



Executive Summary

Issue Description: Un-permitted Accessory Dwelling Units and Innocent Purchasers.

Meeting Date: 11/3/09

Attendees: Planning Commission, Larry Keeton, David Lynam

Action Requested At This Meeting: Review and recommend DCD's proposed code modifications for existing accessory dwellings in possession of innocent purchasers.

Recommendation: DCD has develop a method where current property owners with un-permitted accessory dwellings may legitimize the use and gain approval or "historical recognition" for the use without going through the regular conditional use permit process. Historical recognition is targeted to those "innocent purchasers" who find themselves contrary to the current zoning code.

Qualifying Limitations. To be eligible for this program:

- The affected parcel must be in unincorporated Kitsap County;
- There is currently an accessory dwelling on the property;
- The current owner actually owns the parcel where the accessory dwelling is located when the ordinance is in effect, did not own the property when the ADU was created and did not in any way create the ADU;
- The property owner exercised due diligence when purchasing the property to determine whether or not the dwellings had prior approval;
- The dwelling has not received any prior approvals from the county; and,
- There is a history of prior tax assessments on the dwellings(s).

Persons who own parcels meeting these qualifications may apply to DCD for approval of the accessory dwelling.

Approval Conditions.

- All dwellings must have adequate public water and sewage disposal;
- Must be habitable (inspection is required);

- Must be in conformance with the codes in effect at the time of construction – or alternatively, with variances or mitigation as approved by the director after receiving input from the surrounding neighbors; and,
- A Land Use Binder must be filed with the Kitsap County Auditor for ADUs approved under these provisions.

The current code for ADUs would be applied to historical recognition applicants unless the applicant can demonstrate when the unit was created and the rules in effect at that time would be applied. Accessory dwellings approved under these provisions will have legal non-conforming status.

The department recommends the planning commissions positive recommendation to the Board of County Commissioners.

Background: This proposal was before the planning commission twice in late winter and early spring of 2009. The commission gave a positive recommendation on the proposal when it last discussed and deliberated the issue. The original concept was that the process could be administrative, adopted as a rule or policy. Subsequent legal review produced a recommendation that the proper course of action would be to codify the proposal within Chapter 17 of the Kitsap County Code or to at least adopt a stand alone ordinance establishing the provisions by law. With additional legal counsel the department has prepared the attached draft of the original provisions codified into Chapter 17.

Attachments: Draft IP Ordinance