



Hearing Examiner Staff Report and Recommendation

Report Date: March 20, 2025
Hearing Date: March 27, 2025

Application Submittal Date: July 18, 2024
Application Complete Date: August 09, 2024

Project Name: NERVIK - Conditional Use for Accessory Dwelling Unit
Type of Application: Type III CUP-ADU
Permit Number: 24-03283

Project Location

4729 EASTWAY DR SE
PORT ORCHARD WA 98366
Commissioner District #2

Assessor's Account

4805-001-002-0005

Applicant/Owner of Record

NERVIK MICHAEL & PATRICIA
4729 EASTWAY DR SE
PORT ORCHARD WA 98366

Recommendation Summary

Approved subject to conditions listed under section 13 of this report.

VICINITY MAP



1. Background

A 2,393 square foot (sf) primary residence and a 576 sf detached garage exist on a 0.49 acre parcel with a Rural Residential zoning designation. The applicant seeks to construct a 749 sf Detached Accessory Dwelling Unit (ADU) above the existing detached garage, located 6 ft from the primary residence. Per Kitsap County Code (KCC) section 17.415.015 B.3.b, an ADU proposed outside of an Urban Growth Area (UGA) boundary requires a Conditional Use Permit (CUP). The project site is located outside of a UGA; therefore, a CUP approval is required.

2. Project Request

The Applicant seeks approval for a Conditional Use Permit (CUP) to allow the construction of a detached ADU.

3. SEPA (State Environmental Policy Act)

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated August 27, 2024. A Determination of Nonsignificance (DNS) was issued on December 23, 2024.

The SEPA appeal period expired January 06, 2025. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

Subject property is rectangle shaped, .49-acre size, relatively flat, and covered in grasses.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Residential Zone: Rural Residential	Standard	Proposed
Minimum Density	NA	NA
Maximum Density	1 du/5 acres	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140	NA
Minimum Lot Depth	140	NA
Maximum Height	35 feet	NA
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes: KCC 17.420.060(42)(B) Utilizing UR zone setbacks due to undersized lot for minimum zoning standards.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	20 feet	20 feet
Side (North)	5-feet	5-feet
Side (South)	5-feet	5-feet
Rear (East)	10-feet	10-feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Residential (RR)
South	Single-family residence	Rural Residential (RR)
East	Public school	Rural Residential (RR)
West	Single-family residence	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

5. Access

Driveway access is directly off Eastway Dr SE, which is a county-maintained road.

6. Site Design

ADU Site Design will be analyzed under section 10a of this report.

7. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016 (amended in 2018 and 2020)

The following Comprehensive Plan goals and policies are most relevant to this application:

Land Use Policy 50

Limit the designed rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.

Land Use Policy 51

Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.

Land Use Policy 53

Outside of the Type III Limited Area of More Intensive Rural Development (LAMIRD), limit development only to that which serves rural residential or resource needs and does not draw population from Urban Growth Areas. This policy is implemented through Comprehensive Plan Land Use designation, zoning designation, and zoning code provisions.

Housing, Human Services Goals and Policies

Housing, Human Services Policy 5

Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing.

Housing, Human Services Policy 7

Adopt regulatory changes to allow non-traditional housing types.

Housing, Human Services Policy 11

Promote fair housing to ensure that all residents of Kitsap County have an equal and fair opportunity to obtain safe and sanitary housing suitable to their needs and financial resources, regardless of race, religion, gender, sexual orientation, age, national origin, family status, income, disability, or other protected class.

Housing, Human Services Policy 12

Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply.

Housing, Human Services Policy 13

Identify and remove impediments to creating housing for harder to house populations.

Housing, Human Services Policy 14

Disperse affordable housing opportunities throughout the County.

The County’s development regulations are contained within the Kitsap County Code. The following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

8. Documents Consulted in the Analysis

A complete index of exhibits is located in the project file. To date, the index to the record consists of the following exhibits:

Exhibit #	Document	Dated	Date Received / Accepted
1	STAFF REPORT	3/20/2025	
2	ADU Floor Plan	5/12/2024	8/09/2024
3	Health District Building Site Application (BSA)	7/03/2024	8/09/2024
4	SEPA Checklist	7/18/2024	8/09/2024
5	SFR Floor Plan	6/14/2004	8/09/2024
6	Submission Form	7/19/2024	8/09/2024
7	Water Availability Letter	7/02/2024	8/09/2024
8	Notice of Application	8/27/2024	
9	Stormwater Worksheet		10/31/2024
10	Stormwater Conditions Memo	11/04/2024	
11	Site Plan KRP	11/27/2024	12/03/2024
12	SEPA Determination	12/23/2024	
13	Notice of Public Hearing	3/12/2025	
14	Certification of Public Notice	3/17/2025	
15	Staff Presentation		
16	Hearing Sign In		

9. Public Outreach and Comments

Notice of Application was sent out 8/27/2024 and no comments were received.

10. Analysis

a. Planning/Zoning

Kitsap County Code 17.415.015.B: In order to encourage the provision of affordable housing, an accessory dwelling unit (ADU), detached, located outside an urban growth area shall meet the following criteria:

1. Only one ADU shall be allowed per lot;

Staff Comment: Only one ADU is proposed.

2. Owner of the property must reside in either the primary residence or the ADU;

Staff Comment: Owner will reside in the primary residence.

3. The ADU shall not exceed fifty percent of the square footage of the habitable area of the primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by interior measurements;

Staff Comment: The primary residence is 2,393 finished square feet. The proposed ADU is 749 square feet, which is approximately 31% the size of the primary residence.

4. The ADU shall be located within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (e.g., garage);

Staff Comment: Proposed ADU is 6 feet from the primary residence.

5. The ADU shall be designed to maintain the appearance of the primary residence;

Staff Comment: The ADU will reflect the appearance of the primary residence with their shared style on siding, windows, and roof pitch. The ADU main color and trim color will both be similar to those of the primary residence.

6. All setback requirements for the zone in which the ADU is located shall apply;

Staff Comment: The proposed ADU meets all other zoning setbacks.

7. The ADU shall meet the applicable health district standards for water and sewage disposal;

Staff Comment: This proposal has been approved by the Health District to expand the On-Site Septic System to also support the 2-bedroom ADU.

8. No mobile homes or recreational vehicles shall be allowed as an ADU;

Staff Comment: Proposed structure is an addition to the existing stick-built detached garage.

9. An ADU shall use the same side-street entrance as the primary residence and shall provide additional off-street parking; and

Staff Comment: The ADU will use the same entrance as noted on the Site Plan.

10. An ADU is not permitted on the same lot where an accessory dwelling unit, attached (ADU-A), exists.

Staff Comment: No ADU currently exists on the parcel.

b. Lighting

Lighting is not analyzed in ADU proposals.

c. Off-Street Parking

Parking requirement is met. See table below.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 per unit. 1 additional space for accessory dwelling unit.	4	4

d. Signage

No signage is proposed for this application.

e. Landscaping

Landscaping is not analyzed for ADUs.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft.) 15% of Site	N/A	N/A
Required Buffer(s) 17.500.025	N/A	N/A

North	N/A	N/A
South	N/A	N/A
East	N/A	N/A
West	N/A	N/A
Street Trees	N/A	N/A

f. Frontage Improvements

Not required for this proposal.

g. Design Districts/Requirements

Subject property is not within a Design District.

h. Development Engineering/Stormwater

Development Services and Engineering reviewed and accepts the concepts contained in this preliminary submittal and requires the conditions stated in Section 13 as an element of the land use approval.

i. Environmental

There are no critical area concerns with this parcel.

j. Access, Traffic and Roads

Traffic reviewed and approved the ADU with no conditions.

k. Fire Safety

Kitsap County Building and Fire Safety Division reviewed and approved the ADU with conditions.

l. Solid Waste

Solid waste was reviewed and approved with no conditions.

m. Water/Sewer

Water and Septic were approved by the Kitsap County Health District.

n. Kitsap Public Health District

Water and Septic were approved by the Kitsap County Health District.

11. Review Authority

The Hearing Examiner has review authority for this Conditional Use Permit application under KCC, Sections 17.550.020 and 21.04.100. The Kitsap County Commissioners have determined that this application requires review and approval of the Hearing Examiner. The Hearing Examiner may approve, approve with conditions, or deny a Conditional Use Permit. The Hearing Examiner may also continue the hearing to allow for additional information

necessary to make the proper decision. The powers of the Hearing Examiner are at KCC, Chapter 2.10.

12. Findings

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply with all of the other applicable provisions of Kitsap County Code and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
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.

13. Recommendation

Based upon the analysis above and the decision criteria found in KCC 17.550.030.A, the Department of Community Development recommends that the CUP-ADU request for NERVIK - Conditional Use Permit for Accessory Dwelling Unit be **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 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 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. 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.

b. 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.

c. Environmental

None

d. Traffic and Roads

None

e. Fire Safety

None

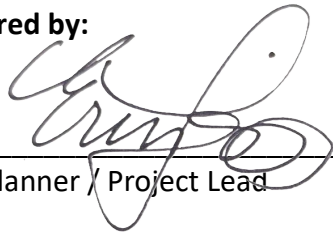
f. Solid Waste

None

g. Kitsap Public Health District

None

Report prepared by:



Name, Staff Planner / Project Lead

03/04/2025

Date

Report approved by:



Darren Gurnee, Planning Supervisor

3/7/2025

Date

Attachments:

Attachment A – Site Plan

Attachment B – Critical Areas Map

Attachment C – Zoning Map, etc.

CC: Applicant/Owner: Michael & Patricia Nervik, mntnervik@hotmail.com

Architect: Ryan Moe Home Design, info@ryandmoe.com

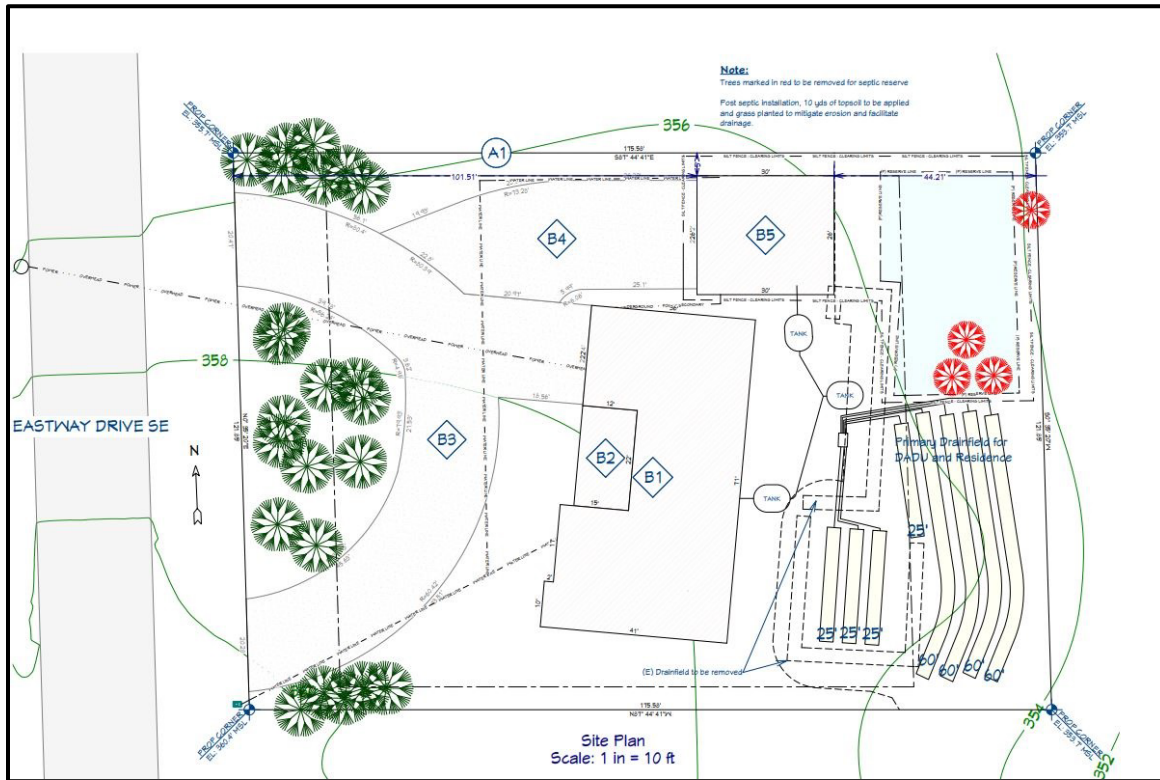
Interested Parties: None

Kitsap County Health District, MS-30

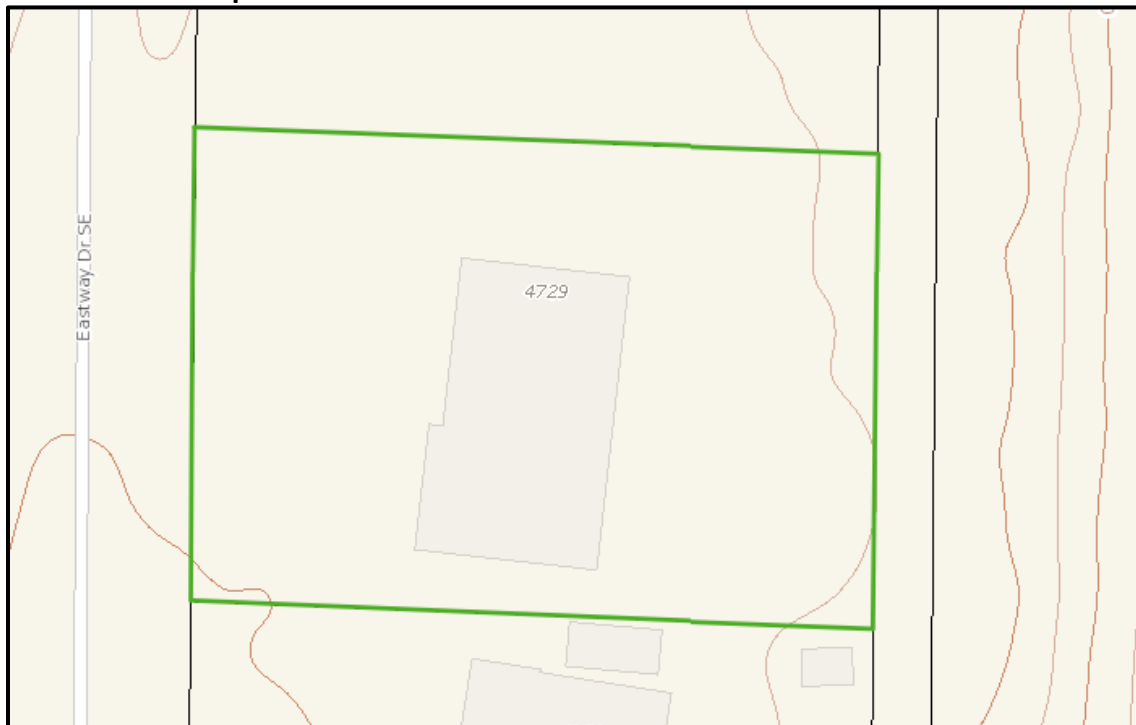
Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Erin Lewis

Site Plan



Critical Areas Map



Zoning Map

