



Hearing Examiner Staff Report and Recommendation

Report Date: June 6, 2024
Hearing Date: June 13, 2024

Application Submittal Date: July 10, 2023
Application Complete Date: August 21, 2023

Project Name: Harris – Conditional Use Permit for Accessory Dwelling Unit (CUP-ADU)
Type of Application: Type III CUP-ADU
Permit Number: 23-03241

Project Location

5500 Antler Pl NW
Seabeck, WA 98380
Commissioner District 3

Assessor's Account

312501-1-005-1004

Applicant/Owner of Record

Rebecca & Robert Harris
5550 Antler Pl NW
Seabeck, WA 98380

Recommendation Summary

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

VICINITY MAP



1. Background

The existing accessory structure was issued an after-the-fact permit (19-05458) for an “accessory structure home office”. Recent MLS listings advertised the property as selling with an “ADU/MIL/Guesthouse”. Current owners Rebecca and Robert Harris (hereafter, “the Applicants”) are required to get an after-the-fact CUP to use the accessory structure as a dwelling unit. Per Kitsap Parcel Search, there is an existing one-story residence (1,776 square feet with an unfinished basement, and a detached garage (1,296 square feet), both built in 1997. The accessory structure was built in 2008 and is 520 square feet. Per Kitsap County Code (KCC) section 17.415.015 B.3.b, an ADU proposed outside of an Urban Growth Area (UGA) boundary requires a Conditional Use Permit (CUP). The project site is located outside of a UGA; therefore, a CUP approval is required.

2. Project Request

The Applicants seek approval for a Conditional Use Permit (CUP) an after-the-fact (ATF) detached stick-built, rambler style, accessory dwelling unit. The ADU is approximately 5 feet from the primary dwelling and is 520 square feet in size. The primary dwelling unit is 1,776

square feet. This permit is the result of a 2019 Code Compliance case as the structure was found to be unpermitted.

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 October 13, 2023. A Determination of Nonsignificance (DNS) was issued on March 7, 2024.

The SEPA appeal period expired March 21, 2024. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The parcel is rectangular in shape and approximately 80% wooded with the remaining portion as lawn and hard surfaces from existing structures and a driveway including off-street parking. Kitsap Parcel Search shows the parcel as about 50% encumbered by high erosion hazard and high landslide hazard areas. According to the Kitsap County Assessor, the parcel is 4.98 acres. Existing development is located primarily in the southern half of the property and consists of a primary SFR, a detached garage, a cabin/ADU, residential landscape and driveway.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Protection Zone: RP	Standard	Proposed
Minimum Density	NA	No change
Maximum Density	1 du/5 acres	
Minimum Lot Size	5 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	NA	NA

Minimum Lot Depth	NA	NA
Maximum Height	35 feet	3 stories, <35 feet
Maximum Impervious Surface Coverage	85%	~196,240 or 64%
Maximum Lot Coverage	NA	NA

Applicable footnotes: NA

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50 feet	360 feet
Side (North)	20 feet	282 feet
Side (South)	20 feet	27 feet
Rear (East)	20 feet	226 feet

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Single-family residence	Rural Protection (RP)
South	Single-family residence	RP
East	Single-family residence	RP
West	Single-family residence	RP)

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	Central Kitsap Fire & Rescue
School	Central Kitsap School District

5. Access

Access to the parcel is from Antler Place NW.

6. Site Design

The parcel is rectangle shaped and mostly treed around the perimeter. Parcel has slopes throughout the property.

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 (amended in 2018 and 2020).

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)
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 19 Exhibits.

Exhibit #	Document	Dated	Date Received / Accepted
1	Staff Report	06/06/2024	
2	Geotechnical Report	07/03/2023	07/26/2023
3	Health District Building Site Application (BSA)	05/03/2022	07/26/2023
4	Photos of Home		07/26/2023
5	SEPA Checklist	05/2023	07/26/2023
6	SFR Floor Plan Lower	06/2022	07/26/2023
7	SFR Floor Plan Main	06/2022	07/26/2023
8	Site Plan	05/03/2022	07/26/2023
9	Stormwater Worksheet		07/26/2023
10	Submission	07/11/2023	07/26/2023
11	Water Availability Letter Waiver		07/26/2023
12	Notice of Application	10/13/2023	
13	Stormwater Conditions Memo	10/16/2023	
14	ADU Floor Plan	06/2022	02/16/2024
15	SEPA Determination	03/07/2024	
16	Notice of Public Hearing	05/29/2024	
17	Certification of Public Notice	06/04/2024	

18	Staff Presentation	06/13/2024	
19	Hearing Sign In	06/13/2024	

9. Public Outreach and Comments

The Notice of Application was sent out on October 9, 2023. No comments were received.

10. Analysis

a. Planning/Zoning

Kitsap County Code 17.415.015.B: In order to encourage the provision of affordable housing, an accessory dwelling unit (ADU), detached, located outside an urban growth area shall meet the following criteria:

1. Only one ADU shall be allowed per lot;

Staff Comment: Only one ADU is developed on this lot.

2. Owner of the property must reside in either the primary residence or the ADU;

Staff Comment: The property owner resides in the primary residence.

3. The ADU shall not exceed fifty percent of the square footage of the habitable area of the primary residence or nine hundred square feet, whichever is smaller. Dimensions are determined by interior measurements;

Staff Comment: The primary residence is 1,776 square feet, fifty percent of which is 888 square feet. The ADU is 520 square feet, which is less than fifty percent of the primary residence.

4. 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);

Staff Comment: The ADU is located approximately 5 feet from the primary residence, which is less than one hundred fifty feet.

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

Staff Comment: The ADU is designed to maintain the appearance of the primary residence, using similar roof pitch, siding and window hanging.

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

Staff Comment: The primary and accessory structures meet the setback requirements for the Rural Protection Zone.

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

Staff Comment: KPHD reviewed and approved the project.

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

Staff Comment: The ADU is not a mobile home nor a recreational vehicle.

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

Staff Comment: The ADU uses the same access as the primary residence, off Antler Pl NW. The ADU is supplied with additional off-street parking.

10. An ADU is not permitted on the same lot where an accessory dwelling unit, attached (ADU-A), exists.

Staff Comment: There is no attached ADU on the property.

b. Lighting

Lighting is not analyzed for ADU proposals.

c. Off-Street Parking

The property has paved driveway, vehicle navigation and parking areas, providing the required 4 parking spaces.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Single-Family (attached or detached)	3 per unit, 1 additional for ADUs	3 + 1 = 4	4
Total	4	4	4

d. Signage

Signage is not analyzed for this permit.

e. Landscaping

Landscaping is not required for this project.

Table 6 - Landscaping Table

	Required	Proposed
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Required Landscaping (Sq. Ft.) 15% of Site	NA	NA
Required Buffer(s) 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 required for this permit.

g. Design Districts/Requirements

No design/district requirements apply to this permit.

h. Development Engineering/Stormwater

Development Engineering has reviewed the proposal and finds the concept supportable in its approach to civil site development. These comments are based on a review of the Preliminary Drainage Report and Preliminary Engineering Plans accepted for review 07/26/2023, and as revised by additional materials accepted for review to Kitsap County Development Engineering.

i. Environmental

There was a Geotechnical Design Investigation Report submitted prepared by Envirotech Engineering dated July 3, 2023. The report recommendation “a 10 feet footing setback from the vegetation buffer, and a 20 feet setback from the top of the nearby descending slopes exceeding 30%.” The proposed ADU meets this setback requirement (Exhibit 2).

j. Access, Traffic and Roads

Concurrency: +1 Peak PM trip in TAZ 308. 1 ADU (210) Valid for 5 years.

k. Fire Safety

Customer has elected to install automatic sprinkler system to mitigate for not having fire department access. Automatic sprinkler system approval is required before signing off on framing inspection.

l. Solid Waste

Solid Waste was approved with no conditions.

m. Water/Sewer

Site has approved water and on-site sewage.

n. Kitsap Public Health District

Kitsap County Public Health District has reviewed and approved the proposal.

11. Review Authority

The Hearing Examiner has review authority for this application under KCC 21.04.100. 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. Powers of the Hearing Examiner are at KCC 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 request for be **approved**, subject to the following 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 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.
6. The accessory dwelling unit's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The existing size of the ADU is 520 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. 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 (ALQ) or guest house (GH) 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 into 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. 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. Building permits submitted for this development shall include construction plans and profiles for all roads, driveways, storm drainage facilities and

appurtenances. No construction shall be started prior to said plan acceptance.

21. Stormwater quantity control, quality treatment, and erosion and sedimentation control, as required for the development, shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Building Permit is deemed fully complete. If development meets the thresholds for engineered drainage design, 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 Building Permit Application.
22. If the project proposal is modified from that shown on the site plan approved for this permit application, Development Engineering will require additional review and potentially new conditions.
23. At building permit application, submit Kitsap County Public Works Form 1601 for issuance of a concurrency certificate, as required by Kitsap County Code 20.04.030, Transportation Concurrency.
24. 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 process, if a SDAP is not required. The need for and scope of bonding will be determined at that time.

c. Environmental

25. Project shall follow the recommendations of the Geotechnical Design Investigation Report prepared by Envirotech Engineering dated July 3, 2023.

d. Traffic and Roads

NA

e. Fire Safety

NA

f. Solid Waste

g. Kitsap Public Health District

26. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

Report prepared by:



6-4-24

Katharine Shaffer, Planning Supervisor

Date 6, 2024

Report approved by:



6-6-24

Scott Diener, Planning Manager

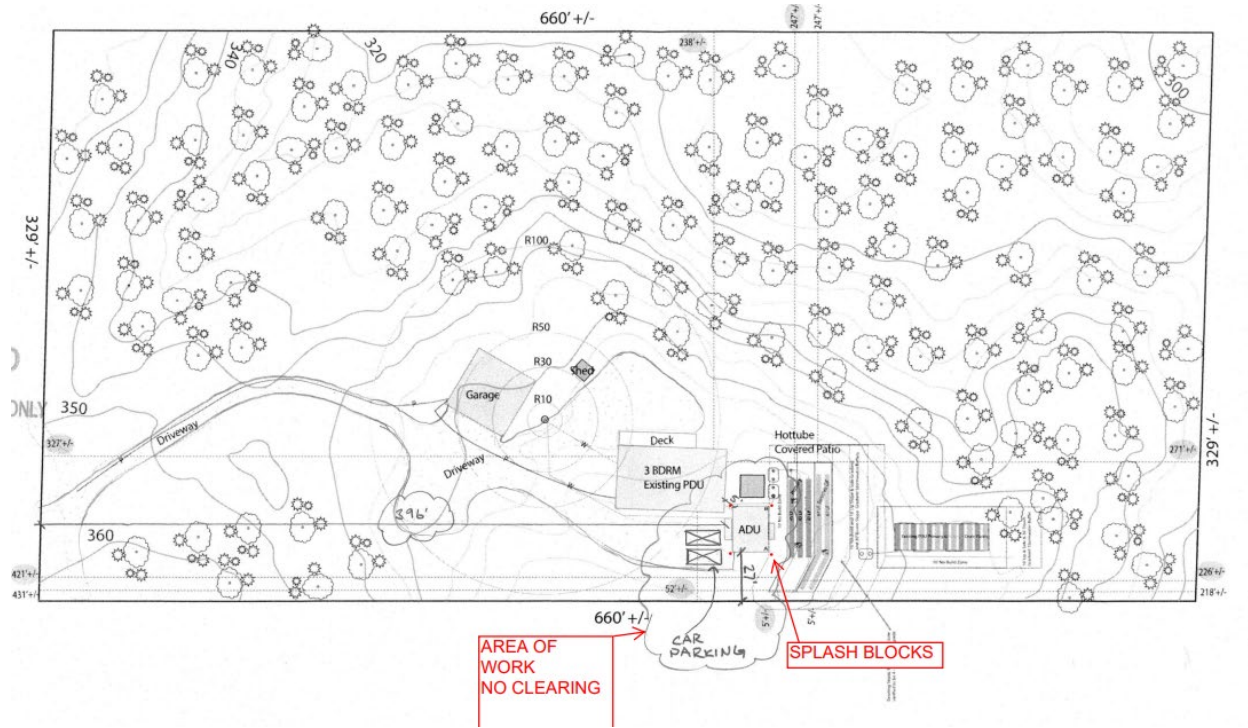
Date

Attachments:

Attachment A – Zoning Map

CC: Applicant: Rebecca and Robert Harris, becca52@aol.com
Authorized Agent: Mike Fortman, mike@tomherstad.com
Interested Parties: None
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer

Site Plan



Attachment A – Zoning Map

