



Notice of Hearing Examiner Decision

07/26/2024

To: Interested Parties and Parties of Record

RE: Project Name: Jordan Conditional Use Permit - Accessory Dwelling Unit (CUP-ADU)
 Applicant: Kenneth & Jennifer Jordan
 593 SW Wycoff Rd
 Port Orchard, WA 98367
 Application: Conditional Use Permit
 Permit Number: 23-05428

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #23-05428 Jordan 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: Kenneth & Jennifer Jordan, teleken2003@yahoo.com
 Authorized Agent: Ashley Miller w/Kitsap Permits, info@kitsappermits.com
 Health District
 Public Works
 Parks
 Navy
 DSE
 Kitsap Transit
 South Kitsap Fire District
 South 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 Transportation
Prosecutor's Office
Assessor's Office
DCD
Kitsap Sun
Interested Parties: None

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

RE: Kenneth and Jennifer Jordan Accessory Dwelling Unit (CUP – ADU) File No. 23-05428	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.

INTRODUCTION

Kenneth and Jennifer Jordan request a Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) at 593 SW Wycoff Rd Port Orchard. The application is approved subject to conditions.

ORAL TESTIMONY

Izzy Lotz, Associate Planner, summarized the staff report. No other testimony was presented. In response to examiner questions Mr. Lotz clarified that the proposed ADU will be served by the same driveway as that serving the primary residence. Wycoff road turns into a private driveway on the project site before it branches into two access ways to the residence and ADU.

Mr. Jordan spoke on behalf of the application. He noted he had to make the ADU a single story because he has trouble with stairs, but that he otherwise is using the same type of siding as the primary residence to make the ADU similar in appearance.

EXHIBITS

Exhibits 1-20 listed in the Index to the Record prepared by County staff were admitted during the hearing.

FINDINGS OF FACT

Procedural:

1. Applicant. Kenneth and Jennifer Jordan, 593 SW Wycoff Rd, Port Orchard, WA 98367.

2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on July 11, 2024.

Substantive:

3. Site/Proposal Description. Kenneth and Jennifer Jordan request a Conditional Use Permit to construct a detached Accessory Dwelling Unit (ADU) at 593 SW Wycoff Rd Port Orchard. The proposed ADU will be 800 square feet and approximately 118 feet from a 2,255-square-foot existing single-family residence. The proposed ADU will be the only ADU on subject lot. The owners of the property, Kenneth and Jennifer Jordan will reside in the ADU. The proposed ADU will maintain the appearance of the principal residence by having the same pitched roof and siding as the 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

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

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

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

b. Stormwater. Development Engineering has reviewed the land use proposal and finds the concept supportable in its approach to civil site development. This conclusion was based on a review of the Applicant's stormwater worksheet, Ex. 6. Condition No. 20 requires that stormwater design conforming to County regulations be submitted during building permit review.

c. Critical Areas. The subject property is located in a moderate geologic erosion hazard area. Submitted in the application was a Geologic Report prepared by Envirotech Engineering, PLLC dated August 7, 2023. The report concluded that the proposal did meet the definition of a geologically hazardous area. The report also stated "Envirotech does not believe that engineering design recommendations are required for the proposed development." The project is conditioned to follow the recommendations of the report.

d. Access, Traffic, Roads. The ADU uses the same access as the primary residence, off SW Wycoff Rd which is a privately-maintained road. County

1 staff recommended conditions providing for compliance with County road
standards are adopted by this decision.

- 2 e. Fire Safety. Kitsap County Building and Fire Safety Division reviewed and
3 approved the ADU as consistent with County fire code standards condition
upon fire sprinklers, which is adopted by this decision.
- 4 f. Water/Septic Water and Septic were approved by the Kitsap County Health
5 District.
- 6 g. Compatibility. The proposal is compatible with surrounding uses. As
7 identified in Finding of Fact No. 4, surrounding uses are all heavily wooded
8 residential on large lots. The proposed ADU will also be surrounded by
9 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
primary residence – the staff report notes that the ADU is designed to maintain
the appearance of the primary residence, using similar roof pitch and siding.

12 CONCLUSIONS OF LAW

13 **Procedural:**

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

16 **Substantive:**

- 17 2. Zoning Designation. The property is currently zoned Rural Protection (RP).
- 18 3. Review Criteria. KCC 17.410.042 requires a conditional use permit for
19 detached ADUs in the RP zone. KCC 17.550.030A governs the criteria for conditional
20 use permits. Pertinent criteria are quoted below and applied via corresponding
conclusions of law.

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

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

- 25 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

1 property. The proposal is also found consistent with the Comprehensive Plan for the
2 reasons identified in Section 7 of the staff report (Exhibit 1).

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

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

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

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

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

KCC 17.550.030.A.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.*

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

DECISION

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

1 **a. Planning/Zoning**

2 1. All required permits shall be obtained prior to commencement of land clearing,
3 construction and/or occupancy.

4 2. The accessory dwelling unit is subject to the payment of impact fees. Impact fees
5 must be paid at time of permit issuance, or if deferred, must be paid prior to final
6 inspection. No certificate of occupancy will be granted until all impact fees are paid.

7 3. Any proposed modification (not including cosmetic work such as painting,
8 papering and similar finish work), remodel or expansion of the accessory dwelling unit
9 building, regardless of whether a building permit is required, shall be reviewed by the
10 Department of Community Development and granted approval prior to such
11 modification, expansion, construction and/or issuance of a building permit.

12 4. Only one accessory dwelling unit shall be permitted on the subject property.

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

15 6. The accessory dwelling unit's (ADU) habitable area shall not exceed 50% of the
16 primary residence or 900 square feet, whichever is smaller. The proposed size of the
17 ADU is 800 square feet. Any future expansion of the ADU will require a building
18 permit and would have to comply with all code requirements in place at the time of the
19 new building permit application.

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

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

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

10. 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.

11. 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.

1 12. The accessory dwelling unit cannot be sold separately from the primary residence
2 unless it has legally been segregated onto its own lot.

3 13. The recipient of any conditional use permit shall file a Notice of Land Use Binder
4 with the county auditor prior to any of the following: initiation of any further site work,
5 issuance of any development/construction permits by the county, or occupancy/use of
6 the subject property or buildings thereon for the use or activity authorized. The Notice
7 of Land Use Binder shall serve both as an acknowledgment of and agreement to abide
8 by the terms and conditions of the conditional use permit and as a notice to prospective
9 purchasers of the existence of the permit. The Binder shall be prepared and recorded
10 by the Department at the applicant's expense.

11 14. The uses of the subject property are limited to the uses proposed by the applicant
12 and any other uses will be subject to further review pursuant to the requirements of the
13 Kitsap County Code. Unless in conflict with the conditions stated and/or any
14 regulations, all terms and specifications of the application shall be binding conditions
15 of approval. Approval of this project shall not, and is not, to be construed as approval
16 for more extensive or other utilization of the subject property.

17 15. The authorization granted herein is subject to all applicable federal, state, and local
18 laws, regulations, and ordinances. Compliance with such laws, regulations, and
19 ordinances is a condition to the approvals granted and is a continuing requirement of
20 such approvals. By accepting this/these approvals, the applicant represents that the
21 development and activities allowed will comply with such laws, regulations, and
22 ordinances. If, during the term of the approval granted, the development and activities
23 permitted do not comply with such laws, regulations, or ordinances, the applicant
24 agrees to promptly bring such development or activities into compliance.

25 16. 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.

17. 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.

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

b. Development Engineering

19. 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.

1 20. Stormwater quantity control, quality treatment, and erosion and sedimentation
2 control, as required for the development, shall be designed in accordance with Kitsap
3 County Code Title 12 effective at the time the Building Permit is deemed fully
4 complete. If development meets the thresholds for engineered drainage design, the
5 submittal documents shall be prepared by a civil engineer licensed in the State of
6 Washington. The fees and submittal requirements shall be in accordance with Kitsap
7 County Ordinances in effect at the time of Building Permit Application

8 21. Issuance of this permit certifies that the applicant has read and examined this
9 application and knows the same to be true and correct. All provisions of Laws and
10 Ordinances governing this type of work will be complied with whether specified herein
11 or not. The granting of a permit does not presume to give authority to violate or cancel
12 the provisions of any other state/local law regulating construction or the performance
13 of construction.

14 **c. Environmental**

15 22. The project shall follow the recommendations of the submitted in Geologic Report
16 by Envirotech Engineering, PLLC dated August 7, 2023.

17 **d. Traffic and Roads**

18 None.

19 **e. Fire Safety**

20 23. Based on applicants response, an automatic fire sprinkler system will be installed
21 in the proposed ADU.

22 **f. Solid Waste**

23 None

24 **g. Kitsap Public Health District**

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

Dated this 25th day of July 2024.

Phil Olbrechts

Phil Olbrechts,
Kitsap County Hearing Examiner

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Appeal Right and Valuation Notices

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 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.