



## Notice of Hearing Examiner Decision

06/20/2017

To: Interested Parties and Parties of Record

RE:           Project Name: Chaffee Accessory Dwelling Unit (ADU)  
                  Applicant: Cherie & Richard Chaffee  
                                  24399 Rhododendron Ln NW  
                                  Poulsbo, WA 98370  
                  Application: CUP-ADU  
                  Permit Number: 17 01522

Enclosed is the Decision issued by the Kitsap County Hearing Examiner for the above project.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:  
[http://www.kitsapgov.com/dcd/lu\\_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.pdf](http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.pdf)

The Decision of the Hearing Examiner is final, unless appealed, as provided under Washington law.

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 at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. 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: Cherie & Richard Chaffee, [cherief@johnlscott.com](mailto:cherief@johnlscott.com)  
Owner: Same as Applicant  
Authorized Agent: Manufactured Home Services Inc., [ehaugan@centurytel.net](mailto:ehaugan@centurytel.net)  
Interested Parties:  
Charles & Marcia Baltzell, [sumnerb@hotmail.com](mailto:sumnerb@hotmail.com)  
Carol Larana Ward Trustee, [lariward@earthlink.net](mailto:lariward@earthlink.net)

**KITSAP COUNTY HEARING EXAMINER  
CORRECTED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**Accessory Dwelling Unit Conditional Use Permit  
File No. 17 01522**

**June 19, 2017**

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The Kitsap County Hearing Examiner entered Findings of Fact, Conclusions of Law, and Decision on June 15, 2017. After entry, planning staff noted that Kitsap County Code 21.04.270(A)(1) had been updated to allow an applicant four years, rather than three, to submit permits. Condition 19 is hereby corrected to reflect the current code language on permitting procedures. In all other respects, the Findings of Fact, Conclusions of Law, and Decision remain the same.

**1. FINDINGS OF FACT**

**1.1 Proposal.** The Applicants request a Conditional Use Permit (CUP) to convert an existing 881 square foot single family residence and attached garage into an ADU to allow the construction of a new 3,682 square foot single family residence. The Applicants/property owners and site location are as follows.

**Applicants/Property Owners:** Richard and Cherie Chaffee, 24399 Rhododendron Lane NW, Poulsbo, WA 98370.

**Site Location:** 24399 Rhododendron Lane NW, Poulsbo, WA 98370 (Assessor No. 332701-4-052-2004).

**1.2 Hearing.** An open record public hearing was held on June 8, 2017. The Department of Community Development (DCD), through Ms. Roberts, addressed how the ADU meets applicable code requirements and recommended approval. No person present indicated a wish to submit oral comment.

**1.3 Administrative Record.** The Hearing Examiner reviewed Exhibits 1-24 before the hearing, which included the Staff Report. At the hearing, DCD proposed adding a power point as Exhibit 25. The Examiner admitted all exhibits.

**1.4 SEPA.** The SEPA comment period occurred concurrent with the Notice of Application,<sup>1</sup> and a Determination of Non-Significance (DNS) was issued on May 10, 2017.<sup>2</sup> The DNS included the following condition: "The proposal will be conditioned for Stormwater Control per Kitsap County Code Title 12." The DNS was not appealed.

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<sup>1</sup> Exhibit 13.

<sup>2</sup> Exhibit 14.

**1.5 Public Notice.** The CUP was properly noticed, with both mailing and publication occurring for the notice of application and public hearing.<sup>3</sup> No issues on notice were raised.

**1.6 Public Comment.** Staff received general inquiries after the Notice of Application mailing; however, no public comments were received.

**1.7 Agency Comment.** The proposal was circulated within the County, and comment was received regarding regulatory compliance. As long as applicable requirements are met, there were no objections to approval.

**1.8 Zoning/Plan Designations.** The Comprehensive Plan designation is Rural Residential and the Zoning designation is Rural Residential, or RR.<sup>4</sup> RR zoning is designed to promote "low-density residential development and agricultural activities that are consistent with rural character."<sup>5</sup> The surrounding properties are also zoned RR. Parcels in the area are predominantly acreage lots developed with single family residences or undeveloped.

**1.9 Physical Characteristics.** The 3.07 acre parcel is rectangular shaped except for an area along the north side which was removed during a short plat amendment to create another lot. The property is currently developed with a two-car garage with a single family residence above, a separate detached garage, and a barn. The property slopes gently from the southeast corner to the northwest corner. The majority of the parcel is cleared of trees and is existing historical pasture land. The entire property lies within a Category I Critical Aquifer Recharge Area. Single family development is not a threat to the aquifer recharge area and doesn't require any further analysis or reports. No other critical areas exist on site.

**1.10 Utility and Public Services.**

- **Water:** Private two-party well
- **Power:** Puget Sound Energy
- **Sewer:** On-site septic system
- **Police:** Kitsap County Sheriff
- **Fire:** Kitsap County Fire District No. 18
- **Schools:** North Kitsap School District No. 400

**1.11 Access.** Site access is off of Rhododendron Lane NW, a County maintained, paved road.

**1.12 Aesthetics.** The primary residence and ADU will be similar in appearance, with complementary materials, construction style, and exterior colors.<sup>6</sup>

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<sup>3</sup> Exhibits 13 and 23.

<sup>4</sup> Exhibits 20 and 17. *See also* Staff Report.

<sup>5</sup> KCC 17.130.010.

<sup>6</sup> Exhibit 2.

## 2. CONCLUSIONS OF LAW

### 2.1 Hearing Examiner Review of ADU CUP.

The Hearing Examiner reviews this type of CUP application.<sup>7</sup> The Hearing Examiner may approve, approve with conditions, or deny a CUP.<sup>8</sup> The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision.

### 2.2 Code Requirements Specific to an ADU in the RR Zone.

An ADU located outside the urban growth area, and within the RR zone, must obtain a CUP and comply with requirements specific to the use.<sup>9</sup> Only one ADU is allowed per lot, on which no accessory living quarters are located, and the owner "must reside in either the primary residence or the ADU."<sup>10</sup> As only one ADU is being proposed on a lot located outside the urban growth area, no accessory living quarters or other ADU are located on the lot, and the property owners will live in the new single family residence on the property,<sup>11</sup> these requirements are met.

The ADU cannot "exceed fifty percent of the square footage of the habitable area of the primary residence or nine hundred square feet, whichever is smaller."<sup>12</sup> The primary residence's habitable area will be 3,682 square feet according to the floor plan.<sup>13</sup> Fifty percent of its habitable area (1,841 square feet) is more than 900 square feet, so the ADU will be limited to 900 square feet. The entire ADU building is 1,889 square feet according to the floor plan. The habitable area is 881 square feet, and the garage is 1,008 square feet.<sup>14</sup> The garage shall be used as garage space only and not converted to habitable area unless this CUP is revised through the proper permitting process. In no case shall the habitable area of the ADU be greater than 900 square feet. Consequently, code size requirements are met.

The ADU building will be located approximately ten feet from the primary residence,<sup>15</sup> so complies with the requirement to be located "within one hundred fifty feet of the primary residence or ... be the conversion of an existing detached structure (i.e., garage)...."<sup>16</sup>

As for design, the primary residence and ADU will be similar in appearance. The primary residence and ADU were designed together by the same designer. They will have similar roof types and materials and similar siding and windows.<sup>17</sup> As a result, the ADU has

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<sup>7</sup> KCC Sections 17.410.010(C) and 21.04.100.

<sup>8</sup> KCC 17.550.030(A).

<sup>9</sup> KCC Table 17.410.040(A) Rural, Resource, and Urban Residential Zones, and Footnote 1, requiring ADU compliance with KCC 17.410.060. See KCC 17.410.060(B)(3).

<sup>10</sup> KCC 17.410.060(B)(3).

<sup>11</sup> Exhibit 2.

<sup>12</sup> KCC 17.410.060(B)(3).

<sup>13</sup> Exhibit 7.

<sup>14</sup> Exhibit 9.

<sup>15</sup> Exhibit 5.

<sup>16</sup> KCC 17.410.060(B)(3).

<sup>17</sup> Exhibit 2.

been "designed to maintain the appearance of the primary residence."<sup>18</sup> Also, the proposed ADU is stick built, so is not a "mobile home or recreational vehicle."<sup>19</sup>

The existing ADU building was required to comply with the standard rural residential setbacks at the time of the building permit. The subject property has two front yards – NW Pioneer Hill Road along the north property line, and Rhododendron Lane NW along the east property line; and two side yards – the south property line and west property line. The ADU shall be a minimum of 50 feet at the closest point to the north and east property lines. The front yard setback, along the north property line and NW Pioneer Hill Road, scales out at 115 feet +/- . The ADU shall be a minimum of five feet at the closest point to the west and south property lines. The side yard setback, along the south property line, scales out at 130 feet +/- and the other side yard scales out at 455 feet +/-.<sup>20</sup> As a result, the requirement that "[a]ll setback requirements for the zone in which the ADU is located shall apply"<sup>21</sup> is met.

The Health District recommends approval of this project with no conditions.<sup>22</sup> Based on this review, which the Staff Report addressed, the proposed ADU will "meet the applicable health district standards for water and sewage disposal."<sup>23</sup>

Parking and entry requirements are met. The proposed ADU uses "the same side street entrance as the primary residence and shall provide additional off-street parking."<sup>24</sup> Both the primary residence and the ADU will use the same proposed driveway. Two parking spaces are required for the single family residence and one additional parking space is required for the ADU. There is adequate parking in front of the existing garage to accommodate both units.<sup>25</sup>

Based on the single family residence floor plan, the structure does not have accessory living quarters,<sup>26</sup> so the requirement that an "ADU is not permitted on the same lot where an accessory living quarters exists"<sup>27</sup> is met. The basement of the new single family residence was labeled "Fun Room" and includes a sink, bathroom and refrigerator. To ensure compliance with code requirements for ADUs, the building permit for the new single family residence (16 04532) was conditioned as follows:

- "...no 220v electrical outlets or provisions for cooking shall be allowed in the "lower floor" (walk-out basement) of this structure."
- "No Accessory Living Quarters are proposed or authorized."

As a result, all requirements specific to the ADU use are met.

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<sup>18</sup> KCC 17.410.060(B)(3).

<sup>19</sup> *Id.*

<sup>20</sup> Exhibit 5.

<sup>21</sup> KCC 17.410.060(B)(3).

<sup>22</sup> Exhibit 12.

<sup>23</sup> KCC 17.410.060(B)(3).

<sup>24</sup> *Id.*

<sup>25</sup> Exhibit 5 and Staff Report.

<sup>26</sup> Exhibit 7 and Staff Report.

<sup>27</sup> KCC 17.410.060(B)(3).

**2.3 Critical Areas.** According to Kitsap County geographic information system (GIS) data, there are no critical areas on the site. The GIS data does indicate that the entire property lies within a Category I Critical Aquifer Recharge Area.<sup>28</sup> Single family development is not listed as an activity with a potential threat to groundwater and therefore does not require any further analysis or reports.

**2.4. Stormwater.** Development Services and Engineering reviewed the request for CUP approval and accepted the concepts contained in the preliminary submittal. Stormwater conditions are included as Conditions 22-29.

**2.5 Conditional Use Permit Requirements.**

A CUP must comply with the following:

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of [Title 17];
3. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity; and
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.<sup>29</sup>

These criteria are met. The Staff Report provided detail on applicable comprehensive plan policies. These policies provide for development at low residential densities that can be sustained without urban levels of service, will cause minimal environmental degradation, and provide for residential uses consistent with the existing and planned rural character of the surrounding rural area, while minimizing housing costs and providing for a range of housing types. As an existing structure, the ADU does not have significant environmental impacts, does not require urban infrastructure, is consistent with the character of the surrounding area, and meets a need to provide supplemental housing. The ADU and residence are both attractively designed and laid out, with landscaping which will maintain present aesthetics. As such, the proposal is consistent with the comprehensive plan.

The proposal is conditioned to ensure compliance with Title 17 and other applicable code requirements. As detailed above, no relevant zoning code provision was identified which would not be complied with. The proposal will not be materially detrimental to existing or future uses of property in the immediate vicinity. All impacts identified have been addressed and mitigated with appropriate mitigation and/or code requirements.

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<sup>28</sup> Exhibit 19.

<sup>29</sup> KCC 17.550.030(A).

The proposal is compatible with surrounding existing and planned rural uses. It will be aesthetically consistent with the primary residence. The ADU's small size and setbacks provided ensure ADU consistency with the surrounding character, appearance, and quality of development on site and in the immediate vicinity. Based on DCD's analysis and the administrative record, overall property aesthetics will be maintained through both architectural design and landscaping. As conditioned and proposed, the ADU meets all CUP criteria and should be approved.

## DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested ADU, provided the following 32 conditions are adhered to.

### **Planning/Zoning.**

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. An approved and issued building permit is required to convert the existing single family residence into an ADU.
3. The 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.
4. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the ADU building, regardless of whether a building permit is required, shall be reviewed by DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
5. Only one ADU shall be permitted on the subject property.
6. The property owner must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time.
7. The ADU's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed ADU is 881 square feet as indicated in Exhibit 9. Any future expansion of the ADU shall require a minor revision to this CUP and a new building permit.
8. The 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 ADU.

11. The 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 ADU is removed and the ALQ or GH complies with all requirements imposed by the KCC.

13. A property with a primary residence and an 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 ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.

15. Upon approval of this application, a Land Use Binder will be recorded by DCD. Recording fees are at the Applicants' expense. This Binder will include information directing the public to the land use decision and conditions contained therein. The Binder shall not be removed or extinguished without the written approval of DCD.

16. The uses of the subject property are limited to the uses proposed by the Applicants and any other uses will be subject to further review pursuant to the requirements of the 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 be, 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 Applicants represent 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 Applicants agree 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 (17 01522). 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 CUP approval shall automatically become void if no development permit application is accepted as complete by DCD 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 CUP.

### **Development Engineering.**

21. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.

### **Stormwater.**

22. The information provided demonstrates this proposal is a Large Project as defined in KCC Title 12 and will require a Full Drainage Review Site Development Activity Permit (SDAP) from Development Services and Engineering.

23. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with KCC Title 12 effective at the time the CUP application was deemed complete, April 19, 2017. 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 KCC in effect at the time of SDAP application.

24. The Washington State Department of Ecology (Ecology) may require registration of the infiltration trench as a Underground Injection Control (UIC) well in accordance with the Underground Injection Control Program (Chapter 173-218 WAC). The Applicants shall contact Ecology to determine if the facility is regulated under the UIC program.

25. The design of the infiltration facilities shall be in accordance with Vol. II, Ch. 5.4 of the Kitsap County Stormwater Design Manual.

26. The infiltration facilities shall remain off line until the drainage areas are stabilized and the water quality treatment facility is adequately established. In addition, retention ponds shall not be utilized as temporary erosion and sedimentation control ponds.

27. During construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection 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 properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.

28. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this project, the property owner shall submit a Maintenance Covenant, recorded with the Kitsap County Auditor, for maintenance of private storm drainage facilities located on the project site, which gives Kitsap County the right to inspect the facilities and guarantees the County that the facilities will be properly maintained.

29. If the project proposal is modified from that shown on the submitted site plan dated April 19, 2017, Development Services and Engineering will require additional review and potentially new conditions.

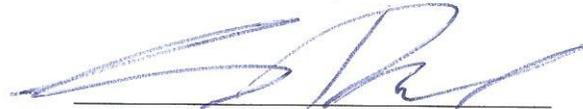
**Traffic and Roads.**

30. At building permit application, the Applicants shall submit an Application for Concurrency Test (KCPW Form 1601) as required by KCC Section 20.04.030, Transportation Concurrency.

31. The Applicants shall submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with County rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the KCC. Existing approaches may need to be improved to meet current standards.

32. Any work with 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. The need for and scope of bonding will be determined at that time.

THIS DECISION was entered this 19th day of June, 2017.



Kitsap County Hearing Examiner  
Susan Elizabeth Drummond