



Notice of Hearing Examiner Decision

07/26/2024

To: Interested Parties and Parties of Record

RE: Project Name: Post Conditional Use Permit - Accessory Dwelling Unit (CUP-ADU)
 Applicant: WILLIAM HEATH & PATTY ANN POST
 8108 GRAYSTONE WAY NW
 SILVERDALE, WA 98383-7375
 Application: Conditional Use Permit
 Permit Number: 23-05196

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #23-05196 Post Conditional Use Permit - 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 or (360) 337-5777.

CC: Owner/Applicant: William & Patty Post, wilberpost1952@msn.com
 Health District
 Public Works
 Parks
 Navy
 DSE
 Kitsap Transit
 Central Kitsap Fire District
 Central Kitsap School District
 Puget Sound Energy

Skokomish Tribe
Point No Point Treaty Council
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
Silverdale Water District
Prosecutor's Office
Assessor's Office
Kitsap Sun
DCD
Interested Parties: None

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

RE: William and Patty Post Accessory Dwelling Unit (CUP – ADU) File No. 23-05196	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.
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INTRODUCTION

William and Patty Post request a Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) at 8108 Graystone Way NW, Silverdale. The application is approved subject to conditions.

ORAL TESTIMONY

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

EXHIBITS

Exhibits 1-17 listed in the Index to the Record prepared by County staff were admitted during the hearing.

FINDINGS OF FACT

Procedural:

1. Applicant. William and Patty Post, 8108 Graystone Way NW, Silverdale, WA 98383
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on July 11, 2024.

Substantive:

1 3. Site/Proposal Description. William and Patty Post request a Conditional
2 Use Permit to construct a detached Accessory Dwelling Unit (ADU) at 8108 Graystone
3 Way NW, Silverdale. The proposed ADU will be 676 square feet and approximately
4 118 feet from a 2,659-square-foot existing single-family residence. The proposed ADU
5 will be the only ADU on subject lot. The owners of the property, William and Patty
6 Post will reside in the primary residence. The proposed ADU will maintain the
appearance of the principal residence by having the same pitched roof and siding as he
primary residence. The Kitsap County Health District approved the site for additional
sewage and water supply. The proposed ADU will use the same driveway entering the
property that the primary residences uses

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

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

- 12 a. Off-Street Parking. KCC 17.49.030 requires three (3) parking off-street spaces
13 per single-family residence and one (1) parking space for an ADU. The
Applicant proposes four off-street parking spaces as required.
- 14 b. Stormwater. Development Engineering has reviewed the land use proposal and
15 finds the concept supportable in its approach to civil site development. This
16 conclusion was based on a review of the Applicant's stormwater worksheet, Ex.
6 and recommended stormwater conditions contained in the development
17 engineering memo, Ex. 10. The engineering memo recommendations are
adopted by this decision.
- 18 c. Access, Traffic, Roads. The ADU uses the same access as the primary
19 residence, off Graystone Way NW which is a county-maintained road.
Development Services and Engineering reviewed the proposal for compliance
20 with traffic and road standards and recommended approval subject to conditions
adopted by this decision.
- 21 d. Fire Safety. Kitsap County Building and Fire Safety Division reviewed and
approved the ADU and found no need to recommend fire safety conditions.
- 22 e. Water/Septic Water and Septic were approved by the Kitsap County Health
23 District.
- 24 f. Compatibility. The proposal is compatible with surrounding uses. As
25 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 CONCLUSIONS OF LAW

4 **Procedural:**

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

7 **Substantive:**

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

9 3. Review Criteria. KCC 17.410.042 requires a conditional use permit for
10 detached ADUs in the RP zone. KCC 17.550.030A governs the criteria for conditional
11 use permits. Pertinent criteria are quoted below and applied via corresponding
12 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*
15 *may be granted only when all the following criteria are met:*

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

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

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

24 5. Criterion met. The criterion is met. The proposal conforms to the County’s zoning
25 code as detailed in Section 4 and 10 of the staff report (Exhibit 1). Staff planning and
26 public works staff have reviewed the proposal to ensure conformance to the County’s
27 zoning code for this level of review. The results of that work have been implemented
28 in detailed conditions of approval, adopted by this decision. Nothing in the record
29 suggests any outstanding compliance issues. More detailed compliance will be
30 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

1 in the primary residence or the ADU, the ADU shall not exceed 50% of the habitable
2 area of the primary residence, the ADU shall be located within 150 feet of the primary
3 residence unless involving a conversion of an existing structure such as that proposed,
4 the ADU shall be designed to maintain the appearance of the primary residence, all
5 setback requirements shall be met, all health district standards shall be met, ADUs may
6 not be mobile homes or recreational vehicles, and the ADU shall use the same access
7 as the primary residence and shall provide an additional parking space. The conditions
8 of approval recommended by staff require conformance to all of these standards. The
9 proposed design and site characteristics further establish conformance as detailed in
10 Findings of Fact No. 3 and 5.

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

13 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
14 5.

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

19 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
20 5f and via its required conformance to the ADU standards of KCC 17.415.015B.

21 **DECISION**

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

24 **a. Planning/Zoning**

25 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.

1 5. The owner of the property must reside in either the primary residence or the
2 accessory dwelling unit and only one of the structures may be rented at any one time.

3 6. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the
4 primary residence or 900 square feet, whichever is smaller. The proposed size of the
5 ADU is 676 square feet. Any future expansion of the ADU will require a building
6 permit and would have to comply with all code requirements in place at the time of the
7 new building permit application.

8 7. The accessory dwelling unit shall be designed to maintain the appearance of the
9 primary residence.

10 8. No mobile home or recreational vehicle shall be allowed as an accessory dwelling
11 unit.

12 9. The accessory dwelling unit shall use the same side street entrance as the primary
13 residence and shall provide one additional off-street parking space.

14 10. An attached accessory dwelling unit (formerly called accessory living quarters) or
15 guest house is not permitted on the same lot unless the accessory dwelling unit is
16 removed and the ADU-attached or GH complies with all requirements imposed by the
17 Kitsap County Code.

18 11. A property with a primary residence and an accessory dwelling unit cannot be
19 segregated to create two separate legal lots unless it complies with all subdivision,
20 zoning and density requirements in place at the time of a complete subdivision
21 application.

22 12. The accessory dwelling unit cannot be sold separately from the primary residence
23 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 Use Binder
25 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.

14. 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

1 of approval. Approval of this project shall not, and is not, to be construed as approval
2 for more extensive or other utilization of the subject property.

3 15. The authorization granted herein is subject to all applicable federal, state, and local
4 laws, regulations, and ordinances. Compliance with such laws, regulations, and
5 ordinances is a condition to the approvals granted and is a continuing requirement of
6 such approvals. By accepting this/these approvals, the applicant represents that the
7 development and activities allowed will comply with such laws, regulations, and
8 ordinances. If, during the term of the approval granted, the development and activities
9 permitted do not comply with such laws, regulations, or ordinances, the applicant
10 agrees to promptly bring such development or activities into compliance.

11 16. The decision set forth herein is based upon representations made and exhibits
12 contained in the project application. Any change(s) or deviation(s) in such plans,
13 proposals, or conditions of approval imposed shall be subject to further review and
14 approval of the County and potentially the Hearing Examiner.

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

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

21 **b. Development Engineering**

22 19. Stormwater quantity control, quality treatment, and erosion and sedimentation
23 control shall be designed in accordance with Kitsap County Code Title 12 effective at
24 the time this permit application was deemed fully complete. The submittal documents
25 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 Code in effect at the
time of SDAP application, or Building Permit if an SDAP is not required.

c. Environmental

None

d. Traffic and Roads

20. 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.

e. Fire Safety

1 None

2 **f. Solid Waste**

3 None

4 **g. Kitsap Public Health District**

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

7 Dated this 25th day of July 2024.

8 *Phil Olbrechts*

9 _____
10 Phil Olbrechts,
Kitsap County Hearing Examiner

11 **Appeal Right and Valuation Notices**

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

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