



Notice of Hearing Examiner Decision

08/09/2024

To: Interested Parties and Parties of Record

RE: Project Name: EDDINGTON - Conditional Use Permit for Accessory Dwelling
Applicant: Michael and Mya Eddington
7294 SE Snowy Way
Port Orchard, WA 98367.
Application: Conditional Use Permit – Accessory Dwelling Unit
Permit Number: 23-05542

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 23-05542: EDDINGTON - Conditional Use Permit for Accessory Dwelling – CUP-ADU, subject to the conditions outlined in this Notice and included Decision.**

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:
<https://www.kitsap.gov/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review by contacting the Department of Community Development; if you wish to view the case file or have other questions, please contact help@kitsap1.com or (360) 337-5777.

CC: **Applicant/Owner:** MYA DEBORAH & MICHAEL JOSEPH EDDINGTON, 7294 SE SNOWY WAY PORT ORCHARD, WA 98367
Authorized Agent: Tia Schwarz, tia@fasttrackci.com
Interested Parties:
None
Prosecutor's Office
Assessor's Office
DCD
Kitsap Sun

Health District
Public Works
Parks
Navy
DSE
Kitsap Transit
South Kitsap Fire District
South Kitsap School District
Puget Sound Energy
Point No Point Treaty Council
Skokomish Tribe
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
WA Dept of Archaeological Historic Preservation
WA Dept of Natural Resources
WA Dept of Fish & Wildlife
WA Dept of Transportation/Aviation
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Wetland Review
WA State Dept of Transportation

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

RE: Michael and Mya Eddington Accessory Dwelling Unit (CUP – ADU) File No. 23-05542	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.

INTRODUCTION

Michael and Mya Eddington request a Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) at 7294 SE Snowy Way Port Orchard. The application is approved subject to conditions.

ORAL TESTIMONY

Izzy Lotz, Associate Planner, summarized the staff report. No other testimony was presented.

EXHIBITS

Exhibits 1-19 listed in the Index to the Record prepared by County staff were admitted during the hearing.

FINDINGS OF FACT

Procedural:

1. Applicant. Michael and Mya Eddington, 7294 SE Snowy Way Port Orchard, WA 98367.
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on July 25, 2024.

Substantive:

1 3. Site/Proposal Description. Michael and Mya Eddington request a
2 Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) at
3 7294 SE Snowy Way Port Orchard. The proposed ADU will be 900 square feet and
4 approximately 15.3 feet from a 1,892-square-foot existing single-family residence. /
5 569 square foot garage will be attached to the ADU. The proposed ADU will be the
6 only ADU on subject lot. The owners of the property, Kenneth and Jennifer Jordan
7 will reside in the ADU. The proposed ADU will maintain the appearance of the
8 principal residence by having the same pitched roof and siding as the primary
9 residence. The Kitsap County Health District approved the site for additional sewage
10 and water supply. The proposed ADU will use the same driveway entering the property
11 that the primary residences uses

12 4. Characteristics of the Area. The subject property is bordered on all sides by
13 parcels that are developed with Rural Residential zoned single-family homes on heavily
14 wooded lots each several acres in size as shown in the aerial photograph of the staff
15 report and the att. B zoning map.

16 5. Adverse Impacts. No significant adverse impacts are anticipated from the
17 proposal. Impacts are more directly addressed as follows:

18 a. Off-Street Parking. KCC 17.49.030 requires three (3) parking off-street spaces
19 per single-family residence and one (1) parking space for an ADU. The
20 Applicant proposes four off-street parking spaces as required.

21 b. Stormwater. Development Engineering has reviewed the land use proposal and
22 finds the concept supportable in its approach to civil site development. This
23 conclusion was based on a review of the Applicant's stormwater worksheet, Ex.
24 11. Condition No. 20 requires that stormwater design conforming to County
25 regulations be submitted during building permit review.

c. Critical Areas. According to the DNS, Ex. 15, there are no critical areas on-
site.

d. Access, Traffic, Roads. The ADU uses the same access as the primary
residence via an existing driveway that intersects with private road SE Snowy
Way.

e. Fire Safety. Kitsap County Building and Fire Safety Division reviewed and
approved the ADU with conditions.

f. Water/Septic Water and Septic were approved by the Kitsap County Health
District.

g. Compatibility. The proposal is compatible with surrounding uses. As
identified in Finding of Fact No. 4, surrounding uses are all heavily wooded
residential on large lots. The proposed ADU will also be surrounded by
numerous trees on all sides as shown in the aerial photograph of the staff report.
The increase in density is not likely to make a significant aesthetic difference
to surrounding neighbors. The ADU provides for similar appearance to the

1 primary residence – the staff report notes that the ADU is designed to maintain
2 the appearance of the primary residence, using similar roof pitch and siding.

3 4 CONCLUSIONS OF LAW

5 **Procedural:**

6 1. Authority of Hearing Examiner. KCC 17.550.030 authorizes the hearing
7 examiner to issue decisions on applications for conditional use permits.

8 **Substantive:**

9 2. Zoning Designation. The property is currently zoned Rural Protection (RP).

10 3. Review Criteria. KCC 17.410.042 requires a conditional use permit for
11 detached ADUs in the RP zone. KCC 17.550.030A governs the criteria for conditional
12 use permits. Pertinent criteria are quoted below and applied via corresponding
conclusions of law.

13 **KCC 17.550.030.A:** *The hearing examiner may approve, approve with conditions, or*
14 *deny a hearing examiner conditional use permit. Approval or approval with conditions*
may be granted only when all the following criteria are met:

15 **KCC 17.550.030.A.1:** *The proposal is consistent with the Comprehensive Plan;*

16 4. Criterion met. The criterion is met. The proposed ADU provides the ability to
17 create an affordable housing unit which is a goal supported by several policies in the
18 Comprehensive Plan in a manner consistent with the zoning established for the subject
19 property. The proposal is also found consistent with the Comprehensive Plan for the
reasons identified in Section 7 of the staff report (Exhibit 1).

20 **KCC 17.550.030.A.2:** *The proposal complies with applicable requirements of this*
21 *title;*

22 5. Criterion met. The criterion is met. The proposal conforms to the County's zoning
23 code as detailed in Section 4 and 10 of the staff report (Exhibit 1). Staff planning and
24 public works staff have reviewed the proposal to ensure conformance to the County's
25 zoning code for this level of review. The results of that work have been implemented
in detailed conditions of approval, adopted by this decision. Nothing in the record
suggests any outstanding compliance issues. More detailed compliance will be
required during the building and civil permit review.

1 The primary issue of zoning compliance is adherence to KCC 17.415.015B, which
2 adopts standards tailored to detached ADUs outside urban growth areas. Pursuant to
3 those standards, only one ADU is allowed per lot, the owner of the property must reside
4 in the primary residence or the ADU, the ADU shall not exceed 50% of the habitable
5 area of the primary residence, the ADU shall be located within 150 feet of the primary
6 residence unless involving a conversion of an existing structure such as that proposed,
7 the ADU shall be designed to maintain the appearance of the primary residence, all
8 setback requirements shall be met, all health district standards shall be met, ADUs may
9 not be mobile homes or recreational vehicles, and the ADU shall use the same access
10 as the primary residence and shall provide an additional parking space. The conditions
11 of approval recommended by staff require conformance to all of these standards. The
12 proposed design and site characteristics further establish conformance as detailed in
13 Findings of Fact No. 3 and 5.

14 **KCC 17.550.030.A.3.:** *The proposal will not be materially detrimental to existing or
15 future uses or property in the immediate vicinity; and*

16 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
17 5.

18 **KCC 17.550.030.A.4:** *The proposal is compatible with and incorporates specific
19 features, conditions, or revisions that ensure it responds appropriately to the existing
20 character, appearance, quality or development, and physical characteristics of the
21 subject property and the immediate vicinity.*

22 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
23 5g and via its required conformance to the ADU standards of KCC 17.415.015B.

24 DECISION

25 Based upon the conclusions of law above, the conditional use permit application is
approved subject to the following conditions:

26 **Planning/Zoning**

- 27 1. All required permits shall be obtained prior to commencement of land
28 clearing, construction and/or occupancy.
- 29 2. The accessory dwelling unit is subject to the payment of impact fees.
30 Impact fees must be paid at time of permit issuance, or if deferred, must
31 be paid prior to final inspection. No certificate of occupancy will be
32 granted until all impact fees are paid.
- 33 3. Any proposed modification (not including cosmetic work such as
34 painting, papering and similar finish work), remodel or expansion of the
35 accessory dwelling unit building, regardless of whether a building permit

1 is required, shall be reviewed by the Department of Community
2 Development and granted approval prior to such modification,
expansion, construction and/or issuance of a building permit.

- 3 4. Only one accessory dwelling unit shall be permitted on the subject
4 property.
- 5 5. The owner of the property must reside in either the primary residence or
6 the accessory dwelling unit and only one of the structures may be rented
at any one time.
- 7 6. The accessory dwelling units' (ADU) habitable area shall not exceed
8 50% of the primary residence or 900 square feet, whichever is smaller.
9 The proposed size of the ADU is 900 square feet. Any future expansion
10 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.
- 11 7. The accessory dwelling unit shall be designed to maintain the
12 appearance of the primary residence.
- 13 8. No mobile home or recreational vehicle shall be allowed as an accessory
14 dwelling unit.
- 15 9. The accessory dwelling unit shall use the same side street entrance as the
16 primary residence and shall provide one additional off-street parking
space.
- 17 10. An attached accessory dwelling unit (formerly called accessory living
18 quarters) or guest house is not permitted on the same lot unless the
accessory dwelling unit is removed and the ADU-attached or GH
19 complies with all requirements imposed by the Kitsap County Code.
- 20 11. A property with a primary residence and an accessory dwelling unit
21 cannot be segregated to create two separate legal lots unless it complies
with all subdivision, zoning and density requirements in place at the time
22 of a complete subdivision application.
- 23 12. The accessory dwelling unit cannot be sold separately from the primary
residence unless it has legally been segregated onto its own lot.
- 24 13. The recipient of any conditional use permit shall file a Notice of Land
25 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.

1 The Notice of Land Use Binder shall serve both as an acknowledgment
2 of an agreement to abide by the terms and conditions of the conditional
3 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.

4 14. The uses of the subject property are limited to the uses proposed by the
5 applicant and any other uses will be subject to further review pursuant to
6 the requirements of the Kitsap County Code. Unless in conflict with the
7 conditions stated and/or any regulations, all terms and specifications of
8 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.

9 15. The authorization granted herein is subject to all applicable federal, state,
10 and local laws, regulations, and ordinances. Compliance with such laws,
11 regulations, and ordinances is a condition to the approvals granted and is
12 a continuing requirement of such approvals. By accepting this/these
13 approvals, the applicant represents that the development and activities
14 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.

15 16. The decision set forth herein is based upon representations made and
16 exhibits contained in the project application. Any change(s) or
17 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 17. This Conditional Use Permit approval shall automatically become void if
19 no development permit application is accepted as complete by the
20 Department of Community Development within four years of the Notice
of Decision date or the resolution of any appeals.

21 18. Any violation of the conditions of approval shall be grounds to initiate
22 revocation of this Conditional Use Permit.

23 19. Building permits submitted for this development shall include
24 construction plans and profiles for all roads, driveways, storm drainage
25 facilities and appurtenances. No construction shall be started prior to said
plan acceptance.

Development Engineering

20. The information provided demonstrates this proposal is a Small Project

1 as defined in Kitsap County Code Title 12 and as such is required to
2 comply with Minimum Requirements #1-5. Drainage review will be
required as part of the Building Permit application.

3 21. Stormwater quantity control, quality treatment, and erosion and
4 sedimentation control shall be designed in accordance with Kitsap
5 County Code Title 12 effective at the time this permit application was
6 deemed fully complete. The submittal documents shall be prepared by a
7 civil engineer licensed in the State of Washington. The fees and
submittal requirements shall be in accordance with Kitsap County Code
in effect at the time of SDAP application, or Building Permit if an SDAP
is not required.

8 22. If the project proposal is modified from that shown on the site plan
9 approved for this permit application, Development Engineering will
require additional review and potentially new conditions.

10 **Environmental**

11 None

12 **Traffic and Roads**

13 None

14 **Fire Safety**

15 23. Based on the applicant's response, an automatic fire sprinkler system
will be installed in the proposed ADU.

16 **Solid Waste**

17 None

18 **Kitsap Public Health District**

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

20 Dated this 8th day of July 2024.

21 *Phil Olbrechts*

22 _____
Phil Olbrechts,
Kitsap County Hearing Examiner

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24 **Appeal Right and Valuation Notices**

25 Pursuant to KCC 21.04.100 and KCC 21.04.110, this conditional use permit decision is
a final land use decision of Kitsap County and may be appealed to superior court within

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21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C RCW.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.