prosecutor's Office

Assessor's Office

619 Division Street MS-36 Port Orchard, WA 98366-4682
(360) 337-5777 | www.kitsap.gov/dcd

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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: Ben Frasier Accessory Dwelling Unit (CUP – ADU) File No. 24-02208	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.
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INTRODUCTION

Ben Frasier requests a Conditional Use Permit to convert an existing manufactured home into 900sf detached Accessory Dwelling Unit (ADU) at 14025 SOUTH KEYPORT RD NE. The application is approved subject to conditions.

ORAL TESTIMONY

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

EXHIBITS

Exhibits 1-19 listed in the Index to the Record prepared by County staff were admitted during the hearing. In addition, a February 10, 2025 letter from Christy Palmer to the Lamberts was admitted as Ex. 20.

FINDINGS OF FACT

Procedural:

1. Applicants. Ben Frasier, 14025 SOUTH KEYPORT RD NE, Poulsbo, WA 98370
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on February 13, 2025.

Substantive:

1 3. Site/Proposal Description. Ben Frasier requests a Conditional Use Permit
2 to convert an existing manufactured home into 900sf detached Accessory Dwelling
3 Unit (ADU) at 14025 SOUTH KEYPORT RD NE. The ADU will be located within
4 150 feet from the primary residence where it will be accessed using the existing
5 driveway. The project site is located outside of a UGA. The ADU will reflect the
6 appearance of the primary residence with their shared rambler style, pitched gable roof,
7 and composite shingles. The ADU main color and trim color will both be similar to
8 those of the primary residence. The Kitsap Public Health District has approved a new
9 2-bedroom On-Site Septic System for the ADU. The ADU will use the same entrance
10 as noted on the Site Plan. The ADU will use the same driveway as that used for a
11 primary residence. The Applicant confirmed a hearing that they will not be using a
12 second driveway referenced in Ex. 10 and that second driveway will be removed. The
13 secondary entrance for the second driveway will be permanently closed with a fence
14 and the two driveways connected internally.

15 4. Characteristics of the Area. The subject property is bordered on all sides by
16 lots that are developed with single-family residences.

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

- 19 a. Off-Street Parking. KCC 17.490.030 requires three (3) off-street parking spaces
20 per single-family residence and one (1) parking space for an ADU. The
21 Applicant proposes four off-street parking spaces as required.
- 22 b. Stormwater. Development Services and Engineering reviewed and accepts the
23 concepts contained in this preliminary submittal and requires the conditions
24 stated in Section 13 of the staff report as an element of the land use approval.
- 25 c. Critical Areas. There are no critical areas associated with the subject parcel.
- 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 found no need for any conditions.
- f. Water/Septic. The Kitsap County Health District approved the site for
additional sewage and water supply.
- g. Compatibility. The proposal is compatible with surrounding uses. As identified
in Finding of Fact No. 4, surrounding uses are all single-family residential. The
proposed design is similar to the primary residence so no adverse aesthetic
impacts are anticipated.

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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.

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

1 residence unless involving a conversion of an existing structure such as that proposed,
2 the ADU shall be designed to maintain the appearance of the primary residence, all
3 setback requirements shall be met, all health district standards shall be met, ADUs may
4 not be mobile homes or recreational vehicles, and the ADU shall use the same access
5 as the primary residence and shall provide an additional parking space. The conditions
6 of approval recommended by staff require conformance to all of these standards. The
7 proposed design and site characteristics further establish conformance as detailed in
8 Findings of Fact No. 3 and 5.

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

11 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
12 5.

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

17 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
18 5g and via its required conformance to the ADU standards of KCC 17.415.015B.

19 **DECISION**

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

22 **a. Planning/Zoning**

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

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- 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 836 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. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit (ADU).
 10. 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.
 11. 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).
 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

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b. Development Engineering

- 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. 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.
- 22. Any project that includes off-site improvements that create additional hard surface such as lane widening, sidewalk or shoulder installation or intersection channelization shall provide stormwater mitigation in accordance with Kitsap County Code Title 12.
- 23. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process, or Building Permit process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

c. Environmental

None

d. Traffic and Roads

None

e. Fire Safety

None

f. Solid Waste

None

g. Kitsap Public Health District


None

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h. Hearing Examiner

The secondary entrance for the second driveway as identified in Ex. 20 will be permanently closed with a fence and the two driveways connected internally.

Dated this 28th day of February 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.

February 28, 2025 Hearing Transcript

Frasier Conditional Use

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. For those in need of an accurate rendition of the hearing testimony, a hearing recording can be acquired from Kitsap County.

Speaker 1 ([22:03](#)):

Moving on to the next one is the Frazier application and I believe Ms. Lewis is the staff planner on that one. Same format as last time. First Ms. Lewis, then applicant, then public, then backs, and Ms. Lewis and applicant gets final work. 10 business days. Let me pull up the Frazier index here. Let's see. And now my computer's acting a little slow. Come on.

Speaker 2 ([22:49](#)):

You can pull it up as well if it doesn't work.

Speaker 1 ([22:51](#)):

Yeah. Oh there it is. Okay. Alright. Yeah, I can share screen real quick and let's see, well, where did that go? Okay, so as with Ms Lots, we have lots of exhibits to support the recommendation here. The staff report a DU floor plans and elevations at geotechnical analysis, health department application, environmental review project, elevations and floor plants and stormwater water availability. There's a wetland there, delineation and some of the public notices and determinations, a total of 19 documents. Does anyone need to see any of those documents or have any objection to their entry? Okay. Again, just click on your virtual hand if you do note taker. So I'll go ahead and admit exhibits one through 19. Ms. Lewis, I'll swear you in at this point. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding? Yes. Okay, great. Go ahead.

Speaker 6 ([23:56](#)):

Good morning examiner. For the record. My name is Erin Lewis. I am an associate planner with Kitsap County DCD. And today I'm presenting a request for approval to a conditional use permit for an accessory dwelling unit to construct a detached A DU. The application was deemed complete on July 2nd, 2024. A notice of application was distributed pursuant to Title 21, land use and development procedures, which provided recipients with project information and an opportunity for public comment. No public comments were received by the department pursuant to WAC 1 97 dash 11 dash 3 55. The department of community development use in optional DNS process for this project, the CPA comment period previously occurred concurrent with the notice of application dated September 5th, 2024. The Department of Community Development issued a determination of non-significant on December 11th, 2024. The CPA appeal period ended December 25th, 2024. No appeals were filed, therefore the SEPA determination is final according to Kitsap County assessor. Subject parcel 0 2 2 5 0 1 1 0 6 8 dash 2 0 0 1 is a three acre parcel in size addressed as 1 3 9 9 3 South Keyport Road, Northeast Posable, Washington

9 8 3 7 0. It's in central Kitsap and Commissioner District one. The aerial photo shows single family homes and accessory structures consistent with development found in the rural residential zone. The proposed A DU is consistent with properties in the vicinity.

(25:40):

The parcel labeled subject site in red is zoned rural residential addition Properties surrounding the site to the northeast and south are also zoned rural residential to the west is Brownsville Highway and South Keyport Road Northeast. The proposal is to convert an existing special care unit into a 900 square foot detached accessory dwelling unit. The subject site has mapped critical areas and is relatively flat as this is a conversion of an existing structure. All critical area concerns were previously addressed by building permits. The site plan for the proposal shows access from South Keyport Road northeast with the existing driveway providing parking for the A DU. The access from the east is being eliminated to conform with code requirements of utilizing the same parcel access. The site plan shows parking spaces plus the existing garage to meet parking standards for both the SFR and the A DUA walking path already exists. From the parking area to the proposed A DU, the applicant floor plan shows the existing principal dwelling is 4,495 square feet. Therefore, the maximum size allowed for the A DU is 900 square feet. The floor plan also helps determine there are no accessory dwelling units within or attached to the primary structure. Here we have pictures of the single family residence and here is the existing structure which matches the primary structure in siding, color, window style, and pitched roof style.

(27:20):

The floor plan for the A DU demonstrates the size will be reduced to the required 900 square feet after two areas are converted to uninhabitable storage space. The proposal is conditioned to comply with the following requirements of Kitsap County Code Title 17.4 15.0 15 B as amended June of 2022. There are no other accessory dwelling units or accessory living quarters on the property. The owner will reside in the primary residence. 50% of the primary residence is 2,247 square feet. Therefore the maximum allowed habitable area is 900 square feet and the proposed A DU is to be 900 square feet. Dimensions are determined by interior measurements. The A DU is a conversion of an existing structure. The A DU will have similar appearance to the primary residence. The A DU meets all required setbacks for the rural residential zone. All health standards for water and sewer have been met and approved. The proposed A DU is not an RV or mobile home. The A DU will use the existing driveway off South Keyport Road Northeast and the project will be conditioned for any applicable stormwater controls pursuant to Kitsap County Code. Title 12 staff finds the proposal meets the special use criteria in Kitsap County Code 17.4 15 0 1 5 B and recommends approval as conditioned. This concludes our staff presentation.

Speaker 1 (28:53):

Oh great. Thanks Ms. Lewis. Just one quick question. So the manufactured home right now is over a thousand square feet and the remodels going to result in a reduction of area. How's that? Do you know how that's going to be done or are they going to be moving walls inward or something or what's

Speaker 6 (29:08):

Yeah, as it is a manufactured home, we don't have building overview for that, but they will be installing a wall to wall those off. The applicant is present if you would like to discuss that.

Speaker 1 (29:23):

Okay. That's

Speaker 6 (29:23):

Covered by a

Speaker 1 ([29:24](#)):

Okay, great. Thanks Ms. Lewis. Alright, well and speaking of the applicant, does the applicant want to add anything at this point? Don't have to, but now is your chance

Speaker 7 ([29:33](#)):

On his way up there.

Speaker 1 ([29:33](#)):

Okay, great. Good

Speaker 7 ([29:35](#)):

Morning. Good morning

Speaker 1 ([29:36](#)):

Mr. Frazier. Let me swear you in. Just raise your right hand. Do you swear affirm to tell the truth, nothing but the truth in this proceeding?

Speaker 7 ([29:42](#)):

Yes I do.

Speaker 1 ([29:43](#)):

Okay, great. Go ahead.

Speaker 7 ([29:45](#)):

Yeah, just first thank you to all of the staff at Kits Hop County who have helped this project along. They've been really great and wonderful to work with, so thank you to them. Yeah, this project is just working to convert a special care unit that was designated that way through previous owners. We bought the property roughly a year ago. We're working to convert it to an A DU. My wife and I have six children and the goal with the conversion of this property will be so that family can live there. To your question about the floor plan, there's a sunroom in one corner of the property that's easily walled off that already has outside access to it. So it's a pretty easy adjustment to make. So glad to take any questions on that if you have any.

Speaker 1 ([30:37](#)):

No, it's pretty straightforward. Thank you Mr. Frazier. Appreciate your comments.

Speaker 7 ([30:40](#)):

Thank

Speaker 5 ([30:41](#)):

You.

Speaker 1 ([30:41](#)):

Yeah. Alright, now moving on to public comments. Anyone out in the public want to say anything? Oh, it looks like Ms. Palmer would like to say something, so let's put her up. Ms. Jones? I Alright. Ms. Palmer, just have to have you raise your right hand. Do you swear affirm tell the truth, nothing but the truth in this proceeding?

Speaker 3 ([30:59](#)):

I do.

Speaker 1 ([31:00](#)):

Okay. And for the record, your last name is spelled P-A-L-M-E-R, is that correct?

Speaker 8 ([31:04](#)):

That is correct. Thank

Speaker 1 ([31:05](#)):

You. Okay, great. Go ahead.

Speaker 8 ([31:07](#)):

I just would like to state that I represent Mr. Garo, he's a neighbor to this property and I did want to point to the fact that we did submit a public comment. I am not sure if I submitted it beyond a deadline, but I sent it by email to Ms. Lewis and perhaps I got the email address incorrect or it got lost in the shuffle. But we did submit a public comment basically had concerns about the access to the A DU across Mr. Gargano's property.

([31:39](#)):

There is an existing roadway or driveway and it's my understanding that the A DU access to the A DU has been for the past year at least across Mr. Gargano's property. There was a note that access is from South Keyport Road, but it wasn't clear which access point from South Keyport Road that was. I do see there is a driveway that the property can access directly. So our comment was basically addressed to the fact that we couldn't find any type of easement rights or anything in writing ranting access across his property. And that was his concern that he wanted me to raise today for your consideration.

Speaker 1 ([32:17](#)):

Okay. And Ms. Jones, it doesn't look like that letter's in the record, is that right?

Speaker 2 ([32:22](#)):

I don't see it in the permit either, but we could certainly add it. You can email it directly to me. I'll put my information in the chat so you can see it. But for the record, my email address is lrjones@kitsap.gov, so L-R-J-O-N-E-S at KT sap dot gov. And I'll put that in the chat as

Speaker 1 ([32:45](#)):

Well. Yeah, so I'm assuming that, I guess Mr. Frazier probably hasn't seen the letter either, so Ms. Lewis did, I

Speaker 8 ([32:52](#)):

Did email it directly. Sorry I didn't, I did email copy to him a cease sentence

Speaker 1 ([32:58](#)):

Letter. Oh you did? Okay. Oh you did. Okay. So he's got a copy. Mr. Frazier, you have any objection to entry of the letter in the record

Speaker 6 ([33:06](#)):

Indicates? No.

Speaker 1 ([33:07](#)):

Okay. So I'll go ahead and admit the email as exhibit 20 real quick just to make sure. Did you have any other comments, Ms. Palmer?

Speaker 5 ([33:15](#)):

Nothing further, thank

Speaker 1 ([33:16](#)):

You. Okay. And no other members of the public have anything to say at this point. Okay, so back to Ms. Lewis. Alright, go ahead Ms. Lewis.

Speaker 6 ([33:23](#)):

Thank you. I did receive that as I don't correspond with lawyers. I forwarded that to our legal team and spoke with my supervisor and as that access is eliminated by code, we did not feel it needed to be addressed in the proceedings because it's a non-sequitur at this point.

Speaker 1 ([33:43](#)):

Okay. Alright. And Mr. Frazier, you get the final word there if you want to add anything and if you don't have to, but go on.

Speaker 7 ([33:52](#)):

Yeah, thank you. And thank you Ms. Palmer for coming today. We appreciate that. I did receive our neighbor's letter and what's interesting about this special care unit is it was established in 1995 and that existing driveway was put there and that's how that home was accessed for many years. So the primary residence was built in 2006 and so that driveway was never removed. So by making this adjustment, we fully recognize and plan to comply with the code, which means that that existing driveway will no longer be in use. So this home was used in various capacities far beyond our ownership and I think people have probably used that road to access the property long before we owned it. And so we acknowledge that it will not be used and all access will be through the primary residence, which is compliant with the code. And we know Mr. Gargano and he's a very nice gentleman and we have a good relationship with him and we will comply and we see no problem with that.

Speaker 1 ([34:58](#)):

So Mr. Frazier, just to make sure I understand, so this property has basically two access points and the one that Ms. Palmer is referencing is one that you won't be using, you're going to be using the shared driveway that the primary residence is using. Is that kind of

Speaker 7 ([35:16](#)):

Yeah, that's correct. So the proposed A DU will use the access for the primary residence as per code, this existing driveway that has been there for 30 years. I don't know who put it there, I don't know why it's there, but we are in the process of installing a fence, which is going right across that road and blocking the access. So it's a non-issue.

Speaker 1 ([35:38](#)):

Okay. Okay. Sounds good. Yeah. Alright. Okay. I'll go ahead and close the record at this point. And of course, yeah, I'll take a look at that easement issue. I mean I don't have the authority or jurisdiction to adjudicate disputes over easement, so it's just an issue of how to separate that issue out of this approval. But it sounds like basically if Mr. Frazier isn't going to use it and isn't allowed to use it, that it probably isn't an issue. But like I said, I'll review it to make sure. So thank you everyone for participating in this hearing.