



Notice of Hearing Examiner Decision

03/04/2024

To: Interested Parties and Parties of Record

RE: Project Name: Ford Conditional Use Permit – Accessory Dwelling Unit
 Applicant: Tye and Nicole Ford
 1965 NE Sipes LN
 Bremerton, WA 98311
 Application: Conditional Use Permit
 Permit Number: 23-01631

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #23-01631 Ford 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://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 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: Tye & Nicole Ford, buellcrazy01@gmail.com
Authorized Agent: Charles Ritter with DESIGN WORKSHOP, designworkshop@rocketmail.com
Other: Lainie Ritter, lainie.ritter@yahoo.com
Engineer
Surveyor
Health District
Public Works
Parks
Navy

Kitsap Transit
Central Kitsap Fire District
Central Kitsap School District
Puget Sound Energy
Water Purveyor - PUBLIC UTILITY DIST NO 1
Sewer Purveyor - PUBLIC UTILITY DIST NO 1
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: None

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BEFORE THE HEARING EXAMINER FOR KITSAP COUNTY

Phil Olbrechts, Hearing Examiner

RE: Ford Conditional Use Accessory Dwelling Unit (CUP – ADU) File No. 23-01631	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION.
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INTRODUCTION

The applicants, Tye and Nicole Ford request a Conditional Use Permit for a detached Accessory Dwelling Unit (ADU) on property located at 1965 NE Sipes LN, Bremerton. The application is approved subject to conditions.

ORAL TESTIMONY

A computer-generated transcript of the hearing has been prepared to provide an overview of the hearing testimony. The transcript is provided for informational purposes only as Exhibit 20. The transcript is provided for the convenience of the parties and should not be construed as having any probative value to this proceeding. The transcript is only referenced as an exhibit for compatibility with the County record retention system for land use hearings. A recording of the hearing is available from Kitsap County should anyone need an accurate rendition of hearing testimony.

EXHIBITS

Exhibits 1-19 listed in the Index to the Record prepared by County staff were admitted during the hearing.

FINDINGS OF FACT

Procedural:

1. Applicant. Tye and Nicole Ford, 1965 NE Sipes LN, Bremerton.
2. Hearing. The Hearing Examiner conducted a remote/hybrid hearing on the application at 9:00 am on February 16, 2024.

Substantive:

1
2 3. Site/Proposal Description. Tye and Nicole Ford propose to construct an
3 844-square-foot ADU on their site which currently contains an existing 2,435 square
4 foot single-family residence which they occupy. According to the Kitsap County
5 Assessor, the subject site is 5.02 acres in area. The ADU will be the only ADU on the
6 parcel and will be located about 73 feet from the primary residence. The NE portion
7 of the site is developed with a primary dwelling, attached garage and driveway. The
8 ADU will use the same driveway as the existing single-family residence, and access
9 the parcel from the North of the parcel which connects to NE Sipes LN. The subject
10 property is zoned Rural Residential (RR). (see Site Plan and Zoning Map in Exhibit 1)

11
12 4. Characteristics of the Area. The subject property is bordered on the north,
13 south, east and west with single-family homes and vacant parcels; all zoned Rural
14 Residential (RR) - (refer to Table 1 in Exhibit 1).

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

- 17 a. Off-Street Parking. KCC 17.49.030 requires three (3) parking spaces per
18 single-family residence and one (1) parking space for an ADU. The proposal
19 includes a total of 5 parking spaces.
- 20 b. Stormwater. Development Engineering has reviewed the land use proposal and
21 finds the concept supportable in its approach to civil site development. The
22 comments are based on a review of the preliminary drainage plan accepted for
23 review May 26, 2023.
- 24 c. Environmental/Critical Areas. There is a mapped moderate erosion hazard on
25 the parcel, which has been addressed in the submitted Geological Assessment
report from Envirotech Engineering dated March 18, 2018, and addendum letter
from Envirotech Engineering dated March 10, 2023. A mapped wetland exists
in the SW corner of the parcel and is 370' from the proposed ADU project and
it will not be impacted by the proposed ADU project.
- d. Access, Traffic, Roads. Development Services and Engineering reviewed the
proposal for compliance with traffic and road standards and recommended
approval with conditions.
- e. Fire Safety. The Kitsap County Fire Marshall's Office reviewed and approved
the proposal.
- f. Solid Waste. The proposed ADU will use the same solid waste services as the
existing single-family residence.
- g. Water/Sewer. The application included an approved Building Site Application
which shows approval for water and sewer from Kitsap County's Health
Department. Potable water will be provided by the North Perry Avenue Water

1 District; and sanitary sewage disposal is proposed to be provided by an on-site
2 septic system.

- 3 h. Compatibility. The proposal is compatible with surrounding uses. As noted in
4 the staff report, the design, size, and placement of the proposed ADU effectively
5 utilizes the existing features of the property while complementing the
6 surrounding neighborhood characteristics. The ADU will have similar materials
7 as the primary dwelling. The proposed ADU is also centrally located on a large
8 lot that is heavily treed together with the significant trees on the adjoining lots
9 and likely will not be visible to surrounding uses. The aerial photograph on the
10 first page of the staff report shows the area as heavily forested.

11 CONCLUSIONS OF LAW

12 **Procedural:**

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

15 **Substantive:**

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

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

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

- 26 4. Criterion met. The criterion is met. The proposed ADU provides the ability to
27 create an affordable housing unit which is a goal supported by several policies in the
28 Comprehensive Plan in a manner consistent with the zoning established for the subject
29 property. The proposal is also found consistent with the Comprehensive Plan for the
30 reasons identified in Section 7 and Section 12 of the staff report (Exhibit 1).

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

- 33 5. Criterion met. The criterion is met. The proposal conforms to the County's zoning
34 code as detailed in Section 10 of the staff report (Exhibit 1). Staff planning and public
35 works staff have reviewed the proposal to ensure conformance to the County's zoning

1 code for this level of review. The results of that work have been implemented in
2 detailed conditions of approval, adopted by this decision. Nothing in the record
3 suggests any outstanding compliance issues. More detailed compliance will be
4 required during the building and civil permit review.

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

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

19 6. Criterion met. The criterion is met for the reasons identified in Section 12 of the
20 staff report (Exhibit 1) and Finding of Fact No. 5.

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

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

26 DECISION

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

29 A. Planning/Zoning

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

32 2. The ADU is subject to the payment of impact fees. Impact fees must be paid at
33 time of permit issuance, or if deferred, must be paid prior to final inspection. No
34 certificate of occupancy will be granted until all impact fees are paid.

1 3. Any proposed modification (not including cosmetic work such as painting,
2 papering and similar finish work), remodel or expansion of the ADU building,
3 regardless of whether a building permit is required, shall be reviewed by the DCD and
4 granted approval prior to such modification, expansion, construction and/or issuance
5 of a building permit.

6 4. Only one ADU shall be permitted on the subject property.

7 5. The owner of the property must reside in either the primary residence or the ADU
8 and only one of the structures may be rented at any one time.

9 6. The ADU's inhabitable area shall not exceed 50% of the primary residence or
10 900 square feet, whichever is smaller. The proposed size of the ADU is 884 square
11 feet (see Exhibit 2). Any future expansion of the ADU will require a building permit
12 and have to comply with all code requirements in place at the time of the new building
13 permit application.

14 7. The ADU shall be located within 150 feet of the primary residence.

15 8. The ADU shall be designed to maintain the appearance of the primary residence.

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

18 10. No mobile home or recreational vehicle shall be allowed as an ADU.

19 11. The ADU shall use the same side street entrance as the primary residence and
20 shall provide one additional off-street parking space.

21 12. An attached accessory dwelling unit (A-ADU) or guest house (GH) is not
22 permitted on the same lot unless the ADU is removed and the A-ADU or GH complies
23 with all requirements imposed by the Kitsap County Code.

24 13. A property with a primary residence and an ADU cannot be segregated to create
25 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 into its own lot.

15. 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 acknowledgement of, and agreement to, abide by the
terms and conditions of the CUP and as a notice to prospective purchasers of the

1 existence of the permit. The Binder shall be prepared and recorded by the DCD at the
2 applicant's expense.

3 16. The uses of the subject property are limited to the uses proposed by the applicant
4 and any other uses will be subject to further review pursuant to the requirements of the
5 KCC. Unless in conflict with the conditions stated and/or any regulations, all terms
6 and specifications of the application shall be binding conditions of approval. Approval
7 of this project shall not, and is not, to be construed as approval for more extensive or
8 other utilization of the subject property.

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

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

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

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

26 B. Development Engineering

27 21. Building permits submitted for this development shall include construction plans
28 and profiles for all roads, driveways, storm drainage facilities and appurtenances. No
29 construction shall be started prior to said plan acceptance.

30 22. New and/or replaced hard surfaces do not exceed the 2,000 square foot
31 threshold; nor does the project exceed 7,000 square feet of disturbed area. While a
32 formal plan is not required, the applicant must consider all elements required of a
33 stormwater pollution prevention plan and make allowances for managing erosion
34 and sediment discharge on site. Per KCC Title 12, if the project exceeds either of
35 the thresholds noted above, then additional review for stormwater management will
36 be required.

37 23. If the project proposal is modified from that shown on the site plan approved

1 for this permit application, Development Engineering will require additional
2 review and potentially new conditions.

3 C. Environmental

4 24. Project shall follow the recommendations of the Geologic Report prepared by
5 EnivronTech Engineering dated May 18, 2018, and the addendum dated March 10,
6 2023.

7 D. Traffic and Roads

8 25. Any work within the County right-of-way shall require a Public Works permit
9 and possibly a maintenance or performance bond. This application to perform work
10 in the right-of-way shall be submitted as part of the SDAP process, or Building
11 Permit process, if a SDAP is not required. The need for and scope of bonding will
12 be determined at that time.

13 Dated this 29th day of February 2024.

14 *Phil Olbrechts*

15 _____
16 Phil Olbrechts,
17 Kitsap County Hearing Examiner

18 **Appeal Right and Valuation Notices**

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

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