



## Notice of Hearing Examiner Decision

04/22/20

To: Interested Parties and Parties of Record

RE:           Project Name: Bouma Accessory Dwelling Unit  
              Applicant: Joshua V & Ginger M Bouma  
                          20366 Noll Road NE  
                          Poulsbo, WA 98370  
              Application: Conditional Use Permit – Accessory Dwelling Unit  
                          (CUP-ADU)  
              Permit Number: 19-02064

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **19-02064 Bouma 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://spf.kitsapgov.com/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 at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. 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: Joshua and Ginger Bouma, [jvbouma@gmail.com](mailto:jvbouma@gmail.com)  
Project Representative: Ron Thomas, [cows.pigs52@gmail.com](mailto:cows.pigs52@gmail.com)  
Prosecutor  
Assessor  
DCD  
Kitsap Sun  
Health District  
Public Works

Parks

Navy

DSE

Kitsap Transit

Poulsbo Fire District

North Kitsap School District Puget Sound Energy

Point No Point Treaty Council Suquamish Tribe

Port Gamble S'Klallam Tribe Squaxin Island Tribe

Puyallup Tribe

WA Dept of Fish & Wildlife WA State Dept of Ecology-SEPA

Interested Parties:

None

**KITSAP COUNTY HEARING EXAMINER  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**Accessory Dwelling Unit Conditional Use Permit  
Bouma, File No. 19-02064**

**April 17, 2020**

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**1. FINDINGS OF FACT**

**1.1 Proposal.** Construction of a 900 square foot accessory dwelling unit (“ADU”) on a 6.06 acre lot.

**Applicant/Property Owner.** Joshua and Ginger Bouma, 20366 Noll Road NE, Poulsbo, WA 98370.

**Location.** 20366 Noll Road NE, Poulsbo, WA 98370. Assessor Parcel No. 132601-1-042-2008.

**1.2 Hearing.** An open record public hearing was held April 9, 2020. Due to COVID-19 restrictions, the hearing was conducted remotely, with the Examiner, Kitsap County Department of Community Development (“DCD”), and Applicant calling in. Access information was provided to the public to allow citizens to join via either a video link or telephone call-in. There were no reported technical difficulties during the call or afterwards. However, in case any citizens who wished to comment had difficulty calling in, the record was kept open for a week, through April 16.<sup>1</sup> No additional written comments were received. At the hearing, DCD, through Ms. Sands, described the project. DCD found it consistent with requirements, and recommended approval with conditions. The Applicant confirmed there were no concerns with DCD's proposed conditions. No member of the public indicated a wish to speak.

**1.3 Administrative Record.** The Hearing Examiner admitted Exhibits 1-35, which included the Staff Report, application materials, documentation of agency consultation, public notice documents, and a DCD Power Point presentation.

**1.4 SEPA.** DCD issued an unappealed Determination of Non-Significance,<sup>2</sup> with a condition requiring compliance with Title 12 to address stormwater control.

**1.5 Agency Comment.** The proposal was circulated within the County. As long as requirements are met, there were no objections to approval.

**1.6 Notice.** Hearing and application notice was provided consistent with KCC requirements.<sup>3</sup>

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<sup>1</sup> Temporary Emergency Rule to Address COVID-19 Situation (April 1, 2020).

<sup>2</sup> Exhibit 23; Exhibit 34 (Staff Report), p. 2.

<sup>3</sup> Exhibits 16, 24, and 33; *see* KCC 21.04.080.

**1.7 Zoning/Plan Designations and Critical Areas.** Outside the urban growth area, the site's Comprehensive Plan and zoning designations are Rural Residential,<sup>4</sup> allowing one dwelling unit per five acres. An ADU is authorized by CUP, with requirements specific to the use. Surrounding properties are also zoned Rural Residential, and are developed with single-family residences.<sup>5</sup> The parcel is located over Category I Critical Aquifer Recharge Areas; there are no other identified critical areas.<sup>6</sup>

**1.8 Utility and Public Services.**

- **Water:** On-site well
- **Power:** Puget Sound Energy
- **Sewer:** Septic
- **Police:** Kitsap County Sheriff
- **Fire:** North Kitsap Fire & Rescue #10
- **Schools:** North Kitsap School District #400

**1.9 Access.** Private easement that originates from Noll Road NE, a Minor Arterial that is a paved county-maintained road.

**1.10 Dimensions and Setbacks.** The site includes a 2,002 square foot residence, barn, detached garage with attached carports, and several accessory buildings.<sup>7</sup> There are plans to expand the residence to 2,184 square feet.<sup>8</sup> The ADU will be 83 feet from the primary residence.<sup>9</sup> Setbacks exceed requirements, with over 76 feet on the front (west), approximately 600 on the north, over 200 on the south, and over 125 on the east (rear). The ADU complies with the 35 foot height limit.<sup>10</sup>

**1.11 Building and Site Aesthetics.** The primary residence and ADU will be similar in appearance. Both will have pitched composite-shingle roofs, lap horizontal wood siding, open pane windows, and matching paint colors.<sup>11</sup> There is typical residential landscaping near the single-family residence, and a majority of the property has pasture grass. This is coupled with extensive setbacks, providing visual mitigation.<sup>12</sup>

**1.12 Conditions/Staff Report.** The Applicant accepted the proposed conditions, which are incorporated without revision. Except as the Decision revises it, the Staff Report is incorporated by reference.

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<sup>4</sup> Exhibits 29 and 32; Exhibit 34 (Staff Report), p. 3.

<sup>5</sup> Exhibit 34 (Staff Report), p. 3.

<sup>6</sup> Exhibits 30 and 31; Exhibit 34 (Staff Report), p. 2.

<sup>7</sup> Exhibit 26; Exhibit 34 (Staff Report), p 1.

<sup>8</sup> Exhibit 13.

<sup>9</sup> Exhibit 22; Exhibit 34 (Staff Report), p. 8.

<sup>10</sup> Exhibit 34 (Staff Report), p. 3.

<sup>11</sup> Exhibits 1, 9, 10, 11, and 18; Exhibit 34 (Staff Report), p. 9.

<sup>12</sup> Exhibit 34 (Staff Report), p. 2.

## 2. CONCLUSIONS OF LAW

**2.1 Hearing Examiner Review Authority.** The Hearing Examiner has CUP review authority for this ADU.<sup>13</sup> The Examiner may approve, approve with conditions, or deny a CUP.<sup>14</sup>

**2.2 Code Requirements Specific to an ADU in the RR Zone.** An ADU outside the urban growth area, and within the RR zone, must obtain a CUP and comply with requirements specific to the use.<sup>15</sup> Only one ADU is allowed per lot, on which no accessory dwelling quarters are located, and the owner "must reside in either the primary residence or the ADU."<sup>16</sup> These requirements are met. Only one ADU is proposed for a lot outside the urban growth area, no accessory dwelling quarters or other ADUs are on the lot, and the property owners live in the single-family residence.

The ADU cannot "exceed fifty percent of the square footage of the habitable area of primary residence or nine hundred square feet, whichever is smaller."<sup>17</sup> The primary residence's habitable area is 2,002 square feet; if enlarged, it will be 2,184 square feet.<sup>18</sup> Regardless, the ADU is limited to 900 square feet; at 900 square feet, the ADU complies.

The ADU, proposed to be 83 feet from the primary residence,<sup>19</sup> complies with the requirement to be "within one hundred fifty feet of the primary residence or shall be the conversion of an existing detached structure (e.g, garage)..."<sup>20</sup> The proposal complies with all other setback requirements.

As for design, as the findings address, the primary residence and ADU will be similar in appearance,<sup>21</sup> as the ADU has been "designed to maintain the appearance of the primary residence."<sup>22</sup> Also, the proposed ADU is stick-built, so is not a mobile home or recreational vehicle.<sup>23</sup>

The ADU will be supplied by well water and a septic system. Kitsap Public Health approved the ADU.<sup>24</sup> The ADU will "meet the applicable health district standards for water and sewage disposal."<sup>25</sup>

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<sup>13</sup> KCC 17.410.010, 21.04.100 (permit type #18), and 17.410.042 (use #100).

<sup>14</sup> KCC 17.550.030.

<sup>15</sup> KCC Table 17.410.042, FN 1, requiring KCC 17.410.060 compliance. *See* KCC 17.410.060(B)(3).

<sup>16</sup> KCC 17.410.060(B)(3).

<sup>17</sup> KCC 17.410.060(B)(3).

<sup>18</sup> Exhibits 12, 13 and 19; Exhibit 34 (Staff Report), pp. 1, 8.

<sup>19</sup> Exhibit 22; Exhibit 34 (Staff Report), p. 8.

<sup>20</sup> KCC 17.410.060(B)(3).

<sup>21</sup> Exhibits 1, 9, 10, 11, and 18; Exhibit 34 (Staff Report), p. 9.

<sup>22</sup> KCC 17.410.060(B)(3).

<sup>23</sup> KCC 17.410.060(B)(3).

<sup>24</sup> Exhibit 34 (Staff Report), p. 12.

<sup>25</sup> KCC 17.410.060(B)(3).

Parking and entry requirements are met. The ADU will use "the same side street entrance as the primary residence."<sup>26</sup> There are four parking spaces available for the single-family residence, and two additional parking spaces near the ADU.<sup>27</sup> With sufficient space to meet minimum parking requirements and with the "additional off-street parking,"<sup>28</sup> parking requirements are met. All requirements specific to the ADU use are met.

### **2.3 Conditional Use Permit Requirements.**

A CUP must meet four requirements.

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of [Title 17];
3. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity; and
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.<sup>29</sup>

These criteria are met. The Staff Report provided detail on Comprehensive Plan policies. They provide for development at low residential densities that can be sustained without urban levels of service, and will cause minimal environmental degradation. The Plan supports residential uses consistent with the existing and planned rural character of the surrounding rural area, while minimizing housing costs and providing for a range of housing types. The ADU does not have significant environmental impacts, does not require urban infrastructure, and is consistent with the surrounding area's rural character. The proposal is consistent with the Comprehensive Plan.

The proposal is conditioned to ensure compliance with Title 17 and other code requirements. No code provision was identified which would not be complied with. Also, the proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity. All impacts identified have been addressed through project design, additional mitigation, and/or code requirements.

The proposal is compatible with surrounding existing uses. It is aesthetically consistent with the existing residence. The ADU's small size, existing vegetation, and extensive setbacks which exceed code requirements all ensure it is consistent with the surrounding character, appearance, and quality of development on site and in the immediate vicinity. As conditioned and proposed, the ADU meets all CUP criteria and should be approved.

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<sup>26</sup> KCC 17.410.060(B)(3).

<sup>27</sup> Exhibit 22; Exhibit 34 (Staff Report), p. 10; KCC 17.490.030.

<sup>28</sup> KCC 17.410.060(B)(3).

<sup>29</sup> KCC 17.550.030(A).

## DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested CUP for the proposed ADU, provided these conditions are adhered to:

### Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. The ADU 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 ADU building, regardless of whether a building permit is required, shall be reviewed by DCD and granted approval prior to such modification, expansion, construction and/or issuance of a building permit.
4. Only one ADU shall be permitted on the subject property.
5. The owner of the property must reside in either the primary residence or the ADU and only one of the structures may be rented at any one time.
6. The ADU's habitable area shall not exceed 50% of the primary residence or 900 square feet, whichever is smaller. The proposed size of the ADU is 900 square feet (Exhibit 19).
7. The ADU shall be located within 150 feet of the primary residence.
8. The ADU shall be designed to maintain the appearance of the primary residence.
9. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
10. No mobile home or recreational vehicle shall be allowed as an ADU.
11. The ADU shall use the same side street entrance as the primary residence and shall provide one additional off-street parking space.
12. An accessory living quarters (ALQ) or guest house (GH) is not permitted on the same lot unless the ADU is removed and the ALQ or GH complies with all requirements imposed by the KCC.
13. A property with a primary residence and an ADU 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 ADU cannot be sold separately from the primary residence unless it has legally been segregated onto its own lot.

15. 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 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 be, and is not to be, construed as approval for more extensive or other utilization of the subject property.

16. 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 a continuing requirement of such approvals. By accepting this/these approvals, the Applicant represents that the development and 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 laws, regulations, or ordinances, the Applicant agrees to promptly bring such development or activities into compliance.

17. The decision set forth herein is based upon representations made and exhibits contained in the project application 19-02064. 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.

18. The recipient of any CUP 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 terms and conditions of the CUP 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.

19. This CUP approval shall automatically become void if no development permit application is accepted as complete by DCD within four years of the Notice of Decision date or the resolution of any appeals.

20. Any violation of the conditions of approval shall be grounds to initiate revocation of this CUP.

21. Submit revised construction plans for ADU Building Permit 19-01782 to match and be consistent with the approved floor plan for the CUP.

22. Submit a copy of the revised approved Building Site Application (BSA) and site plan in this permit to the ADU Building Permit 19-01782; BSA, Health Officer Decision, Memo #33194.



## **Development Engineering**

23. Erosion and sedimentation control shall be designed in accordance with KCC Title 12 effective at the time the CUP application was deemed complete, June 10, 2019.

24. If the project proposal is modified from that shown on the submitted site plan accepted for review February 28, 2020, Development Services and Engineering will require additional review and potentially new conditions.

## **Environmental**

25. No uses that are identified as “activities with potential threat to groundwater” at KCC 19.600.620 shall occur prior to obtaining the required approval from DCD and/or the Hearing Examiner.

## **Traffic and Roads**

26. Submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the KCC. The KCPW 1601 form reserves road capacity for the project.

27. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the building permit. The need for and scope of bonding will be determined at that time.

## **Fire Safety**

28. This project proposes increasing the number of dwellings served by current access; fire apparatus access roads shall be constructed and maintained. Any proposed revision to these roads shall be submitted to, reviewed, and approved by the Kitsap County Fire Marshal’s Office in accordance with International Fire Code (IFC) 503 as amended by Kitsap County. Fire apparatus access roads shall comply with the following:

- a. Unobstructed width of 20 feet and height of 13 feet 6 inches.
- b. Shall be designed and maintained to support a 60,000 pound fire apparatus and be provided with an all weather driving surface.
- c. Dead end access roads exceeding 150 feet in length shall be provided with an approved turnaround.
- d. Inside turning radius for residential development shall be a minimum of 25 feet.
- e. Access roads shall extend to within 150 feet of all portions of the exterior walls of the first story of the structure as measured by an approved route around the exterior of the structure or facility.
- f. Road shall not be more than 12% grade.

29. In lieu of fire apparatus access standards, the proposed ADU shall be fully equipped with a National Fire Protection Association (NFPA) 13D sprinkler system.

Absent a timely appeal, this Decision is final.<sup>30</sup>

DECISION entered April 17, 2020.



Kitsap County Hearing Examiner  
Susan Elizabeth Drummond

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<sup>30</sup> See Ch. 36.70C RCW (any appeal to be filed within 21 days to superior court).