



## Notice of Hearing Examiner Decision

2/4/2025

To: Interested Parties and Parties of Record

RE:           Project Name: Sand - Conditional Use for Accessory Dwelling Unit  
                  Applicant: Thea Sand  
                                  24 SW Terrace Ln  
                                  Port Orchard, WA 98367  
                  Application: CUP-ADU  
                  Permit Number: 24-02526

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit 24-02526: Sand - Conditional Use for Accessory Dwelling Unit – 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](mailto:help@kitsap1.com) or (360) 337-5777.

CC: Applicant/Owner: Thea Sand, [TSAND44@YAHOO.COM](mailto:TSAND44@YAHOO.COM)

Interested Parties:

None

Geologist: Sound Geotechnical, PLLC; PO Box 2704 VASHON, WA 9807

Tenant: Trista Hoxie, *NO CONTACT INFORMATION PROVIDED*

Health District

Public Works

Parks

Navy

DSE

Kitsap Transit  
Central Kitsap Fire District  
Central Kitsap School District  
Puget Sound Energy  
Water Purveyor: KPUD1  
Sewer Purveyor: KPUD1  
Point No Point Treaty Council  
Suquamish Tribe  
Skokomish Tribe  
Port Gamble S'Klallam Tribe  
Squaxin Island Tribe  
Puyallup Tribe  
Dept of Archaeological Historic Preservation  
WA Dept of Fish & Wildlife  
WA Dept of Natural Resources  
WA Dept of Transportation/Aviation  
WA State Dept of Ecology-SEPA  
WA State Dept of Ecology-Wetland Review  
WA State Dept of Transportation  
Prosecutor's Office  
Assessor's Office  
DCD  
Kitsap Sun

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**BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY**

Emily Terrell, Hearing Examiner

RE: Thea Sand  Accessory Dwelling Unit (CUP – ADU)  File No. 24-02526	<b>FINDINGS OF FACT, CONCLUSIONS  OF LAW AND DECISION</b>
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**INTRODUCTION**

Thea Sand requests a Conditional Use Permit to construct a 792sf detached Accessory Dwelling Unit (ADU) at 24 SW Terrace Lane, Port Orchard. The application is approved subject to conditions.

**ORAL TESTIMONY**

Kitsap County Planner Kate Millward presented the staff report. There were no other comments.

**EXHIBITS**

Exhibits 1-18 listed in the Index to the Record prepared by County staff were admitted during the hearing.

**FINDINGS OF FACT**

**Procedural:**

1. Applicant. Thea Sand, 24 SW Terrace Lane, Port Orchard, WA 98366.
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on January 23, 2025.

**Substantive:**

3. Site/Proposal Description. Thea Sand requests a Conditional Use Permit to construct a 792sf detached Accessory Dwelling Unit (ADU) at 24 W Terrace Lane,

1 Port Orchard. The subject site is 2.12 acres. The ADU will be located approximately  
2 121 feet from the primary residence where it will be accessed using the existing  
3 driveway. The project site is located outside of a UGA. The ADU will reflect the  
4 appearance of the primary residence with similar roof style, siding, orientation of  
5 siding, color scheme and windows. Water is provided by Kitsap PUD #1 (Ex. 12).  
6 Sewer is provided by Kitsap County. The Kitsap Public Health District has reviewed  
7 and approved the proposal for provision of water and sewer (Ex. 4). The ADU will use  
8 the same entrance as noted on the Site Plan.

9  
10 4. Characteristics of the Area. The subject property is bordered on all sides by  
11 lots that are developed with single-family residences.

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

- 14 a. Off-Street Parking. KCC 17.490.030 requires three (3) off-street parking spaces  
15 per single-family residence and one (1) parking space for an ADU. The  
16 Applicant proposes four off-street parking spaces as required.
- 17 b. Stormwater. Development Services and Engineering reviewed and accepts the  
18 concepts contained in this preliminary submittal (Ex. 11) and requires the  
19 conditions stated in Section 13 of the staff report as an element of the land use  
20 approval.
- 21 c. Critical Areas. There is an area of 15 to 30 percent slopes on the property. The  
22 applicant submitted a geotechnical report prepared by Sound Geotechnical,  
23 PLLC (Ex. 3). The new ADU will be located 80 feet from the edge of the slope.  
24 Other than locating the ADU away from the slope, there were no other  
25 recommendations provided by the geotechnical engineer.
- d. Access, Traffic, Roads. The proposed ADU will use the same driveway entering  
the property that the primary residences uses.
- e. Fire Safety. Kitsap County Building and Fire Safety Division reviewed and the  
ADU and found no need for any conditions.
- f. Water/Septic. The Kitsap County Health District approved the site for  
additional sewage and water supply.
- g. Compatibility. The proposal is compatible with surrounding uses. As identified  
in Finding of Fact No. 4, surrounding uses are all single-family residential. The  
proposed design is similar to the primary residence so no adverse aesthetic  
impacts are anticipated.

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## CONCLUSIONS OF LAW

**Procedural:**

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

**Substantive:**

2. Zoning Designation. The property is currently zoned Rural Residential (RR).

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

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

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

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

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

5. Criterion met. The criterion is met. The proposal conforms to the County's zoning code as detailed in Section 4 and 10 of the staff report (Exhibit 1). Staff planning and public works staff have reviewed the proposal to ensure conformance to the County's 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.

The primary issue of zoning compliance is adherence to KCC 17.415.015B, which adopts standards tailored to detached ADUs outside urban growth areas. Pursuant to those standards, only one ADU is allowed per lot, the owner of the property must reside in the primary residence or the ADU, the ADU shall not exceed 50% of the habitable area of the primary residence, the ADU shall be located within 150 feet of the primary

1 residence unless involving a conversion of an existing structure such as that proposed,  
2 the ADU shall be designed to maintain the appearance of the primary residence, all  
3 setback requirements shall be met, all health district standards shall be met, ADUs may  
4 not be mobile homes or recreational vehicles, and the ADU shall use the same access  
5 as the primary residence and shall provide an additional parking space. The conditions  
6 of approval recommended by staff require conformance to all of these standards. The  
7 proposed design and site characteristics further establish conformance as detailed in  
8 Findings of Fact No. 3 and 5.

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

11 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.  
12 5.

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

17 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.  
18 5g and via its required conformance to the ADU standards of KCC 17.415.015B.

## 19 **DECISION**

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

### 22 **Planning/Zoning**

- 23 1. All required permits shall be obtained prior to commencement of land  
24 clearing, construction and/or occupancy.
- 25 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.

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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 (ADU) habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 792 square feet.
  7. 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 (ADU) 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. No mobile home or recreational vehicle shall be allowed as an accessory dwelling unit.
  11. The accessory dwelling unit shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
  12. An attached accessory dwelling unit (formerly called accessory living quarters) or guest house is not permitted on the same lot unless the accessory dwelling unit is removed and the ADU-attached or GH complies with all requirements imposed by the Kitsap County Code.
  13. 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.
  14. The accessory dwelling unit cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.
  15. 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

1 terms and conditions of the conditional use permit and as a notice to  
2 prospective purchasers of the existence of the permit. The Binder shall be  
prepared and recorded by the Department at the applicant's expense.

3 16. The uses of the subject property are limited to the uses proposed by the  
4 applicant and any other uses will be subject to further review pursuant to  
5 the requirements of the Kitsap County Code. Unless in conflict with the  
6 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.

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

14 18. The decision set forth herein is based upon representations made and  
15 exhibits contained in the project application. Any change(s) or  
16 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.

17 19. This Conditional Use Permit approval shall automatically become void if  
18 no development permit application is accepted as complete by the  
19 Department of Community Development within four years of the Notice  
of Decision date or the resolution of any appeals.

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

22 **Development Engineering**

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

25 22. 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

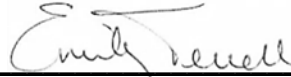


1 Building Permit is deemed fully complete. If development meets the  
2 thresholds for engineered drainage design, the submittal documents shall  
3 be prepared by a civil engineer licensed in the State of Washington. The  
fees and submittal requirements shall be in accordance with Kitsap County  
Ordinances in effect at the time of Building Permit Application.

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

6 24. The project is subject to the conditions of the Geotechnical report  
7 associated with this permit and on file at the Department of Community  
8 Development.

9 Dated this 4<sup>th</sup> day of February 2025.

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Emily Terrell  
12 Kitsap County Hearing Examiner

13 **Appeal Right and Valuation Notices**

14 Pursuant to KCC 21.04.100 and KCC 21.04.110, this conditional use permit decision is  
15 a final land use decision of Kitsap County and may be appealed to superior court within  
16 21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C  
RCW.

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