



Notice of Administrative Decision

Date: 11/23/2022

To: Tiffin, Artumus rednek81@gmail.com
Interested Parties and Parties of Record

RE: Permit Number: Permit #21-02309
Project Name: BEAUTY BY CHRISTEENNA - SALON - Home Business
Type of Application: Home Business

The Kitsap County Department of Community Development has **APPROVED** the land use application for **Permit #21-02309 BEAUTY BY CHRISTEENNA - SALON - Home Business**, **subject to the conditions outlined in this Notice and included Staff Report.**

THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS TIMELY APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.

The written appeal shall be made on, or attached to, an appeal form found on DCD's website: <https://www.cognitofirms.com/KitsapCounty1/RequiredPermitQuestionnaireAppealObjectionOfAnAdministrativeDecision>.

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: Interested Parties:
Eby, John and Sharon
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Kim Shadbolt
DCD File #21-02309



Administrative Staff Report

Report Date: 11-18-2022

Application Submittal Date: 12-17-2021

Application Complete Date: 4-28-2022

Project Name: Beauty by Christeena

Type of Application: Type II Minor Home Business

Permit Number: 21-02309



Project Location

12711 Wye Lake Blvd.
Port Orchard, WA 98366

Assessor's Account #

4858-001-139-0008

Applicant/Owner of Record

Artumus & Christeena Tiffin

Decision Summary

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

The application is vested to and references code in effect at time of complete submittal. The current Title 17 Zoning was updated in June 2022 and this updated code is not the code this project is vested to. For this evaluation and decision, please see T 17 adopted in 2016 via Ordinance 534-2016.

1. Background

Applicant proposes to operate a hair salon within a detached accessory structure adjacent to the primary residence. The business offers haircuts only. The business will operate Monday-Friday by appointment only. The owner of the business (Christeena Tiffin) is the sole proprietor, no employees proposed. No changes are proposed to the residence and the property is zoned Rural Residential (RR).

2. Project Request

Applicant requests a minor home business approval, Type II Review.

3. SEPA (State Environmental Policy Act)

Pursuant to WAC 197-11-800(6)(b), the proposal for a home business is exempt from SEPA review. KCC 22.600.170 notes that in the Shoreline Residential designation that SFRs, and incidental, secondary or accessory uses are exempt pursuant to KCC 22.500.100.

4. Physical Characteristics

The waterfront property is approximately .23 acres in size and is rectangular in shape.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Rural Protection Zone: Rural Protection	Standard	Proposed
Minimum Density	NA	NA. Request is not for a land division
Maximum Density	1 du/10 acres	
Minimum Lot Size	10 acres	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	140	NA
Minimum Lot Depth	140	NA
Maximum Height	35 feet	NA
Maximum Impervious Surface Coverage	NA	NA
Maximum Lot Coverage	NA	NA

Applicable footnotes: None

Staff Comment: No building permit is being requested as part of this application.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (West)	50 feet	Existing
Side (North)	20 feet, 5 feet for accessory structures	Existing
Side (South)	20 feet, 5 feet for accessory structures	Existing
Rear (East)	20 feet, 5 feet for accessory structures	Existing

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	Single-family residence	Rural Residential (RR)

Table 4 - Public Utilities and Services

	Provider
Water	Well
Power	Puget Sound Energy
Sewer	Septic
Police	Kitsap County Sheriff
Fire	South Kitsap Fire & Rescue
School	South Kitsap School District #402

5. Access

Site takes direct access off Wye Lake Blvd.

6. Site Design

The business will take place within an existing accessory building and the existing driveway is sufficient for parking for the proposed use as well as the residential use.

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 Goal 14

Foster rural business and business opportunities on designated commercial and industrial lands in the rural area, while balancing protection of rural character.

Land Use Policy 57

Unlimited expansion of commercial and industrial uses in the rural areas is not appropriate. Accordingly, only limited new commercial and industrial uses will be permitted in the rural areas. Such commercial and industrial uses must be consistent with the Growth Management Act and Comprehensive Plan requirements for rural areas, preserve Kitsap County's rural character, and shall not allow urban type uses or services.

Land Use Policy 59

Allow or conditionally allow home-based cottage-type businesses and industries in the rural areas that do not negatively affect rural level of service or rural character.

Economic Development Goal 1

Promote a healthy and diverse economy that provides for a strong and diverse tax base, encourages business formation, retention, and expansion; creates industrial and professional business and employment opportunities to attract new business to the County.

Economic Development Policy 3

Provide a diverse mix and appropriate range of commercial, industrial and business and uses that will encourage economic activity capable of providing living-wage jobs and reasonably scaled to the needs of the community.

Economic Development Policy 14

Recognize the importance of excellent schools as a method to attract and retain businesses and educate a skilled workforce.

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

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
Site Plan w/ Driveway and Parking	April 20, 2021
Required Permit Questionnaire	April 26,2021
Building Clearance	June 7, 2021

9. Public Outreach and Comments

The Notice of Application was published 9-13-2022.

Issue Ref. No.	Summary of Concern (See corresponding responses in the next table)	Comment Letter Exhibit Reference No.
1	<p>Email from Jeff Morgan 8-2-21.</p> <p>In any land use application, the burden of proof is on the applicant to provide satisfactory evidence that the application complies with the Kitsap County Code (KCC) requirements. In this case the applicant has not demonstrated compliance with the Kitsap County Code. The applicant has failed to demonstrate compliance with:</p> <ul style="list-style-type: none"> • Shoreline Master Program – The Shoreline Master Program does not allow non-water dependent commercial use • Zoning criteria for parking <ul style="list-style-type: none"> ○ Number of spaces required ○ Dimensional requirements of parking spaces • Zoning criteria for Home Business. <ul style="list-style-type: none"> ○ Specifically, Provisions applying to special uses - infringement on neighbors KCC 17.410. 060B.1c.iv ○ Installation of fence not on property line 	

- Kitsap County Right-of-Way issues
 - Site distance
 - Violation of RCW 70.54.090

BACKGROUND

The subject application is a result of a formal complaint. The applicant began operation of its personal service facility (Hairdresser) without seeking the required land use approvals. The applicant did not provide adequate parking and or signage on the property to indicate where its clients could park. As a result, the applicant's clients parked without regard to adjacent properties greatly impacting the neighboring property. Given that the applicant failed to resolve the parking issue with its neighbor the complaint was filed.

SHORELINE MASTER PROGRAM

Proposed Use not consistent with SMP and fails to comply with the CUP Criteria

The applicant has failed to submit a Shoreline Permit Application for the proposed use. The subject property is located within Kitsap County shoreline jurisdiction ¹ of the Shoreline Master Program. The subject property is designated as Shoreline Residential by the Shoreline Master Program. The Use and Modifications Matrix (KCC 22.600.105) of the Shoreline Master Program indicates that non-water dependent commercial uses ² are prohibited in the Shoreline Residential designation subject to footnote 6. Kitsap County Code (KCC) 22.600.105 Footnote 6 notes "See commercial development (Section 22.600.130) for allowances with a CUP." KCC 22.600.130 (A) and (A)(2) provides that where commercial development is proposed in the shoreline residential designation, that non-water-oriented uses are prohibited except CUP for uses described in Section 22.600.130 (B)(8).

Again, KCC Chapter 22.600.130 (B)(8) prohibits non-water-oriented commercial uses unless the following criteria can be met:

<p>“a. The use is on land designated commercial by the Kitsap County Comprehensive Plan and existing on the effective date of this program;</p> <ol style="list-style-type: none">1. The use is on land designated commercial by the Kitsap County Comprehensive Plan and is physically separated from the shoreline by another property or public right-of-way.2. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Act’s objectives, such as providing ecological restoration and public access. Water-dependent components of the project and ecological restoration and access shall be improved prior to occupancy.3. The use is on a site where navigability is severely limited and the use would provide a significant public benefit with respect to the Act’s objectives, such as providing public access and ecological restoration. <p>Non-water-oriented commercial uses meeting these criteria must obtain a CUP.”</p> <p>Unlike the zoning ordinance that provides a loophole (Footnote 53 to the Use Table) for commercial uses in the Rural zone, the Shoreline Master Program does not provide such a loophole. In fact, the Shoreline Master Program clearly indicates that non-water dependent commercial development is not allowed. Reviewing the proposal against the Conditional Use Permit criteria, one should arrive at the following conclusions. The subject property is not designated as commercial on the Kitsap County Comprehensive Plan, therefore, criteria (a) and (b) cannot be met. The proposal is not part of a mixed-use project that includes water-dependent uses; therefore, criteria (c) cannot be met. The proposed use would not provide a significant public benefit; therefore, criteria (d) cannot be met. Since the use is non-water-oriented, is a commercial use, and cannot meet the criteria to obtain a Conditional Use Permit then the proposal must be denied.</p> <p><u>Proposed use is not consistent with purpose of Shoreline Master Program</u></p> <p>A common theme is carried through the Shoreline Master Program – limit commercial development on shorelines of</p>	
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	<p>Kitsap County. This theme/policy is articulated in the Purpose statement within KCC 22.200.115 (A). The purpose of the Shoreline residential designation is “To accommodate residential development and appurtenant structures that are consistent with this program, and to provide appropriate public access and recreational uses.” The section further articulates (KCC 22.200.115 (C) (4)) that “Commercial development should be limited to water-oriented uses. Water-oriented³ includes water-dependent⁴, water-related⁵ and water-enjoyment uses.⁶” The applicant currently enjoys the right to use their property for residential purposes. However, the proposal is not water-dependent, water-related nor a water-enjoyment use. The proposal must be denied.</p> <p>PARKING</p> <p>The subject application is unclear as to how the applicant intends to comply with the off-street parking requirements of Kitsap County Code. The application documents provide conflicting information. Further, the applicant has not demonstrated compliance with off-street parking requirements with respect to the number of spaces required and with the dimensional requirements of the required spaces. Additionally, the applicant has not correctly calculated the parking requirements for the use. In no way has the applicant provided satisfactory evidence that they have met off-street parking requirements.</p> <p><u>Conflicting Information</u></p> <p>A review of the application materials for the land use approval (21-02309) indicates that the applicant has submitted a site plan (it appears this site plan is a portion of the application for an updated on-site sewage disposal system) that notes: “Existing Parking to be Removed” (see Figure 1). However, the applicant provides a “not to scale site plan” in its application for a Building Permit approval (21-02008) indicating that there are four parking spaces adjacent to and within Kitsap County Right-of-Way that are intended to meet the requirements for the proposed use (see Figure 2). This “not to scale site plan” does not provide any information regarding the dimensions of the parking spaces. In fact, the land use application does not provide any indication as to where parking is to be located and how the parking meets KCC except to indicate that there are two (2) un-dimensioned spaces in front of the former garage. Neither of these site plans comes close</p>	
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	<p>to demonstrating that the requirements for off-street parking have been met. Further, the applicant cannot rely on use of the County right-of-way to meet its parking requirement. The specific requirement in the Code is off-street parking. The applicant should be made to provide evidence as to how they will comply with the off-street parking requirements. A scaled site plan demonstrating compliance with off-street parking requirements must be provided in order to evaluate the impact of the proposal.</p>	
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Issue Ref. No.	Issue	Staff Response
1		<p>DCD will be approving this Home Business, provided the applicant is responsive to our request to show a complete parking plan. I have looked at your position below and have created a response that has been vetted by legal staff.</p> <p>DCD’s main argument is that the home business is “secondary” (or “accessory”) which is evaluated differently than “principle” or “primary” uses. KCC 17.110.345 <i>“Home business” means a commercial or industrial use (excluding retail) conducted within a dwelling, which use is clearly secondary to the use of the dwelling for residential purposes.</i> So it is in other words contemplated as incidental and accessory to the primary residential use (uses in the residential land use category are either primary or accessory).</p> <p>As to the Shoreline Master Program (SMP), KCC 22.600.170 notes that in the Shoreline Residential designation that SFRs, and by extension uses incidental, secondary or accessory, are exempt pursuant to KCC 22.500.100. Then there is the definition at KCC 22.150.525: <i>Residential development. Development for the purpose of human habitation. Residential development includes the construction or modification of one- and two-family detached structures, multifamily structures, condominiums, townhouses, mobile home</i></p>

	<p><i>parks, and other similar group housing, together with accessory dwelling units, accessory uses and structures common to residential uses. Residential development also includes the creation of new residential lots through the subdivision of land. Residential development does not include hotels, motels, bed and breakfasts, or any other type of overnight or transient housing or camping facilities.</i> As well, the minimal work done on the property for the home business does not meet the definition of “development” under KCC 22.150.230 or RCW 90.58.030(3)(a). KCC 22.500.100.C.3.a calls out the threshold for shoreline exemptions (currently \$7,047), and there is little chance this threshold is exceeded. As such another development permit beyond the Home Business Permit, such as a Shoreline Substantial Development Permit, is not required; Shoreline Conditional Use Permits are for non-water commercial uses and for unclassified uses (see KCC 22.500.100(D)(3)(g), WAC 173-27-030(4), and WAC 173-27-160), and since the residential use of the property is the primary use of the property, the home business is not considered a commercial non-water use.</p> <p>1.</p> <p>We believe it is defensible to argue that the residential use is primary and the home business accessory and thus allowed without another permit. Under the SMP, the primary use will still be a residential use that does not require permitting and the home business would be an accessory use and fall under the protection of residential use/development. This is also supported by the purpose of a home business code which is to simplify and allow small home businesses without too much expense.</p> <p>Jeff, please understand that DCD will defend this position as it needs to. To not do so would endanger the many different kinds of home businesses that many enjoy or want to enjoy out of their homes, in this case shoreline homes. It is noteworthy that it is already difficult to encourage application by existing unpermitted home business owners and owners-to-be, and adding additional expenses, time and permitting will only serve to further drive businesses away from permitting and underground (one of the elements of review for these is</p>
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		<p>the always-important life safety requirements). In short, we believe we have both a sound defense of our position and rational support of our permitting requirements.</p> <p>What I would encourage is a response to Kim Shadbolt and Joshua Bennett that identifies a real concern of the home business salon and proposes a reasonable condition. We certainly want to mitigate impacts without stifling what the code encourages (especially in an increasingly work-from-home culture). We wish you well on your decision-making.</p>
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10. Analysis

a. Planning/Zoning

A home business within the Rural Residential (RR) zone requires an Administrative Conditional Use Permit as specified in Kitsap County Code (KCC) Table 17.410.042.128, subject to footnotes 1 and 53. Footnote 1 indicates a home business is subject to compliance with Section 17.410.060 provisions applying to special uses. Footnote 53 further details the home businesses are subject to requirements of Section 17.410.060 (B). Moderate home businesses are required to meet the provisions in KCC 17.410.060 B.1. c.

Minor home businesses, as defined below, shall be permitted in all residential zones subject to approval by the director. Said approval is not transferable to any individual, future property owner or location:

1. Business uses shall be incidental and secondary to the dominant residential use.

Staff comment: The dominant use of the property is the single-family residence.

2. The residential character of the building shall be maintained, and the business shall be conducted in such a manner as to moderate any outside appearance of a business.

Staff comment: The business is conducted within single family residential building and all business activities will be conducted within this structure. No outdoor storage or outdoor activities are proposed.

3. The residence shall be occupied by the owner of the business.

Staff comment: The owner of the business will reside in the single-family residence.

4. The business shall not infringe upon the rights of the neighboring residents to enjoy the peaceful occupancy of their homes.

Staff comment: Based on the project proposal, all business activity is occurring within the existing residence and parking is on site. The use is not expected to adversely impact neighboring residents to keep them from enjoying the peaceful occupancy of their homes.

5. No more than two employees (or independent contractors), are allowed:

Staff comment: Owner of the business (Christeena Tiffin) a sole proprietor. No additional employees are proposed.

6. Nonilluminated signs not exceeding four square feet not exceeding four square feet, subject to a sign permit.

Staff comment: No signage is proposed.

7. No outside storage is allowed.

Staff comment: No outside storage is proposed.

8. In order to assure compatibility with the dominant residential purpose, the director may require,
 - a. Patronage by appointment
 - b. Additional off-street parking
 - c. Other reasonable conditions

Staff comment: Patronage is by appointment only. The applicant has identified 4 parking spaces, 3 for the single-family residence and 1 for client.

b. Lighting

Lighting was not analyzed as part of this proposal. Lighting must be consistent with Kitsap County code 17.420.

c. Off-Street Parking

There are 3 parking spaces for the residence and 1 parking spaces for the client. Kitsap County Code does not have a standard for home businesses. Kitsap County Code 17.410.060.B. specifics the director may require additional off-street parking. However, after review of the application, additional parking was deemed unnecessary.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Total		NA	4 existing

d. Signage

No signs are proposed. If proposed, a sign permit that meets requirements identified in KCC 17.410.060.B.1.c.vii is required.

e. Landscaping

No landscaping is required.

Table 6 - Landscaping Table

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

f. Frontage Improvements

NA

g. Design Districts/Requirements

NA: the property is not located within a design district.

h. Development Engineering/Stormwater

None

i. Environmental

There are no environmental concerns for the use.

j. Access, Traffic and Roads

Access is via Wye Lake Blvd. Traffic should be minimal with appointment-based scheduling.

k. Fire Safety

The proposal was reviewed and approved by the Fire Marshal's office.

l. Solid Waste

Solid waste disposal will be handled through residential pick-up. No additional review is needed.

m. Water/Sewer

An on-site septic system and well serves the property.

n. Kitsap Public Health District

KPHD has an approved commercial exemption for this proposal. Clearance was given June 7, 2021.

11. Review Authority

The Director has review authority for Home Business applications under KCC Section 21.04.100. The Director may approve, approve with conditions, or deny the permit application.

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 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. Decision

Based upon the analysis above and the decision criteria found in KCC 17.410.060.B.1.c, the Department of Community Development recommends that the Minor Home Business request be **approved**, subject to the following conditions:

1. The Minor Home Business for Beauty by Christeena is not transferable to any individual, future property owner or location.
2. The residential character of the building shall be maintained, and the business shall be conducted in such a manner as to moderate any outside appearance of a business.
3. The business shall not infringe upon the right of the neighboring residents to enjoy the peaceful occupancy of their homes.
4. The business is limited to no more than two (2) employees, including proprietors.
5. A single nonilluminated sign not to exceed four square feet is allowed, subject to a sign permit.
6. No outside storage is allowed.
7. All business patronage shall be by appointment only.
8. Business hours are limited to those proposed by the applicant, Christeena Tiffin, Monday – Friday by appointment only.
9. The uses of the subject property are limited to the uses proposed by the applicant; any other uses will be subject to review pursuant to the requirements of the Kitsap County Code (KCC). 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 the extensive use or other utilization of the subject property.
10. The decision set forth herein is based upon representation made and exhibits contained in the project application. Any changes or deviations in such plan, proposal, or conditions of approval imposed shall be subject to further review and approval by the County.
11. 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 continuing requirements of the development 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, the applicant agrees to promptly bring such development or activities into compliance.
12. Any violation of the conditions of approval shall be grounds to initiate revocation of this minor home business permit. DCD shall have the right to reasonably enter the grounds to ensure conditions of the approval are being met.

Report prepared by:

Kim Shadbolt

Staff Planner

11/18/2022

Date

Report approved by:

Scott Diener

Scott Diener, Manager, DSE

11/18/2022

Date

Attachments:

Attachment A – Zoning Map

Attachment B – Site Plan

CC: Applicant/Owner email: beautycallegestheticsbyjenny@gmail.com

Interested Parties: NA

Kitsap County Health District, MS-30

Kitsap County Public Works Dept., MS-26

DCD Staff Planner: Kim Shadbolt

Zoning Map



Site Plan

