



Notice of Hearing Examiner Decision

09/24/2021

To: Interested Parties and Parties of Record

RE: Project Name: Megrichian Accessory Dwelling Unit
 Applicant: Donna and George Megrichian
 732 Glenmore Loop
 Port Orchard WA 98366
 Application Type: Conditional Use Permit
 Permit Number: 21-00494

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #21-00494 Megrichian Accessory Dwelling Unit – Conditional Use Permit, 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://spf.kitsapgov.com/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, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 12:00 PM, except holidays. If you wish to view the case file or have other questions, please contact Help@Kitsap1.com or (360) 337-5777.

CC: Applicant/Owner of Record: Donna and George Megrichian,
donnamt@gmail.com, ggmegrichian@bellsouth.net
Engineer: Alternative Designs, altdesigns@wavecable.com
DCD Staff Planner: Roxanne Robles, rrobles@co.kitsap.wa.us
DCD
DSE
Kitsap County Public Works
Kitsap County Parks
Kitsap Public Health District
Kitsap Transit

Kitsap County Humane Society
South Kitsap Fire District
South Kitsap School District
Bremerton School District
Puget Sound Energy
Water Purveyor: West Sound Utility District
Point No Point Treaty Council:
Suquamish Tribe:
Port Gamble S'Klallam Tribe
Skokomish Tribe
Squaxin Island Tribe
Puyallup Tribe
WA State Dept of Ecology
WA State Dept of Fish & Wildlife
WA State Dept of Transportation
WA State Dept of Transportation-Aviation
Interested Parties: None

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 21-00494
)	
Donna and George Megrichian)	Megrichian Accessory Dwelling Unit CUP
)	
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Conditional Use Permit</u>)	AND DECISION

SUMMARY OF DECISION

The request for a conditional use permit to allow construction of an 857 square foot detached accessory dwelling unit at 2559 Southeast Van Skiver Road is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposal.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on September 9, 2021, using remote access technology. The record was left open until September 16, 2021, to allow any member of the public having difficulty connecting to the remote hearing to submit written comments in lieu of live testimony. No additional public comments were submitted and, accordingly, the record closed on September 16, 2021.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Roxanne Robles, County Senior Planner
George Megrichian, Applicant
Donna Megrichian, Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Required Permit Questionnaire – Conditional Use Permit – Accessory Dwelling Unit, received February 2, 2021
2. Site Plan, dated January 25, 2021
3. ADU Exterior Elevations, dated October 21, 2020
4. Single Family Residence Exterior Elevations (2 Sheets), dated December 18, 2020
5. ADU Floor Plans (2 Sheets), dated October 21, 2020
6. Single Family Residence Floor Plan – dated December 18, 2020
7. Applicant Project Narrative, dated January 25, 2021
8. Critical Areas Report, Ecological Land Services, Inc., dated January 21, 2021

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9. Geotechnical Engineering Report, GeoResources, LLC, dated August 18, 2020
10. SEPA Environmental Checklist, dated January 25, 2021
11. Notice of Application, dated May 4, 2021
12. Determination of Nonsignificance, dated July 22, 2021
13. Notice of Public Hearing, published August 25, 2021
14. Certification of Public Notice, dated July 22 and August 25, 2021
15. Staff Report, dated September 2, 2021
16. Staff Presentation
17. Hearing Sign-in Sheet
18. Email from Roxanne Robles to Donna and George Megrichian, dated September 3, 2021, with email string
19. Email from Donna and George Megrichian to Roxanne Robles, dated September 7, 2021, with email string

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Donna and George Megrichian (Applicant) request a Conditional Use Permit (CUP) to allow construction of an 857 square foot detached accessory dwelling unit on a 10.18-acre property located at 2559 Southeast Van Skiver Road.¹ *Exhibits 1 through 7; Exhibit 15, Staff Report, pages 1 through 3.*
2. Kitsap County (County) determined that the application was complete on February 2, 2021. On May 4, 2021, the County provided notice of the application consistent with the requirements of Kitsap County Code (KCC) 21.04.210 by publishing notice in the County's publishing newspaper of record and by mailing notice to property owners within 800 feet of the site and to reviewing departments and agencies, with a comment deadline of September 2, 2021. On August 25, 2021, the County mailed notice of the associated open record hearing to property owners within 800 feet of the site and to interested parties, published notice in the County's publishing newspaper of record, and posted notice on the property. The County did not receive any comments on the proposal in response to its notice materials. *Exhibit 11; Exhibit 13; Exhibit 14; Exhibit 15, Staff Report, pages 1 and 6.*

State Environmental Policy Act

3. The County acted as lead agency and analyzed the environmental impacts of the project as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised

¹ The property is identified by Kitsap County Assessor's Tax Account No. 132301-1-014-2005. *Exhibit 15, Staff Report, page 1.*

Code of Washington (RCW). The County consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355. The County did not receive any comments on the environmental review of the proposal. The County reviewed the Applicant's environmental checklist and other information on file and determined that the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a Determination of Nonsignificance (DNS) on July 22, 2021, with an appeal deadline of August 5, 2021. The DNS was not appealed. *Exhibit 10; Exhibit 12; Exhibit 14; Exhibit 15, Staff Report, page 2.*

Comprehensive Plan and Zoning

4. The property is designated "Rural Residential" by the County Comprehensive Plan. County staff identified the following Comprehensive Plan policies as relevant to the proposal:

- Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, that cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service. [Land Use Policy 50]
- Permit residential uses in rural areas consistent with the planned rural character of the surrounding area. [Land Use Policy 51]
- 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 designations, zoning designations, and zoning code provisions. [Land Use Policy 53]
- Use regulatory strategies to incentivize and provide flexibility for development of affordable and special needs housing. [Housing, Human Services Policy 5]
- Adopt regulatory changes to allow non-traditional housing types. [Housing, Human Services Policy 7]
- 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 11]
- Identify and remove regulatory barriers and limits access to or the provision of a diverse affordable housing supply. [Housing, Human Services Policy 12]
- Identify and remove impediments to creating housing for harder to house populations. [Housing, Human Services Policy 13]

- Disperse affordable housing opportunities throughout the County.
[Housing, Human Services Policy 14]
Exhibit 15, Staff Report, pages 2, 4, and 5.

5. The subject property and all surrounding properties are zoned “Rural Residential” (RR). The RR zone “promotes low-density residential development consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services.” *KCC 17.130.010*. ADUs are allowed in the RR zone with a conditional use permit. *KCC 17.410.042*. ADUs in the RR zone are required to have front yard setbacks of 50 feet, and side and rear yard setbacks of 5 feet. *KCC 17.420.052*. In accord with these requirements, the proposed ADU structure would be set back 393 feet from the front property line to the east, 542 feet from the side property line to the north, 72 feet from the side property line to the south, and 248 feet from the rear property line to the west. Additionally, ADUs are subject to the special use provisions of *KCC 17.410.060*. The proposed ADU’s compliance with these special use provisions is discussed in detail below. *Exhibit 2; Exhibit 15, Staff Report, page 3.*

Existing Property and Proposed Development

6. The 10.18-acre property is currently undeveloped and generally slopes from west to east, with average slopes ranging from approximately 15 to 30 percent. Existing vegetation across the site generally consists of a medium dense stand of deciduous and coniferous trees with a moderate understory of native and invasive plants and shrubs. The Applicant proposes to develop the property with a 1,883 square foot single-family residence and an 857 square foot ADU. Access to the property would be provided by an existing private gravel access road that enters the property at the southwest corner. A driveway that connects to the private access road would provide access to the primary residence and the ADU. Both structures would be served by an on-site septic system and by public water supplied by West Sound Utility District. The Kitsap County Health District reviewed and approved the proposal without conditions. The Kitsap County Fire Marshal’s Office also reviewed and approved the proposal with recommended conditions addressing fire department access requirements. *Exhibit 1; Exhibit 2; Exhibits 7 through 9; Exhibit 15, Staff Report, pages 1, 2, 4, 9, 10, 14, and 15.*
7. Ecological Land Services, Inc., prepared a Critical Areas Report (CAR) on behalf of the Applicant, dated January 21, 2021. The CAR identified a Type F fish-bearing stream with a standard 150-foot protective buffer that flows north across the eastern quarter of the property, as well as a 1.8-acre Category IV wetland with a standard 40-foot protective buffer located adjacent to the stream at the northwest corner of the property. All proposed development activity would occur on the western portion of the property, outside of these critical areas and associated buffers. GeoResources, LLC, prepared a geotechnical engineering report for the Applicant, dated August 18, 2020, which

determined that the project area does not contain any erosion, landslide, or seismic hazard areas. The report identified steep slopes in an isolated area in the northern portion of the site, which would not be impacted by the proposed development. The report provided recommendations related to foundation support, floor slab support, subgrade/basement walls, temporary excavations, permanent cut and fill slopes, and site drainage and determined that, with incorporation of these recommendations, construction of the proposed ADU would be feasible from a geotechnical engineering standpoint. *Exhibit 2; Exhibits 7 through 9.*

Conditional Use Permit

8. The County zoning code makes some uses conditional in certain zoning districts. A *conditional use* is an activity specified by the zoning code “as a principal or accessory use that may be approved or denied based on consistency with specific criteria.” *KCC 17.110.175.* As noted above, the Applicant requests a CUP to construct an ADU, which is listed as a conditional use in the RR zoning district. *KCC 17.410.042.* ADUs in the RR zone are required to satisfy the ADU special use provisions of *KCC 17.410.060.* County staff reviewed the proposal and determined that it would satisfy these provisions. The ADU special use provisions are listed below, together with County staff’s analysis (in italics):
- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary. *The subject property is not located within an urban growth boundary*
 - b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary. *The subject property is located outside of the urban growth boundary. The Applicant requests approval of a CUP to allow an ADU.*
 - c. Only one ADU shall be allowed per lot. *The Applicant proposes only one ADU. There are no other ADUs present or proposed on the property.*
 - d. Owner of the property must reside in either the primary residence or the ADU. *The owner would reside in the proposed single-family residence.*
 - e. The ADU shall not exceed 50 percent of the square footage of the habitable area of the primary residence or 900 square feet, whichever is smaller. Dimensions are determined by exterior measurements. *The proposed residence would be 1,883 square feet. 50 percent of 1,883 is 941 square feet and, therefore, the ADU would be limited to 900 square feet.*
 - f. The ADU shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure. *The proposed single-family residence and proposed ADU would be located approximately 144 feet apart, satisfying this requirement.*
 - g. The ADU shall be designed to maintain the appearance of the primary residence. *The proposed single-family residence and ADU would be similar in appearance. The roof pitch would be the same, and both structures would contain the same wood siding.*

- h. All setback requirements for the zone in which the ADU would be located shall apply. *The proposed ADU would meet all setback requirements applicable to the RR zone.*
 - i. The ADU shall meet applicable health district standards for water and sewage. *The application was routed to and approved by Kitsap County Health District without conditions.*
 - j. No mobile homes or recreational vehicles shall be allowed as an ADU. *There are no mobile homes or recreational vehicles present on the subject property.*
 - k. An ADU shall use the same side street entrance as the primary residence and shall provide additional off-street parking. *The submitted site plan shows that the proposed ADU would use an existing driveway that would be utilized by the proposed single-family residence. The driveway would provide an additional off-street parking space.*
 - l. An ADU is not permitted on the same lot where accessory living quarters exist. *There are no present or proposed accessory living quarters.*
- Exhibit 15, Staff Report, pages 6 through 8.*

Testimony

- 9. County Senior Planner Roxanne Robles testified generally about the proposal and how it would meet the specific requirements for approval of a conditional use permit to allow construction of an ADU. She described the subject property, noting that the 10.18-acre site is currently undeveloped and slopes toward the channel of a fish-bearing stream and Category IV wetland along the eastern portion of the property. Ms. Robles stressed that all proposed development would occur outside of the protective buffer associated with the fish-bearing stream and Category IV wetland. She stated that the proposed 857 square foot ADU would be utilized by the Applicant's son and would be served by public water from the West Sound Utility District and an on-site septic system. Ms. Robles explained that the proposed single-family residence would measure 1,883 square feet and, therefore, the proposed ADU would be limited to 900 square feet under the special use provision of KCC 17.410.060.B.3.e. She noted that County staff reviewed the proposal and determined that it would be consistent with the special use provisions under KCC 17.410.060.B.3 to allow construction of an ADU on residentially zoned property. *Testimony of Ms. Robles.*
- 10. Applicant George Megrichian inquired about some of County staff's recommended conditions, noting that a concurrency test and traffic/roads review required for the proposal had already been approved in association with the application to develop a single-family residence on the property. He stated that rooftop and in-home sprinkler systems would be installed in both the primary residence and the ADU and that the County Fire Marshal agreed to waive road-widening requirements in light of the proposed sprinkler system. *Testimony of Mr. Megrichian.*

11. Applicant Donna Megrichian echoed Mr. Megrichian's comments regarding condition requirements that had already been met through the single-family residence application process. *Testimony of Ms. Megrichian.*
12. In response to the Applicants' testimony, Ms. Robles explained that County staff has recommended conditions addressing concurrency test and traffic/roads review requirements because these documents were not submitted with the ADU application. *Testimony of Ms. Robles.*

Staff Recommendation

13. County staff recommends approval of the application, with conditions. *Exhibit 15, Staff Report, pages 11 through 15.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for a conditional use permit. *KCC 2.10.070; 17.550.020.*

Criteria for Review

The Hearing Examiner may approve, approve with conditions, or deny a conditional use permit. Approval or approval with conditions may be granted by the Hearing Examiner only when all the following criteria are met:

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of [the zoning code];
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.

KCC 17.550.030.A.

As a condition of CUP approval, the Hearing Examiner may:

1. Increase requirements in the standards, criteria, or policies established by [the zoning code];
2. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;
3. Require structural features or equipment essential to serve the same purpose set forth in Chapter 17.420;

4. Include requirements to improve compatibility with other uses permitted in the same zone, protecting them from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. The hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by [the zoning code] as pertaining to any use nor otherwise reduce the requirements of [the zoning code] in matters for which a variance is the remedy provided;
5. Assure that the degree of compatibility with the purpose of [the zoning code] shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
6. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;
7. Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
8. Impose any requirement that will protect the public health, safety, and welfare.

KCC 17.550.030.B.

“If the approval criteria are not met or conditions cannot be imposed to ensure compliance with the approval criteria, the conditional use permit shall be denied.” *KCC 17.550.030.C.*

In addition to the criteria listed above, ADUs are subject to the following special use provisions of KCC 17.410.060.B.3:

- a. An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary;
- b. An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary;
- c. Only one ADU shall be allowed per lot;
- d. Owner of the property must reside in either the primary residence or the ADU;
- e. The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by exterior measurements.
- f. 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);

- g. The ADU shall be designed to maintain the appearance of the primary residence;
- h. All setback requirements for the zone in which the ADU is located shall apply;
- i. The ADU shall meet the applicable health district standards for water and sewage disposal;
- j. No mobile homes or recreational vehicles shall be allowed as an ADU;
- k. An ADU shall use the same side-street entrance as the primary residence and shall provide additional off-street parking; and
- l. An ADU is not permitted on the same lot where an accessory living quarters exists.

The criteria for review adopted by the Kitsap County Board of Commissioners are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusion Based on Findings

1. **With conditions, the proposed ADU would be consistent with the special use provisions of KCC 17.410.060.B.3.** The proposed ADU would be located within the Rural Residential (RR) zoning district, outside the boundary of an urban growth area, and would therefore be allowed with a conditional use permit. The Applicant proposes to construct only one ADU, and there are no other ADUs, accessory living quarters, mobile homes, or recreational vehicles currently located or proposed to be located on the property. The Applicant would reside in the proposed 1,883 square foot single-family residence that would be constructed on the property. The proposed ADU would measure 857 square feet, which is less than the 900 square foot maximum permitted for an ADU associated with a 1,883 square foot primary residence. The proposed ADU would be sited approximately 144 feet from the existing single-family residence and would be designed to maintain the appearance of the single-family residence by incorporating the same roof pitch and wood siding. The proposed ADU would meet all applicable setback requirements for the RR zone, utilize a driveway serving the single-family residence, and provide additional off-street parking space within the driveway. The proposed ADU would be served by an on-site septic system and by public water supplied by West Sound Utility District. The Kitsap County Health District has approved, without conditions, the water and sewer systems proposed for the project. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with applicable statutes, ordinances, and regulations. *Findings 1, 5 – 13.*

2. **With conditions, the proposed project would be meet the criteria for CUP approval under KCC 17.550.030.A.** The County provided reasonable notice and opportunity to

comment on the proposal. The County did not receive any comments on the proposal in response to its notice materials. The County analyzed the environmental impacts of the proposal, determined that the proposed use would not have a probable significant adverse impact on the environment, and issued a Determination of Nonsignificance on July 22, 2021. That determination was not appealed. The proposed ADU would be consistent with the County Comprehensive Plan policies that permit low-density residential uses in rural areas and generally encourage diverse, affordable housing options suitable to meet the needs of county residents. The property contains critical areas consisting of a Type F fish-bearing stream with a 150-foot protective buffer flowing north through the eastern quarter of the property and a 1.8-acre Category IV wetland with a 40-foot protective buffer at the northwest corner of the property. All development activity associated with the project would occur in the western portion of the property, outside of these critical areas and their associated buffers. The Kitsap County Health District approved the Applicant's proposed water and septic systems without conditions. As conditioned, the proposed ADU would comply with all applicable provisions of the County zoning code, including setback requirements for the RR zone and the specific ADU special use provisions of KCC 17.410.060.B.3. The project's compliance with these special use provisions would ensure that the project would not be materially detrimental to other uses or property in the vicinity and would be compatible with the existing character of the subject property and property in the vicinity. Conditions, as detailed below, are necessary to mitigate project impacts and to ensure compliance with relevant federal, state, and local statutes, ordinances, and regulations. *Findings 1 – 13.*

DECISION

Based on the preceding Findings and Conclusions, the request for a conditional use permit to allow construction of an 857 square foot detached accessory dwelling unit at 2559 Southeast Van Skiver Road, is **APPROVED**, subject to the following conditions:²

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 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.

² This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by the County code.

4. Only one accessory dwelling unit 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, and only one of the structures may be rented at any one time.
6. The ADU's habitable area shall not exceed 50 percent of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 857 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 shall be located within 150 feet of the primary residence.
8. The accessory dwelling unit 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.
11. The accessory dwelling unit 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 or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the accessory living quarters or guest house complies with all requirements imposed by the Kitsap County Code.
13. A property with a primary residence and an accessory dwelling unit 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 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. 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 Permit No. 21-00494. 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. 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.
22. The information provided demonstrates this proposal is a Large Project as defined in Kitsap County Code Title 12, and as such will require a Full Drainage Site Development Activity Permit (SDAP) from Development Services and Engineering.

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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 Conditional Use Permit application was deemed complete, February 3, 2021. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.
24. Any project that includes off-site improvements that create additional impervious surface such as lane widening, sidewalk or shoulder installation, or intersection channelization shall provide stormwater mitigation in accordance with Kitsap County Code Title 12 effective at the time the Conditional Use Permit application was deemed complete, February 3, 2021.
25. The application indicates that a significant quantity of grading material will be exported from the site. Prior to issuing the SDAP an approved fill site(s) must be identified.
 - Any fill site receiving 150 cubic yards or more of material must obtain an SDAP.
 - Fill sites receiving 5,000 cubic yards or more, or located within a critical area, must have an engineered SDAP.
 - For any fill site receiving less than 150 cubic yards, the SDAP holder shall submit to Kitsap County Department of Community Development load slips indicating the location of the receiving site and the quantity of material received by said site.
26. The application indicates that a significant quantity of grading material will be exported from the site. Typically, this means five or more trucks entering/leaving the site per hour. Because of this a vehicle wheel wash must be included as an element of the siltation erosion control plan.
27. If the project proposal is modified from that shown on the submitted site plan accepted for review February 3, 2021, Development Services and Engineering will require additional review and potentially new conditions.
28. A 150-foot native vegetation buffer and 15-foot building setback must be maintained along the delineated stream boundary. A 40-foot native vegetation buffer and 15-foot building setback must be maintained along the delineated wetland boundary.
29. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the Kitsap County Code. The KCPW 1601 form reserves road capacity for the project.
30. All rights of access for adjoining properties currently in existence shall be preserved.

Any amendment to the existing easement rights of adjoining property owners shall be properly executed and record prior to SDAP or final plat acceptance.

31. 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 Kitsap County Code. Existing approaches may need to be improved to meet current standards.
32. 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 if no SDAP is required). The need for and scope of bonding will be determined at that time.
33. Kitsap County Code 14.04.730 Fire department access: IFC Section 503, including those provisions that are not adopted by the Washington State Building Code in WAC 51-54A-0503, is hereby adopted in its entirety by Kitsap County as IFC Section 503 as set forth in the 2015 International Fire Code and as amended in subsections (A) through (D) of this section.
 - A. IFC Section 503.1.1 is amended by the addition of an additional exception 1.4, as follows: 503.1.1 Buildings and facilities. Approved fire apparatus access roads shall be provided for every building, facility, or portion of building or facility hereafter constructed or moved into or within the jurisdiction. The fire apparatus access shall comply with the requirements of this section.
 - B. Exceptions:
 1. The fire code official is authorized to increase the dimension of 150 feet where:
 - 1.1 The building or facility is equipped with an approved automatic fire sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
 - 1.2 Fire apparatus access roads cannot be installed in conformance with these Standards due to topography, waterways, non-negotiable grades, critical areas or other similar conditions, and an approved alternative means of fire protection is provided.
 - 1.3 There are not more than two (2) Group R-3 (single-family dwellings) occupancies.
 - 1.4 Where the fire apparatus access road serves only residential accessory building/occupancies (private garages, carports, sheds, agricultural buildings), as defined by the International Building Code. *Please perform one of the following: Submit documentation of road construction meeting access requirements per code. Improve access to meet current code. Or, equip the residence with an automatic sprinkler system.

Automatic sprinkler system will require a separate permit. Access roads shall comply with the following:

- Unobstructed width of 20 feet and height of 13 feet 6 inches.
- Shall be designed and maintained to support a 60,000-pound fire apparatus and be provided with an all-weather driving surface. Inside turning radius shall be a minimum of 25 feet.
- Dead end access roads exceeding 150 feet in length shall be provided with an approved turnaround.
- Road shall not be more than 12 percent grade.
- Please contact DFM Greg Gentile at ggentile@co.kitsap.wa.us with questions.

34. Fire access required. Customer is required to construct access per adopted code (IFC 503) OR sprinkler purposed dwellings as an allowed exception by code in lieu of access requirements.
35. Prior to SDAP approval, provide documentation from the solid waste/recycling service provider that their requirements for this project have been met. Waste Management Northwest can be reached at pnwcmservices@wm.com or 1-800-592-9995; their website is <http://wmnorthwest.com/kitsap/index.html>.

DECIDED this 23rd day of September 2021.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center