



## Hearing Examiner Staff Report and Recommendation

**Report Date:** April 15, 2021  
**Hearing Date:** April 22, 2021

**Application Submittal Date:** January 4, 2020  
**Application Complete Date:** January 15, 2020

**Project Name:** Erickson Accessory Dwelling Unit  
**Type of Application:** Conditional Use Permit (CUP)  
**Permit Number:** 20-00034

### Project Location

6585 NE Twin Spits Rd.  
Hansville, WA  
Commissioner District #1 (North)

### Assessor's Account #

162802-3-001-2007

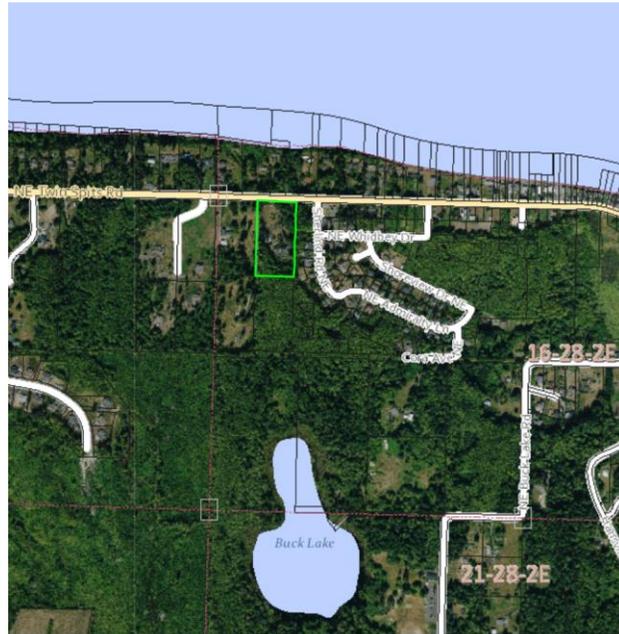
### Applicant/Owner of Record

KENNETH & BRENDA ERICKSON  
6585 NE Twin Spits Rd  
Hansville, WA 98340-7706

### Recommendation Summary

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

### VICINITY MAP



### 1. Background

In December 2019, Kitsap County's Department of Development (hereafter, "the Department") became aware of a possible unpermitted Accessory Dwelling Unit (ADU) on the subject site. Later that month the Department issued a letter (Exhibit 1) to Kenneth and Brenda Erickson (hereafter, "the Applicants"), requesting that they apply for an "after the fact" Conditional Use Permit (CUP) if the structure had been converted or partially converted to habitable space. The Applicants applied for CUP approval on January 4, 2020. Per KCC 17.410.060.B.3.b, ADUs proposed outside of an urban growth area (UGA) shall be subject to a CUP. The subject site is located outside of an UGA; therefore, CUP approval is required.

### 2. Project Request

The Applicants request approval of a detached 864 square foot (36-ft by 24-ft) square foot ADU. The ADU is within the second story of an existing detached garage. The property is served by an onsite septic system and two-party well. Access to the ADU is provided by an existing driveway that serves the main residence. The ADU meets all applicable provisions

applying to special uses per KCC 17.410.060 as well as criteria for CUP approval per KCC 17.550.030.A.

### **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 02/05/2020 (Exhibit 12). A Determination of Nonsignificance (DNS) was issued 02/10/2021 (Exhibit 26).

The SEPA appeal period expired 02/24/2021. No appeals were filed; therefore, the SEPA determination is final.

### **4. Physical Characteristics**

According to the Kitsap County Assessor, the subject site is 4.72 acres. The site slopes gradually down from the south west at grades measuring approximately 6 to 10%. At the northeast corner of the site, the topography steepens at a ravine approximately 20-ft in height, with a grade measuring approximately 43%. At the bottom of the ravine is a Type-F stream, which flows south to north along the subject site’s easterly property line. The site is bound by single-family residential lots to the south, east, and west. NE Twin Spits Road, a County maintained right-of-way (ROW) abuts the site’s northerly property line. Approximately 400 ft to the north is the shoreline of Skunk Bay.

An existing SFR was approved and constructed under Kitsap County permit 03-7993. A detached garage was constructed in 2010, but never received final inspection. This second story of the garage is the portion of the structure that is proposed to be converted an ADU. An existing driveway off NE Twin Spits Road provides access to the site.

**Table 1 - Comprehensive Plan Designation and Zoning**

| Comprehensive Plan:<br>Rural Residential (RR)<br>Zone:<br>Rural Residential (RR) | Standard                | Proposed                                   |
|--|-------------------------|--|
| Minimum Density  | N/A                     | N/A - ADUs do not count toward density.    |
| Maximum Density  | 1 dwelling unit/5 acres |  |
| Minimum Lot Size   | 5 acres                 | N/A - Subject property is an existing lot. |
| Maximum Lot Size   | NA                      |  |
| Minimum Lot Width  | 140 feet                |  |
| Minimum Lot Depth  | 140 feet                |  |
| Maximum Height   | 35 feet                 | ~29 feet                                   |
| Maximum Impervious Surface Coverage  | NA                      | NA   |
| Maximum Lot Coverage   | NA                      | NA   |

**Table 2 - Setback for Zoning District**

|               | Standard                        | Proposed  |
|---------------|---------------------------------|-----------|
| Front (North) | 50 feet                         | ~380 feet |
| Side (East)   | 5 feet for accessory structures | ~203 feet |
| Side (West)   | 5 feet for accessory structures | ~94 feet  |
| Rear (South)  | 5 feet for accessory structures | ~222 feet |

**Table 3 - Surrounding Land Use and Zoning**

| Surrounding Property | Land Use                | Zoning                 |
|----------------------|-------------------------|------------------------|
| North                | ROW                     | Rural Residential (RR) |
| South                | Single-family residence | Rural Residential (RR) |
| East                 | Single-family residence | 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  | Private Septic                    |
| Police | Kitsap County Sheriff             |
| Fire   | North Kitsap Fire & Rescue        |
| School | North Kitsap School District #400 |

**5. Access**

An existing driveway off NE Twin Spits Road, a County maintained Right-of-Way, provides access to the site.

**6. Site Design**

See Site Plan (Attachment A).

**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

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)           |
| Title 19       | Critical Areas Ordinance                        |
| 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 Exhibits 1 through 35.

| Exhibit # | Document                     | Dated | Date Received |
|-----------|------------------------------|-------|---------------|
| 1         | Letter: Code Compliance      |       | 12/29/2019    |
| 2         | Concurrency Test Application |       | 04/14/2020    |

|    |  |  |            |
|----|--|--|------------|
| 3  | Kitsap Public Health Approved Building Clearance |  | 04/14/2020 |
| 4  | Permit Questionnaire                             |  | 04/14/2020 |
| 5  | Plans: ADU v.1                                   |  | 04/14/2020 |
| 6  | Plans: SFR                                       |  | 04/14/2020 |
| 7  | Project Narrative                                |  | 04/14/2020 |
| 8  | SEPA Checklist                                   |  | 04/14/2020 |
| 9  | Site Plan v.1                                    |  | 04/14/2020 |
| 10 | Stormwater Worksheet                             |  | 04/14/2020 |
| 11 | Water Availability Letter – KPUD                 |  | 04/14/2020 |
| 12 | Notice of Application                            |  | 02/05/2020 |
| 13 | Public Comment: Nelson                           |  | 2/12/2020  |
| 14 | Public Comment: Jensen                           |  | 2/14/2020  |
| 15 | Public Comment: Dagleish                         |  | 2/17/2020  |
| 16 | Preliminary Condition Memo                       |  | 03/02/2020 |
| 17 | Request for Information                          |  | 05/12/2020 |
| 18 | Applicant Response to Info Request               |  | 06/29/2020 |
| 19 | Elevations: ADU                                  |  | 06/29/2020 |
| 20 | Elevations: SFR                                  |  | 06/29/2020 |
| 21 | Plans: ADU v.2                                   |  | 06/29/2020 |
| 22 | Site Plan v.2 (deck added)                       |  | 06/29/2020 |
| 23 | Request for Information                          |  | 11/06/2020 |
| 24 | Applicant Response to Info Request               |  | 11/13/2020 |
| 25 | Site Plan v.3                                    |  | 11/13/2020 |
| 26 | SEPA Determination of Nonsignificance (DNS)      |  | 02/10/2021 |
| 27 | Public Comment: Jensen                           |  | 4/07/2021  |
| 28 | Notice of Public Hearing                         |  | 4/07/2021  |
| 29 | Map: Aerial                                      |  | 4/14/2021  |
| 30 | Map: Comp Plan                                   |  | 4/14/2021  |
| 31 | Map: Critical Aquifer                            |  | 4/14/2021  |
| 32 | Map: Critical Areas                              |  | 4/14/2021  |
| 33 | Map: Shoreline                                   |  | 4/14/2021  |
| 34 | Map: Zoning                                      |  | 4/14/2021  |
| 35 | Staff Report                                     |  | 4/14/2021  |
| 36 | Certification of Public Notice                   |  |            |
| 37 | Staff Presentation                               |  |            |

**9. Public Outreach and Comments**

To date, the Department has received four public comments in opposition of the proposed project from the three neighbors listed below:

- Monica Nelson, *received February 12, 2010* (Exhibit 13)
- Mac and Dora Dagleish, *received February 17, 2020* (Exhibit 15)
- Cynthia Jensen, *received February 14, 2020 and April 7, 2021* (Exhibit 14, 27)

The specific issues are grouped and summarized in the table below.

| Issue Ref. No. | Summary of Concern<br>(See corresponding responses in the next table)   | Comment Letter Exhibit Reference No. |
|----------------|---|--------------------------------------|
| 1              | One comment was received that proper notice was not provided, specifically that the Dalgleish's did not receive notice.   | 15                                   |
| 2              | Comments were provided by all three commenters that the subject site contains 3 separate dwellings (two in the main residence and one above the detached garage). Concern was expressed that density standards are not met.   | 13, 14, 15, 27                       |
| 3              | Comments were provided that the ADU conversion occurred without the proper permits and concern was expressed that the structure posed a risk to its occupants and to neighbors.   | 13, 14, 15, 27                       |
| 4              | Comments were provided informing the Department that the property has been historically rented out as what is known as "Green Gable Inn". Commenters indicated the existing residence and property is rented out for weddings and other events, thus disrupting the peace, and creating a nuisance for neighboring property owners. Concern was expressed that this use is not compatible with the rural character of the zone.                                 | 13, 14, 27                           |
| 5              | Comments were provided that the existing septic system that serves the ADU is not adequate and needs revisions.   | 13, 14, 27                           |
| 6              | Comments were provided indicating that the owners and guests of the subject property have historically used the adjacent private easement road for access to the property. Reference was made to the Applicants being "in contempt" of an unnamed court case. Details were provided about illegal trespassing onto adjacent properties, unlawful use of an adjacent private access easement, harassment, and involvement of the Kitsap County Sheriff's Office. | 13, 14, 27                           |

| Issue Ref. No. | Issue         | Staff Response   |
|----------------|---------------|--|
| 1              | Public Notice | Public Notice requirements are outlined in KCC 21.04.210. The Department issued proper notice, including but not limited to, a Notice of Application postcard to DALGLEISH MCKINLEY & DORA I TRUSTEES at 6372 NE TWIN SPITS RD HANSVILLE WA, 98340 and DALGLEISH SCOTT & DEBRA M at 6495 NE TWIN SPITS RD HANSVILLE, WA 98340. |

|   |  |  |
|---|--|--|
| 2 | Number of Dwellings / Density                              | <p>In the Rural Residential zone, the maximum allowable density is 1 dwelling unit per 5 acres (KCC 17.420.052) and Accessory Dwelling Units are allowed with an approved Conditional Use Permit (KCC 17.410.042). Various claims were made that two dwelling units exist within the main residence. The applicant submitted floor plans of the main residence (Exhibit 6), which do not indicate a second dwelling is contained within the main residence.</p> <p>Per KCC 17.110.255, Dwelling Unit means “a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.” In a telephone conversation on 4/15/2021, the Applicants confirmed that a second kitchen in main residence had existed in the past, but now only one kitchen remains. without the presence of permanent provisions for cooking (i.e. a separate kitchen), a separate dwelling is not present. Staff recommends that Condition 2 be approved to require the Applicant to obtain the proper permits to remove the power supply for the stove, to be verified by an inspector.</p> |
| 3 | Unpermitted ADU  | <p>In December 2019, the Department became aware of a potentially unpermitted ADU and the case was researched by Code Enforcement staff. The same month, the Department issued a letter (Exhibit 1) to Kenneth and Brenda Erickson (hereafter, “the Applicants”), requesting that they apply for an “after the fact” Conditional Use Permit (CUP) if the structure had been converted to habitable space. The Applicants applied for CUP approval on January 4, 2020 (this permit).</p> <p>The ADU is subject to the same code provisions whether or not it is an “after-the-fact” application or not. The Department has reviewed the ADU for compliance with all standards, as analyzed in Section 10 of this report.</p>  |
| 4 | Use of Property as Short Term Rental and/or Commercial Use | <p>Much of the discussion around the incompatibility with the rural character references the main residence being used as a short-term rental, commercial use, and event space. The Department understands that the impacts of the main residence may be valid concerns; however, the Department also understands these impacts are separate from and unrelated to the ADU permit approval.</p>  |

|   |  |  |
|---|--|--|
|   | Incompatibility with Rural Character           | This application is limited in scope to the conversion of 864 square feet above an existing garage into an ADU. Approval of this Conditional Use Permit does not constitute approval for any other land use on the subject site.   |
| 5 | Septic System                                  | Septic system requirements are reviewed and enforced by the Kitsap County Public Health District (KPHD). The applicant has submitted an approved Building Clearance Application from KPHD; two conditions were noted and are recommended as conditions of approval (Conditions 27 and 28). This permit application was also routed to KPHD, who reviewed and approved the final proposal.  |
| 6 | Easement, Trespassing, and other Civil Matters | The private property disputes, including easement rights and trespassing, are beyond the scope of this permit approval. The Department does not have authority over these issues. However, in terms of the easement, Kitsap County Code standards (KCC 17.410.060.B) require that the ADU be accessed via same access that serves the primary residence and staff recommends Condition 12 to ensure compliance. The site demonstrates single and legal access to the main residence and ADU. |

## 10. Analysis

### a. Planning/Zoning

Per KCC 17. 410.060.B.3, 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, subject to the following criteria (*italicized*). Staff comments are provided below:

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

Staff Comment: The subject property is not located within the urban growth boundary.

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

Staff Comment: The subject property is located outside of the urban growth boundary. This application is a Conditional Use Permit for an Accessory Dwelling Unit.

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

Staff Comment: This application proposes only one ADU. There are no other ADUs present or proposed.

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

Staff Comment: In a telephone conversation on 4/15/2021, the Applicants confirmed they plan to reside in the ADU Staff recommends that Condition 7 be approved to ensure compliance.

*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.*

Staff Comment: The existing residence is 3,613 square feet. 50 percent of this figure (1,806.5 square feet) exceeds 900 square feet; therefore, the ADU is limited to 900 square feet (the smaller value). The proposed ADU is 864 square feet, meeting this standard.

*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 (i.e., garage).*

Staff Comment: The proposed single-family residence and the proposed accessory dwelling unit are approximately 60 feet apart, satisfying this requirement.

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

Staff Comment: The structure is existing, and no exterior modifications are proposed. Staff recommends Conditions 5 and 9 be approved, should modifications be proposed in the future.

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

Staff Comment: All setbacks required by the Rural Residential zone are met for the proposed accessory dwelling unit. Please see Table 2.

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

Staff Comment: The application was routed to Kitsap County Health District and approved/approved with 2 conditions (Condition 27 and 28).

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

Staff Comment: There are no mobile homes or recreational vehicles present on the subject property or proposed in this application.

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

Staff Comment: The submitted site plan (Exhibit 25) shows the proposed ADU will use the existing driveway that the single-family residences. The driveway will provide an additional off-street parking space. Various comments have indicated that the Applicants and guests have historically used the abutting road for access. This is a direct violation of ADU standards and is not permitted as part of this application. ADU must be accessed by the existing driveway that serves the primary residence. Staff recommends Condition 12 be approved to ensure compliance.

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

Staff Comment: There are no known present or proposed Accessory Living Quarters. Please see the single-family residence floor plan (Exhibit 6). Staff recommends Conditions 3 and 13 be approved to ensure compliance.

**b. Lighting**

Lighting elements are not required or proposed.

**c. Off-Street Parking**

**Table 5 - Parking Table**

| Use Identified in 17.490.030 | Standard   | Required Spaces | Proposed Spaces/Existing Spaces |
|------------------------------|--|-----------------|---------------------------------|
| Single Family Detached       | 3 per unit.<br>1 additional space for accessory dwelling units | 4               | 4                               |
| Total                        |  | 4               | 4                               |

**d. Signage**

Signage is not required or proposed.

**e. Landscaping**

Per KCC 17.500.010, single-family lots are exempt from landscaping requirements.

**Table 6 - Landscaping Table**

|   | Required | Proposed |
|---|----------|----------|
| Required Landscaping (Sq. Ft.)<br>15% of Site | NA       | NA       |
| Required Buffer(s)<br>17.500.025              |          |          |
| North   | NA       | NA       |
| South   | NA       | NA       |
| East  | NA       | NA       |
| West  | NA       | NA       |
| Street Trees                                  | NA       | NA       |

**f. Frontage Improvements**

Frontage improvements are not proposed or required.

**g. Design Districts/Requirements**

The site is not within a designated design district. The ADU conversion is interior to an existing structure.

**h. Development Engineering/Stormwater**

Development Services and Engineering has reviewed the above land use proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the permit application materials received January 7, 2020 to Kitsap County Development Services and Engineering.

Development Services and Engineering accepts the concepts contained in this preliminary submittal and provided a preliminary comment memo (Exhibit 16) outlining four recommended conditions as an element of the land use approval (Conditions 22 through 25).

**i. Environmental**

Kitsap County’s Critical Areas Map (Exhibit 32) shows various critical areas on site. The existing structure was reviewed for compliance with Kitsap County’s Critical Areas Ordinance at the time it was constructed, under permit 10-94056. That permit was approved with no environmental conditions. The proposal does not expand the footprint, and no further environmental review is necessary.

**j. Access, Traffic and Roads**

The proposed ADU uses the same existing access driveway that serves the primary residence. No adverse impacts to traffic or roads are anticipated with the approval this ADU application.

**k. Fire Safety**

The structure is existing. It should be noted that the permit for the garage never received a final inspection. In addition, the conversion of the structure to an ADU did not receive proper building permits. The Applicants will be required to apply for an “after-the-fact” building permit for the entire structure, as exists currently, and follow County Fire Marshal requirements as noted below.

**l. Solid Waste**

Typical household Waste Management service applies. No additional review is required.

**m. Water/Sewer**

The applicant has submitted a Binding Water Availability Letter from Kitsap Public Utility District indicating adequate water is available.

The applicant is not proposing connection to Kitsap County Sewer. The ADU is served by a private septic system, regulated by Kitsap Public Health District (see next section).

**n. Kitsap Public Health District**

The Applicants submitted an approved Building Clearance Application (Exhibit 3), which was reviewed and approved by the Kitsap Public Health District. KPHD requires that a new septic tank be installed for the ADU and that the old Notice to Title be extinguished. Both requirements are included as recommended conditions of approval (Condition 27 and 28) and the applicant shall submit documentation from KPHD that confirms these conditions are met at the time of building permit application.

**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 Conditional Use Permit request for Erickson Accessory Dwelling Unit be **approved**, subject to the following 28 conditions:

### a. Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. Current occupancy of the ADU shall be inspected and approved by the Kitsap County Fire Marshal and subsequent interim occupancy shall be conditioned as a result of the inspection as further noted in Condition 26 below. The applicant shall ensure:
  - a. A new septic system is installed, per Kitsap County Public Health District Requirements within 90 days of KPHD permit issuance.
  - b. An approved building permit has been issued and has received final inspection by the Department of Community Development. A complete building permit application must be submitted within 90 days of CUP approval. The Director may extend this deadline at their discretion.
3. The applicant shall remove the power source for the second stove in the primary residence, subject to applicable permits and inspections.
4. 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.

5. 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.
6. Only one accessory dwelling unit shall be permitted on the subject property.
7. 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. The accessory dwelling unit's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 864 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.
8. The accessory dwelling unit shall be located within 150 feet of the primary residence.
9. The accessory dwelling unit shall be designed to maintain the appearance of the primary residence.
10. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
11. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit.
12. The accessory dwelling unit shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
13. An accessory living quarters or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the ALQ or GH complies with all requirements imposed by the Kitsap County Code.
14. 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.
15. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
16. 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.

17. 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.
18. 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.
19. The decision set forth herein is based upon representations made and exhibits contained in the project application Permit #20-00034. 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.
20. This Conditional Use Permit approval shall automatically become void if no development (building) permit application is accepted as complete by the Department of Community Development within 90 days of the Notice of Decision date or the resolution of any appeals. The Director may extend this deadline at their discretion.
21. Any violation of the conditions of approval shall be grounds to initiate revocation of this Conditional Use Permit.

**b. Development Engineering**

22. New and/or replaced hard surfaces do not exceed the 2,000 square foot threshold; nor does the project exceed 7,000 square feet of disturbed area. While a formal plan is not required, the applicant must consider all elements required of a stormwater pollution prevention plan and make allowances for managing erosion and sediment discharge on site. Per KCC Title 12, if the project exceed either of the thresholds noted above, then additional review for stormwater management will be required.
23. If the project proposal is modified from that shown on the submitted site plan dated January 7, 2020, Development Services and Engineering will require additional review and potentially new conditions.

**c. Environmental**

None

**d. Traffic and Roads**

24. 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.

25. 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.

**e. Fire Safety**

26. The Applicant shall request a residential Fire Marshal safety inspection of the ADU and garage within 30 days of decision approval. Approval by the Fire Marshal for continued interim occupancy shall be subject to binding conditions as a result of the inspection.

**f. Solid Waste**

None

**g. Kitsap Public Health District**

27. A new septic tank is required for the ADU.

28. Old Notice to Title needs to be extinguished prior to final component permit approval.

**Report prepared by:**



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Tasha Santos, Staff Planner / Project Lead

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04/15/2021

**Report approved by:**



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Scott Diener, Department Manager / Supervisor

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04/15/2021

**Attachments:**

Attachment A – Site Plan

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Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

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Site Plan

