



Staff Report for the Hearing Examiner

Report Date: March 30, 2018
Hearing Date: April 9, 2018

Application Submittal Date: December 14, 2017
Application Complete Date: December 18, 2017

Permit Number: 17-05195

Project Name: Garetto Accessory Dwelling Unit (ADU)

Type of Application: Conditional Use Permit (CUP)

This staff report was prepared by Meg Sands, Planner, Kathlene Barnhart, Environmental Planner, and Candy Vickery, Engineer 1, based on information available up until the time the report was prepared. New information relevant to review of this application may become available prior to the hearing or at the hearing. Staff may wish to change their analysis based upon that new information, and reserves the right to do so.

Proposal Summary:

The Department of Community Development is recommending approval, subject to 21 conditions, of the applicants request for a Conditional Use Permit to convert an existing 900 square foot single-family residence (SFR) into an accessory dwelling unit (ADU) in order to build a new SFR under Building Permit 17-04098. The 4.95-acre parcel is zoned Rural Residential (RR) and located at 5171 SW Yellow Bloom Court in Port Orchard. The project will be served by on-site septic and a private two-party on-site well.

Project Request:

The applicants are requesting a Conditional Use Permit to convert an existing 900 square foot single-family residence (SFR) into an accessory dwelling unit (ADU). The proposed ADU is located on the second floor of a 2,100-square foot, two-story building. The approximately 1,200-square foot first floor is a shop. The entire second floor will be the ADU.

Project Location:

5171 SW Yellow Bloom Court
Port Orchard, WA 98367
South Kitsap County
Commissioner District 2

Assessor's Account #:

072201-1-047-2005

Applicant/Owner of Record:

Lawrence and Denise Garetto
PO Box 202
Burley, WA 98322-0202



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 January 9, 2018 (Exhibit 15). A Determination of Nonsignificance (DNS) was issued on February 12, 2018 (Exhibit 18). SEPA noted that one comment was received in support of the project and the proposal will be conditioned for Stormwater Control per Kitsap County Code Title 12 and for Critical Areas per Kitsap County Code Title 19.

The SEPA appeal period expired February 26, 2018. No appeals were filed; therefore, the SEPA determination is final.

Physical Characteristics:

The rectangular parcel is just under 5 acres, developed with a single-family residence and attached shop slightly to the north and east of the parcel’s center, and has a new single-family residence under construction near the center of the property. There is a stream that was originally classified as a Type 5 stream, which is a seasonal non-fish bearing stream, during review of Large Lot Subdivision #258. The stream is located on the west side of the property along with a 50-foot wide buffer, 25 feet on each side of the stream’s center line, plus a 15-foot building setback. There is a mix of evergreen and deciduous trees on a majority of the property with limited areas cleared in the areas of development. The property slopes gradually from the northwest corner down towards the southeast corner.

Comprehensive Plan Designation and Zoning:

The Comprehensive Plan designation is Rural Residential (Exhibit 21) and the Zoning designation is Rural Residential (RR, Exhibit 22).

Base/Maximum Density	not applicable
Minimum Lot Size	5 acres (for newly created lots, this is an existing legal lot)
Lot Width	140 feet
Lot Depth	140 feet
Maximum Height	35 feet

Standard Zoning Setbacks

Front	50 feet
Side	20 feet, 5 feet for an accessory structure, 50 feet for an agricultural structure
Rear	20 feet, 5 feet for an accessory structure, 50 feet for an agricultural structure

Surrounding Land Use and Zoning:

The surrounding area is zoned RR, the same as the subject property and predominately developed with a single-family residence on acreage lots. The white spots on the lots below represent buildings.



Zoning Map

Public Utilities and Services:

Water: private 2-party well
 Power: Puget Sound Energy
 Sewer: on-site septic system
 Police: Kitsap County Sheriff
 Fire: Fire Protection District No. 7
 Schools: South Kitsap School District #402

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

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

Land Use
 Policy 50

Limit the designated 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.

Policy 51

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

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 designations, zoning designations, and zoning code provisions.

Housing and Human Services

Policy 5

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

Policy 7

Adopt regulatory changes to allow non-traditional housing types.

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.

Policy 12

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

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:

Kitsap County Code (KCC)

Title 12 Storm Water Drainage

Title 14 Buildings and Construction

Title 17 Zoning

Chapter 18.04 State Environmental Policy Act (SEPA)

Title 19 Critical Areas Ordinance

Chapter 20.04 Transportation Facilities Concurrency Ordinance

Chapter 21.04 Land Use and Development Procedures

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 Exhibits 1-28.

Applicant Submittals:

Exhibit #	Document	Date or date stamped
7	Building Clearance	12.14.2017
10	Building Elevations – ADU, line	12.14.2017
13	Building Elevations – ADU, photos	12.18.2017

Exhibit #	Document	Date or date stamped
12	Building Elevations – SFR	12.15.2017
4	Conditional Use Permit Application – ADU	12.14.2017
5	Environmental (SEPA) Checklist	12.14.2017
9	Floor Plan – ADU	12.14.2017
11	Floor Plan – SFR	12.14.2017
8	Site Plan	12.14.2017
16	Stormwater Worksheet	01.10.2018

Public Comments:

Hallawell email, supports project (Exhibit 17).

Analysis:**Land Use and Zoning Analysis**

An accessory dwelling unit within the RR zone requires a Conditional Use Permit as specified in KCC Table 17.410.040(A) Rural, Resource Zones, and Urban Residential Zones subject to footnote 1. Footnote 1 indicates an ADU is subject to compliance with Section 17.410.060 Provisions applying to special uses.

Accessory Dwelling Unit (ADU) Standards

An ADU is required to meet the provisions and requirements outlined in KCC 17.410.060(B)(3) – Provisions applying to special uses; Accessory Dwelling Unit (ADU). In order to encourage the provision of affordable and independent housing for a variety of households, an accessory dwelling unit may be located in residential zones. Criteria from KCC 17.410.060(B)(3) are listed below (*italics*), with a discussion of the individual standard immediately following:

- a. *An ADU shall be allowed as a permitted use in those areas contained within an urban growth boundary.*

The proposed ADU is not within an urban growth boundary. Therefore, the ADU cannot be permitted in conjunction with a building permit as an outright use. Land use approval is required for this ADU.

- b. *An ADU shall be subject to a conditional use permit in those areas outside an urban growth boundary.*

The subject property is outside an urban growth boundary. As a result, the applicant has applied for and is requesting approval of a conditional use permit as required by the KCC.

- c. *Only one ADU shall be allowed per lot.*

Only one ADU is proposed for the subject lot.

- d. *Owner of the property must reside in either the primary residence or the ADU.*

The owners of the property, Lawrence and Denise Garetto, currently live in the SFR that is proposed to be converted into the ADU. It was

originally constructed under building permit 12-105024; the permit was finalized and a certificate of occupancy was issued in March 2013. They plan to occupy the new SFR after construction is complete and a certificate of occupancy is issued for building permit 17-04098 (Exhibit 4).

- e. *The ADU shall not exceed fifty percent of the square footage of the habitable area of primary residence or 900 square feet, whichever is smaller.*

The primary residence's habitable area is over 2,400 square feet according to the supplemental application and floor plans (Exhibits 4 and 11). Fifty percent of its habitable area is over 900 square feet (2,400 square feet X 50% = 1,200 square feet). As a result, the ADU would be limited to 900 square feet. The existing 2-story ADU building is approximately 2,100 square feet according to the floor plans. The entire first floor is a shop that is approximately 1,200 square feet with isolated and separated interior stairs that lead to the ADU located on the second floor; the ADU habitable area is 900 square feet (Exhibit 9). The shop shall be used as shop space only and not be converted to habitable area.

- f. *The ADU shall be located within 150 feet of the primary residence or shall be the conversion of an existing detached structure (i.e., garage).*

The ADU building would be located approximately 70 feet from the primary residence (Exhibit 8).

- g. *The ADU shall be designed to maintain the appearance of the primary residence.*

The primary residence and ADU are planned to be similar in appearance. Both buildings will have a pitched, composite-shingle roof, lap wood siding, vinyl windows and the base color will be an earth-tone green with tan trim. The ADU will be repainted to match the SFR. Therefore, the ADU's planned residential architectural design and building materials would be similar and complementary to the appearance of the primary residence (Exhibits 9, 13 and 12).

- h. *All setback requirements for the zone in which the ADU is located shall apply.*

The front yard setback, along the south property line and SW Yellow Bloom Court, is over 400 feet. The east side yard setback, scales over 70 feet and the other side yard, along the west property line, scales over 190 feet. The rear yard setback, along the north property line, is over 190 feet (Exhibit 8). All required zoning setbacks as delineated for the ADU are in compliance with the KCC.

- i. *The ADU shall meet the applicable health district standards for water and sewage disposal.*

The Health District has approved the Building Clearance (BC) for the ADU with no conditions (Exhibit 7).

- j. *No mobile homes or recreational vehicles shall be allowed as an ADU.*

The proposed ADU is an existing stick-built structure.

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

Both the primary residence and the ADU would use the same existing driveway. The driveway is gravel.

Two parking spaces are required for the single-family residence (SFR) and could be accommodated on the existing concrete driveway in front of the two-car garage. One parking space is required for the ADU. At least one parking space would be available in front of the ADU building on the existing gravel driveway (Exhibit 8).

- l. *An ADU is not permitted on the same lot where an accessory living quarters exists.*

Based on the SFR floor plan the structure does not have accessory living quarters (Exhibit 11).

Critical Areas

According to Kitsap County geographic information system (GIS) data, hydric soils are mapped, which is an indicator of potential wetlands on the western portion of the subject property (Exhibit 23). The subject property was divided as part of Large Lot Subdivision #258 under Permit Number 04 22692. In this land division, the subject parcel was conditioned for a 50-foot wide buffer, 25 feet on each side of the seasonal non-fish bearing stream's center line, plus a 15-foot building setback along the stream located on the west side of the property. No wetlands were documented. The existing ADU building is located outside of the required critical area buffer and associated building setback.

Stormwater

The proposed ADU is located within an existing building; therefore, no stormwater mitigation is required. Any required stormwater mitigation required as part of the new SFR under construction would have been reviewed under that building permit.

Agency Recommendations

All reviewing entities recommend approval of the proposed project and any required conditions are stipulated at the end of this report.

Staff Evaluation of Decision Criteria

1. The Hearing Examiner has review authority for this Conditional Use Permit application under KCC, Sections 17.421.020 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.

2. The proposal is consistent with the comprehensive plan.
3. The proposal complies with or will comply with requirements of Title 17 and complies with or will comply with all of the other applicable provisions of the KCC and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.
4. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity.
5. 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.

Recommendation:

Based upon the information above, the Department of Community Development recommends that the Conditional Use Permit (CUP) request for Garetto Accessory Dwelling Unit (ADU) be approved, subject to the following 21 conditions:

Development Services and Engineering

Planning/Zoning

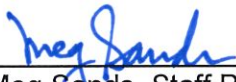
1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. An approved and issued building permit is required to convert the existing single-family residence (SFR) into the proposed accessory dwelling unit (ADU).
3. Any proposed modification (not 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 size of the existing structure to be converted into the ADU is 900 square feet as indicated in Exhibit 9.
7. The accessory dwelling unit (ADU) shall be designed to maintain the appearance of the primary residence.

8. The accessory dwelling unit (ADU) shall meet the applicable health district standards for water and sewage disposal.
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 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 by the Department and recorded at the applicant's expense.
15. 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.
16. 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.
17. The decision set forth herein is based upon representations made and exhibits contained in the project application 17-05195. 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.

- 18. 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.
- 19. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.
- 20. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

Development Engineering

- 21. 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, and is the mechanism to obtain the Concurrency Certificate.



 Meg Sands, Staff Planner

30 MARCH 2018
 Date



 Shawn Alire, Development Services and Engineering Supervisor

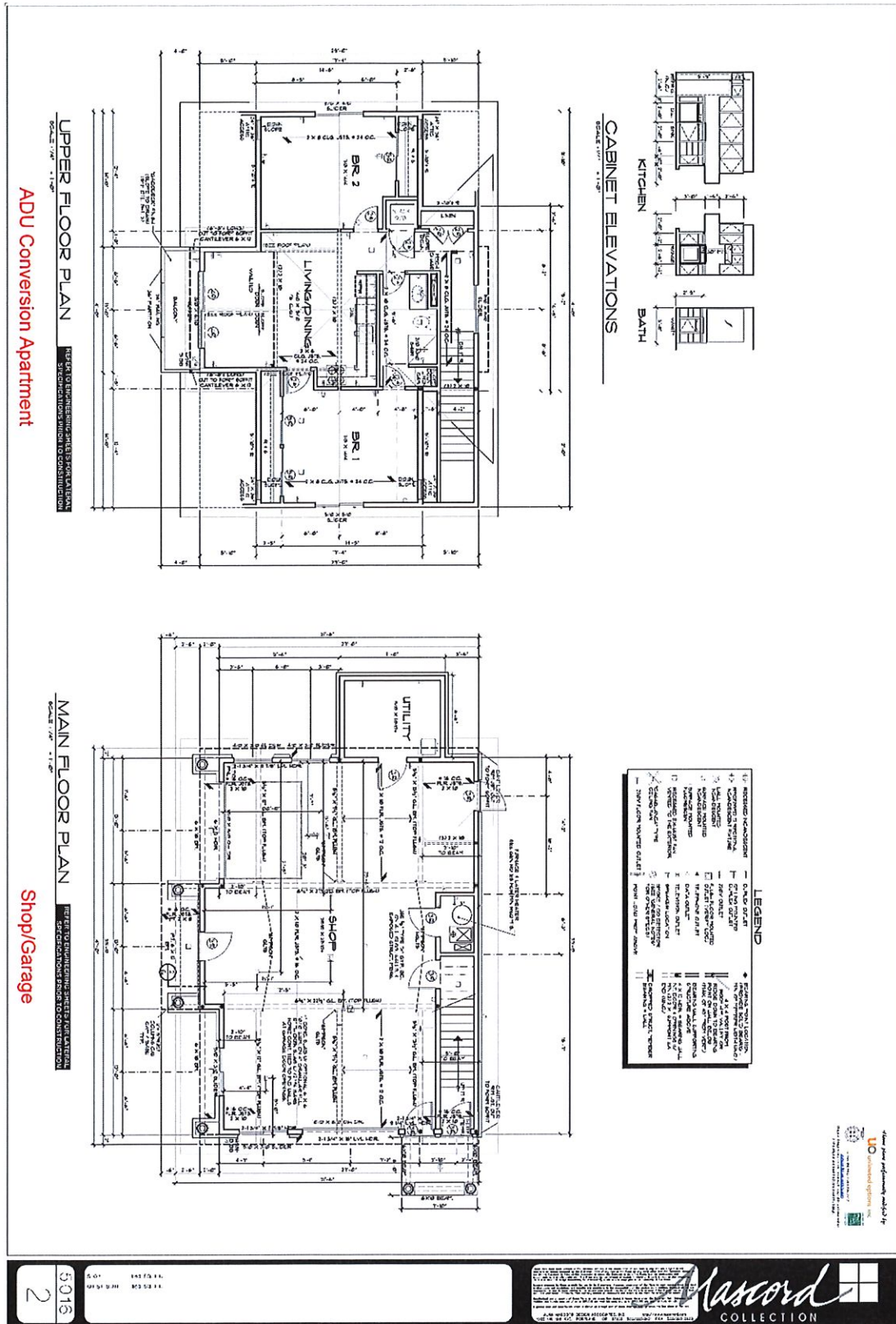
3/30/18
 Date

Attachments:

- Appendix A – ADU Floor Plan
- Appendix B – Site Plan

CC: Lawrence Garetto, lgaretto@centurylink.net
 Lawrence and Denise Garetto, PO Box 202, Burley, WA, 98322
 Interested Parties: John Hallawell, drjbh@hotmail.com
 Kitsap County Health District, MS-30
 Kitsap County Public Works Dept., MS-26
 DCD Staff Planner: Meg Sands
 DCD File 17-05195
 DCD Building Permit File 17-04098

Appendix A ADU Floor Plan



Appendix B Site Plan

LAWRENCE & DENISE GARETTO
571 SW Yellow Bloom Ct.
Port Orchard, WA 98367
TAX ID 072201-1-047-2005
4,75 ACRES

