



Notice of Hearing Examiner Decision

05/16/2024

To: Interested Parties and Parties of Record

RE: Project Name: Tulp Conditional Use Permit – Accessory Dwelling Unit (CUP-ADU)
Applicant: Tara and Robert Tulp
PO Box 86
Seabeck, WA 98380
Application: Conditional Use Permit
Permit Number: 23-01381

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit # 23-01381 Tulp 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: Robert & Tara Tulp, taralyntulp@gmail.com
Authorized Agent: Kathy Cloninger, kcloni9999@msn.com
Engineer: Matthew Zawlocki - NL OLSON ASSOCIATES, INC, mzawlocki@nlolson.com
Health District
Public Works
Parks
Navy
DSE
Kitsap Transit
Central Kitsap Fire District

Central Kitsap School District No. 401
Puget Sound Energy
Water Purveyor
Sewer Purveyor
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
Squaxin Island Tribe
Puyallup Tribe
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
Interested Parties: Fred Gilbert, fgilbert69@hotmail.com

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

RE: Tulp Conditional Use Accessory Dwelling Unit (CUP – ADU) File No. 23-01381	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.
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INTRODUCTION

The Applicants, Tara and Robert Tulp, request a Conditional Use Permit for a detached Accessory Dwelling Unit (ADU) on property located at 14973 Seabeck Hwy NW in Seabeck. The application is approved subject to conditions.

ORAL TESTIMONY

Izzy Lotz, Kitsap County Associate Planner, summarized the staff report. In response to Examiner questions Ms. Lotz responded that the proposed ADU will be shielded from view on the north and east by trees and there are single-family homes located to the south and west.

EXHIBITS

Exhibits 20 listed in the Index to the Record prepared by County staff were admitted during the hearing. In addition an email of support from Frederick Gilbert dated April 23, 2024 was admitted as Exhibit 21.

FINDINGS OF FACT

Procedural:

1. Applicant. Tara and Robert Tulp , 14973 Seabeck Hwy NW , WA 98380
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:30 am on April 25, 2025.

Substantive:

1 3. Site/Proposal Description. The applicants request approval of a
2 Conditional Use Permit for a detached Accessory Dwelling Unit (ADU) on an 0.81
3 acre lot located at 14973 Seabeck Hwy NW in Seabeck. The proposed ADU will be
4 652.76 square feet and approximately 92 feet from the 1,458-square-foot existing
single-family residence. The ADU will be the only ADU on the parcel. The ADU will
use the same driveway as the primary residence.

5 4. Characteristics of the Area. The subject property is bordered on all sides by
6 Rural Residential zoned parcels that are developed with single-family homes or are
vacant.

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

9 a. Off-Street Parking. KCC 17.49.030 requires three (3) parking off-street spaces
10 per single-family residence and one (1) parking space for an ADU. Staff have
11 found that the off-street parking area proposed by the Applicants is sufficient
to accommodate the required 4x9 foot parking spaces.

12 b. Stormwater. Development Engineering has reviewed the land use proposal and
13 finds the concept supportable in its approach to civil site development. The
comments are based on a review of the preliminary drainage plan.

14 c. Environmental/Critical Areas. There is a seasonal stream off-site, the project
15 is located 63' from the seasonal stream. The standard buffer is 50' plus a 15'
16 building setback. The project proposes to use a pre-existing driveway that
follows along the seasonal stream. See Exhibit 13, a letter prepared by the
Applicants' biologist, concluding the driveway is existing.

17 The subject property is in a moderate geologic erosion hazard area. Submitted
18 in the application was a Geologic Letter prepared by Envirotech Engineering,
19 PLLC dated June 3, 2022. The report concluded that the proposal "*From a
20 geotechnical position, it is Envirotech's opinion that the subject property and
adjacent properties to the proposed development should not be significantly
impacted.*" The project is conditioned to follow the recommendations of the
report.

21 d. Access, Traffic, Roads. Development Services and Engineering reviewed the
22 proposal for compliance with traffic and road standards and recommended
23 approval with conditions. At building permit application, the applicants will be
24 required to submit a Kitsap County Public Works Form 1601 for issuance of a
concurrency certificate, as required by Kitsap County Code 20.04.030,
Transportation Concurrency.

25 e. Fire Safety. The Kitsap County Fire Marshall's Office reviewed and approved
the proposal.

- 1 f. Water/Sewer. Water and septic were approved by the Kitsap County Health
District.
- 2 g. Compatibility. The proposal is compatible with surrounding uses. As
3 identified in Finding of Fact No. 4, surrounding uses are all vacant or
4 residential. The proposed ADU is will also be surrounded by numerous trees
5 on all sides as shown in the aerial photograph of Exhibit 5, p. 36. The increase
6 in density is not likely to make a significant aesthetic difference to surrounding
neighbors. The provide for similar appearance to the primary residence, the
proposed ADU will have the same pitched roof and siding.

7 CONCLUSIONS OF LAW

8 Procedural:

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

11 Substantive:

- 12 2. Zoning Designation. The property is currently zoned Rural Residential.
- 13 3. Review Criteria. KCC 17.410.042 requires a conditional use permit for
14 detached ADUs in the RR zone. KCC 17.550.030A governs the criteria for conditional
15 use permit. Pertinent criteria are quoted below and applied via corresponding
conclusions of law.

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

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

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

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

- 24 5. Criterion met. The criterion is met. The proposal conforms to the County's zoning
25 code as detailed in Section 10 of the staff report (Exhibit 1). Staff planning and public
works staff have reviewed the proposal to ensure conformance to the County's zoning
code for this level of review. The results of that work have been implemented in
detailed conditions of approval, adopted by this decision. Nothing in the record

1 suggests any outstanding compliance issues. More detailed compliance will be
2 required during the building and civil permit review.

3 The primary issue of zoning compliance is adherence to KCC 17.415.015B, which
4 adopts standards tailored to detached ADUs outside urban growth areas. Pursuant to
5 those standards, only one ADU is allowed per lot, the owner of the property must reside
6 in the primary residence or the ADU, the ADU shall not exceed 50% of the habitable
7 area of the primary residence, the ADU shall be located within 150 feet of the primary
8 residence, the ADU shall be designed to maintain the appearance of the primary
9 residence, all setback requirements shall be met, all health district standards shall be
10 met, ADUs may not be mobile homes or recreational vehicles, and the ADU shall use
11 the same access as the primary residence and shall provide an additional parking space.
12 The conditions of approval recommended by staff require conformance to all of these
13 standards. The proposed design and site characteristics further establish conformance
14 as detailed in Findings of Fact No. 3 and 5.

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

17 6. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
18 5.

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

23 7. Criterion met. The criterion is met for the reasons identified in Finding of Fact No.
24 5g and via its required conformance to KCC 17.415.015B.

25 **DECISION**

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

a. Planning/Zoning

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

1 accessory dwelling unit building, regardless of whether a building permit
2 is required, shall be reviewed by the Department of Community
3 Development and granted approval prior to such modification,
4 expansion, construction and/or issuance of a building permit.

- 5 4. Only one accessory dwelling unit shall be permitted on the subject
6 property.
- 7 5. The owner of the property must reside in either the primary residence or
8 the accessory dwelling unit and only one of the structures may be rented
9 at any one time.

10 The accessory dwelling unit's (ADU) habitable area shall not exceed
11 50% of the primary residence or 900 square feet, whichever is smaller.
12 The proposed size of the ADU is 652.76 square feet. Any future
13 expansion of the ADU will require a building permit and would have to
14 comply with all code requirements in place at the time of the new
15 building permit application.

- 16 6. The accessory dwelling unit shall be designed to maintain the
17 appearance of the primary residence.
- 18 7. No mobile home or recreational vehicle shall be allowed as an accessory
19 dwelling unit.
- 20 8. The accessory dwelling unit shall use the same side street entrance as the
21 primary residence and shall provide one additional off-street parking
22 space.
- 23 9. An attached accessory dwelling unit (formerly called accessory living
24 quarters) or guest house is not permitted on the same lot unless the
25 accessory dwelling unit is removed and the ADU-attached or GH
complies with all requirements imposed by the Kitsap County Code.
10. 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.
11. The accessory dwelling unit cannot be sold separately from the primary
residence unless it has legally been segregated onto its own lot.
12. The recipient of any conditional use permit 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

1 subject property or buildings thereon for the use or activity authorized.
2 The Notice of Land Use Binder shall serve both as an acknowledgment
3 of and agreement to abide by the terms and conditions of the conditional
4 use permit and as a notice to prospective purchasers of the existence of
5 the permit. The Binder shall be prepared and recorded by the Department
6 at the applicant's expense.

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

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

24 15. The decision set forth herein is based upon representations made and
25 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.

16 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.

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

b. Development Engineering

18 18. Stormwater quantity control, quality treatment, and erosion and
19 sedimentation control, as required for the development, shall be designed
20 in accordance with Kitsap County Code Title 12 effective at the time this
21 permit application was deemed fully complete. If development meets the
22 thresholds for engineered drainage design, the submittal documents shall

1 be prepared by a civil engineer licensed in the State of Washington. The
2 fees and submittal requirements shall be in accordance with Kitsap
County Ordinances in effect at the time of Building Permit Application.

3 19. Building permits submitted for this development shall include
4 construction plans and profiles for all roads, driveways, storm drainage
5 facilities and appurtenances. No construction shall be started prior to said
plan acceptance.

6 **c. Environmental**

7 The project shall follow the recommendations of the submitted in Geologic
Letter by Envirotech Engineering, PLLC dated June 3, 2022.

8 **d. Traffic and Roads**

9 21. At building permit application, the applicants will be required to submit
10 a Kitsap County Public Works Form 1601 for issuance of a concurrency
11 certificate, as required by Kitsap County Code 20.04.030, Transportation
Concurrency.

12 **e. Fire Safety**

None

13 **f. Solid Waste**

None

14 **h. Kitsap Public Health District**

15 22. This permit shall comply with all Kitsap Public Health District
16 regulations and conditions of approval.

17 Dated this 16th day of May 2024.

18 *Phil Olbrechts*

19

Phil Olbrechts,
20 Kitsap County Hearing Examiner

21 **Appeal Right and Valuation Notices**

22 Pursuant to KCC 21.04.100 and KCC 21.04.110, this conditional use permit decision is
23 a final land use decision of Kitsap County and may be appealed to superior court within
24 21 days as governed by the Washington State Land Use Petition Act, Chapter 36.70C
RCW.

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