

Hearing Examiner Staff Report and Recommendation

Report Date: May 5, 2020 **Hearing Date:** May 12, 2020 Application Submittal Date: January 9, 2020 Application Complete Date: January 22, 2020

Project Name: KOLDA – Accessory Dwelling Unit Type of Application: Conditional Use Permit (CUP) - ADU Permit Number: 20-00114

Project Location

8431 SANDY RD NE BREMERTON, WA Commissioner District #3

Assessor's Account # 242501-4-007-2003

Applicant/Owner of Record

KOLDA RICKEY J & MELISSA E PO BOX 2141 SILVERDALE, WA 98383-2141

Recommendation Summary

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

1. Background

Rickey and Melissa Kolda (hereafter, the "Applicants") have requested to construct a detached Accessory Dwelling Unit (ADU) on the subject site. Per KCC 17.410.060.B.3.b, ADUs proposed outside of the urban growth boundary (UGA) shall be subject to a conditional use permit (CUP). The subject site is located outside of the UGA; therefore, CUP approval is required.

2. Project Request

The Applicants have requested approval for a Conditional Use Permit (CUP) that would allow the construction of an 875 square foot Accessory Dwelling Unit (ADU). The property will be served by an onsite septic system and water will be provided by North Perry Avenue Water District. An expanded driveway and parking area are proposed to serve the ADU. 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)

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 31, 2020 (Exhibit 14). A Determination of Nonsignificance (DNS) was issued on April 22, 2020 (Exhibit 21). No comments were received by the department. The SEPA appeal period will expire May 8, 2020. If no appeals are filed, the SEPA determination is final.

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.

4. Physical Characteristics

The subject site is an irregularly shaped parcel measuring approximately 6.80 acres, according to the Kitsap County Assessor. The eastern half of the parcel is generally flat and developed with an existing single-family residence and associated driveway and septic system. Past the existing residence to the west, the site topography slopes steeply down a ravine, with slopes measuring approximately 50%. At the bottom of the ravine is Type-F stream, then continuing east, the site topography slopes upwards at an approximately 32% grade. These environmental features are discussed further in Section 10.i of this report.

Comprehensive Plan: Rural Residential (RR)			
Zone:	Standard	Proposed	
Rural Residential (RR)			
Minimum Density	N/A	N/A - Subject property is	
Maximum Density	1 dwelling unit/5acres	an existing lot.	
Minimum Lot Size	5 acres	N/A	
Maximum Lot Size	NA	N/A	
Minimum Lot Width	140-ft	N/A	
Minimum Lot Depth	140-ft	N/A	

Table 1 - Comprehensive Plan Designation and Zoning

Maximum Height	35 feet	One Story, <35-ft
Maximum Impervious	NA	NA
Surface Coverage		
Maximum Lot	NA	NA
Coverage		

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (East)	50-feet	> 50-feet
Side (North)	5-feet for accessory structures	> 20-feet
Side (South)	5-feet for accessory structures	> 20-feet
Rear (West)	5-feet for accessory structures	> 100-feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single Family Residence	Rural Residential (RR)
South	Single Family Residence	Rural Residential (RR)
East	Single Family Residence	Rural Residential (RR)
West	School (Brownsville Elementary)	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider	
Water	North Perry Water District	
Power	Puget Sound Energy	
Sewer	Private Septic	
Police	Kitsap County Sherriff	
Fire	Central Kitsap Fire & Rescue	
School	Central Kitsap School District #401	

5. Access

The site gains access along the eastern property line via a County maintained Right-of-Way, SANDY RD NE.

6. Site Design

The proposed site plan shows an existing 4-bedroom single-family dwelling and associated septic system. The proposed ADU will be located approximately 118-ft to the east of the existing residence with a proposed driveway and parking area extending from the existing driveway to the SFR. A new septic system will be installed for the proposed ADU.

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.

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

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

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 31.

Exhibit #	Document	Dated	Date
Exmort n	bocanicit	Dated	Received
1	ADU Elevations		01/13/20
2	ADU Floor Plans		01/13/20
3	Authorization Form		01/13/20
4	Building Clearance		01/13/20
5	Concurrency Test		01/13/20
6	Engineered Drainage Waiver		01/13/20
7	Project Narrative		01/13/20
8	SFR Elevations		01/13/20
9	SFR Floor Plans		01/13/20

10	Stormwater Worksheet		01/13/20
11	Water Availability Letter		01/13/20
12	Health District Site Plan		01/15/20
13	Notice of Complete Application	01/23/20	
14	Notice of Application	01/31/20	
15	SEPA Checklist		02/07/20
16	Health District Memo RE Landfill Buffers		02/10/20
17	Stormwater Preliminary Conditions Memo	03/13/20	
18	Information Request	03/25/20	
19	Permit Questionnaire		04/06/20
20	Zoning Detail Site Plan		04/07/20
21	SEPA Determination of Non-Significance	04/24/20	
22	Certification of Public Notice	04/27/20	
23	Notice of Public Hearing	04/27/20	
24	2018 Aerial Imagery Map	04/29/20	
25	Aquifer Recharge Area Map	04/29/20	
26	Assessor Map	04/29/20	
27	Comprehensive Plan Map	04/29/20	
28	Critical Areas Map	04/29/20	
29	Zoning Map	04/29/20	
30	Staff Report	05/05/20	
31	Staff Presentation	05/06/20	

9. Public Outreach and Comments

A Notice of Application (Exhibit 14) was distributed pursuant to Title 21 land use and development procedures, which provided recipients with project information and an opportunity for public comment.

No comments were received by the department.

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: The owner currently resides in the existing single-family residence.

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 habitable area of the existing residence is 2,150 square feet. 50 percent of 2150 is 1075 square feet; therefore, the ADU is limited to 900 square feet (the smaller value). The proposed ADU is 875 square feet, satisfying this requirement.

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 118 feet apart, satisfying this requirement.

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

Staff Comment: The single-family residence and the ADU are similar in appearance. Please see Exhibits 1 and 8. The ADU and SFR share a similar roof line, siding, trim and windows. Condition 7 has been added to ensure the two structures remain similar in appearance. This will be verified at the time of building permit approval.

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 applicant submitted an approved Building Clearance and a Water Availability Letter with their application. The application was routed to Kitsap County Health District and was approved with no conditions.

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 20) shows the proposed ADU will use the existing driveway that the single-family residence uses. The driveway will provide an additional off-street parking space.

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

Staff Comment: There are no present or proposed accessory living quarters. Please see the single-family residence floor plan (Exhibit 9).

b. Lighting

Lighting was not analyzed as part of this proposal.

c. Off-Street Parking

Table 5 - Parking Table

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

d. Signage

No signage is proposed or required.

e. Landscaping

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

	Required	Proposed
Required	NA	NA
Landscaping		
(Sq. Ft.)		
15% of Site		
Required		
Buffer(s)		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

Table 6 - Landscaping Table

f. Frontage Improvements

No frontage improvements are proposed or required.

g. Design Districts/Requirements

The site is not within a design district.

h. Development Engineering/Stormwater

Development Services and Engineering has reviewed land use proposal and finds the concept supportable in its approach to civil site development. Development Services and Engineering accepts the concepts contained in this preliminary submittal and requires four conditions (Exhibit 17, Conditions 20 through 23).

i. Environmental

The western half of the property contains a mapped fish bearing stream and various geologic hazard areas. The site plan shows the stream is approximately 315-ft from the proposed ADU, exceeding all buffer and setback requirements in KCC 19.300. The top of the slope measures approximately 180-ft from the proposed ADU, exceeding the buffer and setback requirements in KCC 19.400. Additionally, the site is currently developed with a single-family residence, constructed in 2017 under permit 17-02285. This structure was found to be compliant with Kitsap County's Critical Areas Ordinance, and the proposed ADU is farther from the mapped critical areas.

The entire site is within a mapped moderate seismic hazard. A condition has been placed on approval that the building permit shall comply with Chapter 14.04 of the Kitsap County Building and Fire Code, per KCC 19.300 (Condition 24).

j. Access, Traffic and Roads

Development Services and Engineering has reviewed the proposal for compliance with traffic and road standards and has recommended approval, with three conditions (Conditions 25 through 27).

k. Fire Safety

The Kitsap County Fire Marshall's Office reviewed and approved the proposal with no conditions.

I. Solid Waste

The proposed ADU will use the same solid waste services as the existing single-family residence. No further review is needed.

m. Water/Sewer

The application included an approved Building Clearance application that shows approval for water and sewer from Kitsap County's Health Department (Exhibit 4). Potable water is proposed to be provided North Perry Water District and sanitary sewage disposal is proposed to be provided by a new on-site septic system.

n. Kitsap Public Health District

Kitsap County Health District as reviewed and approved the proposal with no conditions. The Health District provided a memorandum regarding landfill buffers and the project has been conditions to follow the recommendations of that letter (Exhibit 16, Condition 8).

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 Kolda ADU be **approved**, subject to the following 27 conditions:

a. Planning/Zoning

- 1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
- 2. The accessory dwelling unit (ADU) is subject to the payment of impact fees. Impact fees must be paid at time of permit issuance, or if deferred, must be paid prior to final inspection. No certificate of occupancy will be granted until all impact fees are paid.
- 3. Any proposed modification (not including cosmetic work such as painting, papering and similar finish work), remodel or expansion of the accessory dwelling unit 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 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. 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 875 square feet (Exhibit 2). 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.
- 6. The accessory dwelling unit shall be located within 150 feet of the primary residence.
- 7. The accessory dwelling unit shall be designed to maintain the appearance of the primary residence.
- 8. This permit shall comply with all Kitsap Public Health District regulations and

conditions of approval. The project shall also comply with KPHD recommendations for development within Landfill Buffers, outlined in KPHD memorandum dated February 10, 2020.

- 9. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit.
- 10. The accessory dwelling unit 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 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.
- 12. 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.
- 13. The accessory dwelling unit 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 and recorded by the Department 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. 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 Permit #20-00114. 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.

b. Development Engineering

- 20. The information provided demonstrates this proposal is a Small Project as defined in Kitsap County Code Title 12, and as such will require the building permit application demonstrate compliance with applicable sections of Kitsap County Title 12 and the Kitsap County Stormwater Design Manual.
- 21. 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, January 23, 2020.
- 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 exceeds 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, Development Services and Engineering will require additional review and potentially new conditions.

c. Environmental

24. The project is located within a moderate seismic hazard area. Per KCC 19.300, the development shall comply with Chapter 14.04, the Kitsap County Building and Fire Code.

d. Traffic and Roads

- 25. 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.
- 26. With the building permit application, 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.

27. 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 building permit. The need for and scope of bonding will be determined at that time.

Report prepared by:

L Sutar

5/4/2020

5/4/2020

Date

Date

Tasha Santos, Staff Planner / Project Lead

Report approved by:

Shawn Alire, Department Supervisor

Attachments: Attachment A – Site Plan

CC: Rickey and Melissa Kolda <u>lissaeh@hotmail.com</u> Jose Hernandez <u>jrh2013sah@gmail.com</u> Juli Sullivan <u>jsullivan@hilinehomes.com</u> Kitsap County Health District, MS-30 Kitsap County Public Works Dept., MS-26 DCD Staff Planner: Tashs Santos 14



