



Administrative Staff Report

Report Date: December 1, 2023

Application Submittal Date: May 15, 2023

Application Complete Date: August 4, 2023

Project Name: Cellar Cat Wine Bar

Type of Application: Administrative Conditional Use Permit (ACUP)

Permit Number: 23-02479

Project Location

11253 NE State HWY 104
Kingston, WA 98346
Commissioner District 1

Assessor's Account

4316-007-001-0401

Applicant/Owner of Record

Dana Convert, Convert Trust
13380 N. Cape Marigold Drive
Tucson, AZ 85755

Decision Summary

Approved subject to conditions listed under Section 13 of this report.

VICINITY MAP



1. Background

A prior tenant, Oldies Piano Bar and Café, opened at the subject property around 2022. However, the establishment failed to apply for permits and has since closed. The applicant's plan was to continue using the property as a drinking establishment. However, because there was no prior approval for the previous occupant of the building, the applicant could not seek approval with a tenant change permit. Kitsap County Code 17.410.044.204 requires an Administrative Conditional Use Permit (ACUP) for drinking establishments. The applicant is currently using the building as a general retail mercantile store which is allowed in the zone.

2. Project Request

The application proposes a tenant change from a general retail mercantile store to a drinking establishment. The proposal is for a wine bar that patrons will consume alcohol and small portions of food onsite along with a section of the establishment for retail

sales of gifts, art, and wine bottles. Some nights of the week the venue will host live music. Occasional wine classes and tastings are proposed.

The applicant proposes to be open Thursday – Monday with differing hours for seasonal business.

November 1 - April 30 Hours:

Thursday & Sunday, 3pm – 10pm

Friday & Saturday, 3pm – 11pm

Monday, 2pm – 6pm

May 1 - October 31 Hours:

Thursday & Sunday, 2pm – 10pm

Friday & Saturday, 2pm – 11pm

Monday, 2pm – 9pm

The establishment will employ 1 -2 servers in addition to the owner.

3. SEPA (State Environmental Policy Act)

The State Environmental Policy Act (SEPA), found in Chapter 43.21C RCW (Revised Code of Washington), is a state law that requires the County to conduct an environmental impact review of any action that might have a significant, adverse impact on the environment. The review includes the completion of an Environmental Checklist by the applicant and a review of that checklist by the County. If it is determined that there will be environmental impacts, conditions are imposed upon the applicant to mitigate those impacts below the threshold of “major” environmental impacts. If the impacts cannot be mitigated, an environmental impact statement (EIS) must be prepared. The decision following environmental review, which may result in a Determination of Nonsignificance (DNS), Mitigated DNS, or the necessity for an EIS is called a threshold determination. A separate notice of the threshold determination is given by the County. If it is not appealed, it becomes part of the hearing record as it was issued, since it cannot be changed by the Hearing Examiner.

Pursuant to WAC 197-11-355, the optional DNS process was utilized for this project. The SEPA Comment period previously occurred concurrent with the Notice of Application dated August 22, 2023. A Determination of Nonsignificance (DNS) was issued on November 16, 2023.

The SEPA appeal period expired November 30, 2023. No appeals were filed; therefore, the SEPA determination is final.

4. Physical Characteristics

The property rectangular shape and approximately 206’ long and approximately 29’ wide at largest width. There is a narrow portion at the southwestern portion that is approximately

5' wide. The subject property is adjacent to the Kingston Ferry terminal.

Table 1 - Comprehensive Plan Designation and Zoning

Comprehensive Plan: Urban Low Intensity Commercial (ULIC) Zone: Urban Village Center	Standard	Proposed
Minimum Density	10	NA (See Staff Comment)
Maximum Density	NA	
Minimum Lot Size	NA	NA
Maximum Lot Size	NA	NA
Minimum Lot Width	NA	NA
Minimum Lot Depth	NA	NA
Maximum Height	35'	NA
Maximum Impervious Surface Coverage	85%	NA
Maximum Lot Coverage	NA	NA

Staff Comment: The proposal is going in an existing parcel and a legal nonconforming building that was constructed in 1954. The existing building predates the above requirements.

Table 2 - Setback for Zoning District

	Standard	Proposed
Front (East)	NA	Existing Building has 0' side setback
Side (North)	NA	Existing Building has 0' side setback
Side (South)	NA	Existing Building has 0' front setback
Rear (West)	NA	~137'

Table 3 - Surrounding Land Use and Zoning

Surrounding Property	Land Use	Zoning
North	Commercial	Urban Village Center (UVC)
South	Commercial	UVC
East	Commercial	UVC
West	Commercial	UVC

Table 4 - Public Utilities and Services

	Provider
Water	Kitsap PUD #1
Power	Puget Sound Energy
Sewer	Kitsap County
Police	Kitsap County Sheriff
Fire	North Kitsap Fire & Rescue
School	North Kitsap School District #400

5. Access

The site can be accessed from the street front from Highway 104 or from the back of the building accessing from Central Ave NE.

6. Site Design

Please see Section 10 for Site Design Analysis.

7. Policies and Regulations Applicable to the Subject Proposal

The Growth Management Act of the State of Washington, RCW 36.70A, requires that the County adopt a Comprehensive Plan, and then implement that plan by adopting development regulations. The development regulations must be consistent with the Comprehensive Plan. The Comprehensive Plan process includes public involvement as required by law, so that those who are impacted by development regulations have an opportunity to help shape the Comprehensive Plan which is then used to prepare development regulations.

Kitsap County Comprehensive Plan, adopted June 30, 2016 with revision on April 2020.

The following Comprehensive Plan goals and policies are most relevant to this application:

Economic Development Goal 3. Provide for the location and design of targeted sector industry needs, transportation, port district activities as well as tourism and visitor amenities, commerce and other developments that are dependent upon a shoreline location and/or use, when the shoreline can accommodate such development.

Economic Development Policy 15. Support development of enterprise areas that stimulate economic development for investors who launch businesses in port and waterfront properties.

Economic Development Policy 22. Support tourism to enhance the local economy.

The County’s development regulations are contained within the Kitsap County Code. The

following development regulations are most relevant to this application:

Code Reference	Subject
Title 12	Storm Water Drainage
Title 13	Water and Sewers
Title 14	Buildings and Construction
Title 17	Zoning
Chapter 18.04	State Environmental Policy Act (SEPA)
Chapter 20.04	Transportation Facilities Concurrency Ordinance
Chapter 21.04	Land Use and Development Procedures

8. Documents Consulted in the Analysis

<u>Applicant Submittals</u>	<u>Dated or date stamped</u>
Administrative CUP Application	May 25, 2023
Parking Analysis	May 25, 2023
Environmental (SEPA) Checklist	June 9, 2023
Project Narrative	November 8, 2023
Site Plan	November 13, 2023
Final Health District Approval	August 17, 2017
Project Narrative	November 8, 2023

9. Public Outreach and Comments

A Notice of Application was disturbed on August 22, 2023. No public comments were received.

10. Analysis

a. Planning/Zoning

The proposal is categorized under Kitsap County Code as a “drinking establishment” which is defined as “a business primarily engaged in the retail sale of alcoholic beverages for consumption on the premises, including nightclubs, bars, and taverns. It shall not mean premises primarily engaged in the retail sale of food for consumption on the premises, where the sale of alcoholic beverages is clearly accessory and incidental (e.g., comprises less than twenty percent of the gross receipts).”

Staff Comment: While the project does propose some retail sales and small portions of food, the primary purpose is the sale will be for consumption of alcohol onsite.

b. Lighting

The project is conditioned for so that artificial outdoor lighting shall be arranged so that the lighting is fully recessed or fully shielded from side view and directed downward and away from surrounding properties. No more than one foot-candle of illumination shall leave the property boundary. Lighting shall be the minimum necessary for safety purposes and be compatible with surrounding properties. Light standards (poles) shall not exceed (insert number) feet in height.

c. Off-Street Parking

Analysis is under Table 5.

Table 5 - Parking Table

Use Identified in 17.490.030	Standard	Required Spaces	Proposed Spaces/Existing Spaces
Restaurants/Bars/Taverns	1 per 400 sf of gross floor area (High Capacity Transit Area) Existing building is 2,327 sf $400/2,327 = 5.8$ (Round up per KCC 17.490.010)	6	10 spaces proposed
Total		6	10

d. Signage

The project has been conditioned to submit a permit if a sign is proposed.

e. Landscaping

Landscaping was not required for this tenant change proposal.

Table 6 - Landscaping Table

	Required	Proposed
Required Landscaping (Sq. Ft) 15% of Site	NA	NA
Required Buffer(s) 17.500.025		
North	NA	NA
South	NA	NA
East	NA	NA
West	NA	NA
Street Trees	NA	NA

f. Frontage Improvements

Frontage improvements were not required with this proposal.

g. Design Districts/Requirements

The proposal is within the Kingston Design District (Old Town). The project is conditioned to follow the Kingston Design Standards.

h. Development Engineering/Stormwater

Kitsap County engineers reviewed and approved the proposal with no conditions.

i. Environmental

There were no critical areas on the subject property.

j. Access, Traffic and Roads

Traffic was analyzed and approved for the proposal with no conditions.

k. Fire Safety

Kitsap County Fire Marshal's staff have reviewed the proposal and visited the subject property and approved the project.

l. Solid Waste

Solid waste was not reviewed under this proposal.

m. Water/Sewer

The project is already served by public water and sewer. No conditions added to the proposal.

n. Kitsap Public Health District

The Health District reviewed and approved the proposal. The project is conditioned to comply with all Kitsap County Health District regulations and conditions of approval.

11. Review Authority

The Director has review authority for this Administrative Conditional Use Permit application under KCC, Sections 17.540.020 and 21.04.100. The Director may approve, approve with conditions, or deny an Administrative Conditional Use Permit.

12. Findings

1. The proposal is consistent with the Comprehensive Plan.
2. The proposal complies or will comply with requirements of KCC Title 17 and complies with or will comply with all of the other applicable provisions of Kitsap County Code

and all other applicable regulations, including all applicable development standards and design guidelines, through the imposed conditions outlined in this report.

3. The proposal is not materially detrimental to existing or future uses or property in the immediate vicinity.
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.

13. Decision

Based upon the analysis above and the decision criteria found in KCC, the Department of Community Development recommends that the request be **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. Any and all signage design and location (including exempt signs) shall comply with Kitsap County Code (KCC) 17.510, and be reviewed and approved by the Department of Community Development prior to installation. Signage may require a separate permit.
3. The recipient of any administrative 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 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 administrative conditional use permit 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.
4. 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, and is not, to be construed as approval for more extensive or other utilization of the subject property.
5. The decision set forth herein is based upon representations made and exhibits

contained in the project application (#23-02479). 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.

6. 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.
7. This Administrative 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.
8. Any violation of the conditions of approval shall be grounds to initiate revocation of this Administrative Conditional Use Permit.
9. Artificial outdoor lighting shall be arranged so that the lighting is fully recessed or fully shielded from side view and directed downward and away from surrounding properties. No more than one foot-candle of illumination shall leave the property boundary. Lighting shall be the minimum necessary for safety purposes and be compatible with surrounding properties.
10. Project shall follow the Kingston Design Standards for any future or present alterations or additional proposals.
11. Project shall comply with Kitsap County Code 10.28, Noise.
12. Project shall adhere to the hours of operation proposed in this permit.

b. Development Engineering

None

c. Environmental

None

d. Traffic and Roads

None

e. Fire Safety

13. The department has approved this structure and issued a certificate of occupancy for its current mixed Business (Group B) and Mercantile (Group M) use under the provisions of Title 14, Kitsap County Code. The applicant seeks to change the use of the structure to “a wine bar/wine shop/art gallery featuring live jazz five nights a week” in addition to or in place of its current use. Such use is classified as Assembly (Group A) and to use the structure as such requires approval of this conditional use application, approval of a change of use building permit, issuance of an assembly operational permit, and a new certificate of occupancy issued under the provisions of Title 14, Kitsap County Code.

Approval of this application does not grant approval to use the structure for other than its current mixed Mercantile and Business use without first complying with permitting and other requirements of Title 14 and doing so will result in revocation of this application should it be approved.

Plans submitted for this application are considered for information only and approval of this application does not bind the department into approving these plans for any other use or application.

f. Solid Waste

None

g. Kitsap Public Health District

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

Report prepared by:



November 30, 2023

Katharine Shaffer, Planning Supervisor / Project Lead

Date

Report approved by:



December 1, 2023

Scott Diener, Planning Manager

Date

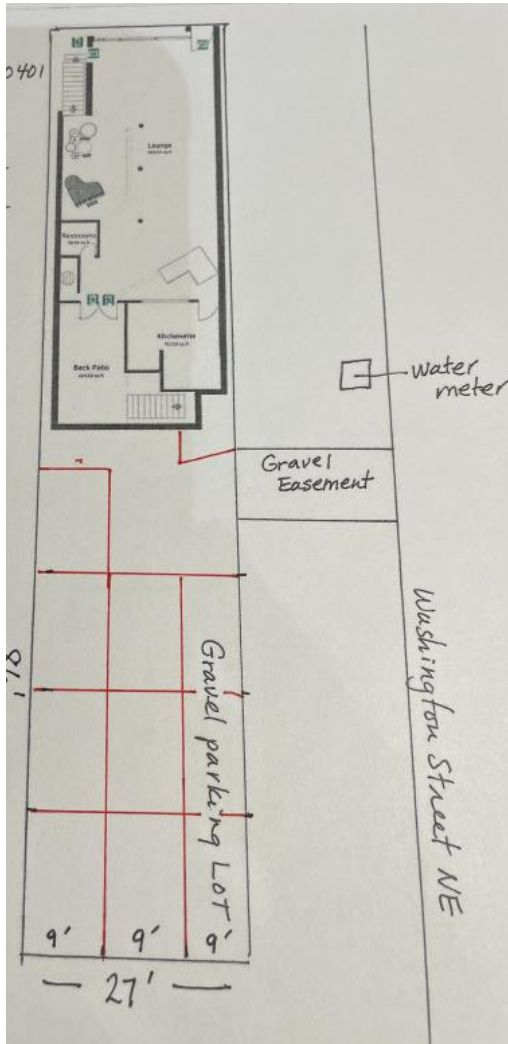
Attachments:

Site Plan

Attachment A – Zoning Map

CC: Applicant/Owner email: Dana Covert
Authorized Agent: Holly Evans-White, holly@cellarcat.com
Interested Parties: None
Kitsap County Health District, MS-30
Kitsap County Public Works Dept., MS-26
DCD Staff Planner: Katharine Shaffer

Site Plan



Attachment A – Zoning Map

