



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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Larry Keeton, Director

STAFF REPORT

RECOMMENDATION TO THE HEARING EXAMINER

Project: Old Town Bistro Martini and Wine Bar

Date: July 13, 2009

Application Date: April 15, 2009

Type of Application: Conditional Use Permit

Permit #: 09 64284

Project Description:

The request is to permit the expansion of the use for the Old Town Bistro Martini and Wine Bar and bring the business in compliance with current regulations. The business operation is consistent with the definition KCC 17.110.226 Drinking Establishments and is required to be reviewed through a Conditional Use Permit application, pursuant to KCC Use Table 17.381.040(B) Commercial and Mixed Use Zones. Drinking establishments primarily involve the retail sales of alcohol, involving a larger number of customers, requiring a greater level of review, compared to restaurants with mostly food sales.

Project Location: 3388 Byron Street, within the Seaport Building, Old Town Silverdale, Central Kitsap, Commissioner District # 3

Assessor's Account #: 4458-008-010-0000 & 4458-008-004-0008

Applicant:

Mike Shahrezaei
3388 NW Byron Street, #100
Silverdale, WA 98383

Project Representative:

FPH Construction, Inc.
3331 Kitsap Way #D
Bremerton, WA 98312

Owner of Record:

Conrad Esser
Cannongate Development LLC
2600 NW Randall Way, Suite 111-206
Silverdale, WA 98383

Engineer:

Michael F. Wnek, P.E., PS
Consulting Civil Engineer
3388 NW Byron Street, Suite 200
Silverdale, WA 98383

State Environmental Policy Act (SEPA) Status:

Pursuant to WAC 197-11-340, a Determination of Nonsignificance was signed by the Responsible Official June 2, 2009.

COMMENTS: The SEPA comment period previously occurred concurrent with the Notice of Application dated May 14, 2009. The existing use will be reviewed and conditioned through the Conditional Use Permit process pursuant to Kitsap County Code 17.110.226 (Drinking Establishments). Adverse environmental impacts related to the use are not anticipated to be more than moderate, due to the surrounding commercial zone designation.

Physical Characteristics:

The total project site is 0.39 acres, which consists of two abutting urban parcels separated by an alley that are both flat. The larger parcel fronts on NW Byron Street that includes a 7,246 square foot wood frame structure that occupies 75% of the lot, with multiple tenants and approximately six off-street parking spaces. The previous land use decision describes the building as 4,500 square feet in size prior to adding the second story [Exhibit-1]. The Conditional Use Permit lists 6,400 square feet devoted to various uses. The parcel north of the alley is a paved off-street parking with 20 spaces for the patrons of the Seaport Building that includes perimeter-landscaping beds with some landscaping. Based on a site visit, it appears the off-street loading area is adjacent to the west side of the building.

Existing Zoning and Comprehensive Plan Designation:

The subject property is zoned Neighborhood Commercial (NC). The general intent of these commercial centers is to provide for quick stop shopping needs for the immediate neighborhood in which they are located.

Neighborhood Commercial Zone Minimum Lot Requirements: The following are the minimum lot requirements for the NC zone per KCC Section 17.382.070:

Minimum Setbacks = 20-feet front yard
= 10-feet side yard (abutting residential)
= 10-feet rear yard (abutting residential)

Minimum Density = 10 dwelling units/acre
Maximum Density = 30 dwelling units/acre

Silverdale Urban Design Standards: The property is within the Old Town Center Design District. The design intent of the district is for modification of existing buildings and design of new buildings to respect the historic design characteristics of the Old Town Silverdale. The Design Standards are not applicable to this application; due to the request does not involve exterior work.

Surrounding Land Use and Zoning:

The abutting properties are zoned NC, except for the parcel to the south, the surrounding properties include commercial buildings with associated off-street parking. There are no residential zoned parcels in the immediate vicinity.

Public Utilities and Services:

Water: Silverdale Water District

Power: Puget Sound Energy

Sewer: Kitsap County

Police: Kitsap County Sheriff

Fire: Central Kitsap Fire and Rescue

Schools: Central Kitsap School District #401

Transportation Review:

There are multiple points of access for this business location. The business fronts on NW Byron Street, a local access road. NW Byron Street intersects with Silverdale Way to the west and is an urban principal arterial. Development Engineering has issued a memorandum dated May 6, 2009 with conditions of approval to mitigate stormwater impacts [Exhibit-18].

Stormwater Facilities:

The request does not include any site work affecting storm drainage and only involves internal improvements to the existing structure. The applicant is required to continue to adhere to all applicable requirements in KCC Title 12 Storm Water Drainage for the existing storm drainage facilities.

Off-Street Parking:

The business is required to comply with KCC Chapter 17.435 Off-street Parking and Loading. The building includes 2,300 square feet of office space, 3,000 square feet for the Old Town Bistro and 1,100 square feet previously occupied by a spa. Off-street parking is calculated based the individual uses. Per off-street parking requirement in the above chapter, a minimum of 28 off-street parking spaces are required and one off-street loading area. The parking on this site is classified as a joint use facility with multiple uses with different peak hours of operation. The existing parking meets the minimum standards, pursuant to 17.435.020 General Provisions.

Policies and Regulations Applicable to the Subject Proposal:

Kitsap County Zoning Ordinance (February 15, 1999)

Road Standards, Title 11

Stormwater Drainage, Title 12

Zoning, Title 17, (February 15, 1999/ as amended)

- Chapter 110 Definitions

- Chapter 355 Commercial Zones
- Chapter 382 Density, Dimensions and Design
- Chapter 385 Landscaping
- Chapter 400 Land Use Review
- Chapter 421 Hearing Examiner Conditional Use Permit
- Chapter 435 Off-Street Parking and Loading
- Chapter 445 Signs
- Chapter 520 Appeals
- Chapter 525 Revocations of Permits or Variances

KCC, State Environmental Policy Act, Section 18.04

Critical Areas Ordinance, Title 19

Kitsap County Land Use and Development Procedures Title 21, (May 18, 1998 and as amended)

Kitsap County Comprehensive Plan (May 7, 1998 and as amended)

The following provisions are Goals of the Comprehensive Plan addressing the land use element:

Policy LU-82 Encourage commercial areas to be compact to encourage pedestrian and non-motorized travel and transit use.

Policy LU-88 Size Neighborhood Commercial Zones and uses in a manner compatible with a residing setting.

Policy LU-91 Recognize and protect the character of Kitsap County’s historical “old-town” commercial areas.

Public Comments:

The County, pursuant to KCC Title 21, Land Use, and Development Procedures, gave proper public notice. The applicant submitted a letter from the Port of Silverdale in support of the use and expansion and gave revocable license for overflow parking adjacent to the Port’s moorage facility [Exhibit-23].

Analysis:

The request is to permit the existing Old Town Bistro Martini and Wine Bar established in 2006. The subject property received approval through an Administrative Site plan Review in 2002 to convert the structure with an addition of a second story from farm and garden retail sales to commercial retail space with an option for a small restaurant, professional offices, residence which is no longer present [Exhibit-1].

The business hours of operation are from 11:00 AM to 2:00 AM and include approximately 20 employees. The business includes retail sales of food and drinks. In the near future, the applicant is proposing to move the kitchen into the spa area, which will increase the floor area to 4,100 square feet. The applicant is pursuing State licensing to allow minors in designated areas and sell bottled of wine. Due to Kitsap County Fire

Safety requirements for public health and safety, the restaurant/lounge has limited customer occupancy.

Conditional Use Permit Review

The following are the most applicable to meet the requirements of KCC Section 17.382.030 Design Standards:

Access and Circulation

1. Safe pedestrian and handicap access shall be required on-site from public right-of-ways to minimize pedestrian and vehicular conflicts. *The applicant's site plan makes some allowances for pedestrian movement and is consistent with ADA requirements.*

Off-street parking and loading per KCC Section 17.435.

The Code requires all commercial use to have adequate off-street parking to meet demand on or adjacent to the site where the business is located. Until recently, the existing business had insufficient off-street parking to meet customer demand. This business is similar to other businesses with small lots in Old Town Silverdale to provide off-street parking. There is limited on street parking provided near the business. The applicant has recently acquired permission from the Port of Silverdale to use their gravel lot on the south side of NW Byron Street, directly across from the restaurant/lounge for evenings after 8:00 PM [Exhibit-23]. According to Kitsap Assessor's records, the gravel parking lot is 0.23 of an acre. This off-street parking area should provide sufficient area for overflow parking, depending on the limits to occupancy established by the Kitsap County Fire Marshal.

Landscaping provided per KCC Section 17.385.

The KCC requires that a minimum of 15% of the total site area be landscaped to the standards in the listed section. As approved in the previous land use decision, the applicant has included a preliminary site plan with approximately 5 to 10% of the total site shown as landscaped. Additional landscaping should be installed to fill in the areas without landscaping, consistent with the above Chapter in the planting beds around the perimeter of the existing off-street parking areas prior to final approval of the Certificate of Occupancy and plants should be maintained.

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| County Health District: | A letter dated May 11, 2009 recommends approval with conditions [Exhibit-19]. |
| County Development Engineering | A memorandum dated May 6, 2009 recommends approval, subject to conditions [Exhibit-18]. |
| County Fire Prevention Bureau: | Specific requirements are noted in LIS on May 4, 2009. |

Public Input: Port of Silverdale, PO Box 310, Silverdale, WA 98383.

Decision Criteria – Conditional Use Permit

Staff has reviewed the Conditional Use Permit application for the Old Town Bistro Martini and Wine Bar against the requirements in KCC 17.382.030 Design Standards. The Hearing Examiner (HE) is the review authority; set forth in KCC Section 17.421.030(A) to approve, approves with conditions, or denies the HE Conditional Use Permit. The HE will base the decision on the following criteria:

1. As found above the proposal is consistent with the comprehensive plan.

The request for the drinking establishment is permitted use, but conditionally approved and consistent with the comprehensive plan.

2. The proposal complies with applicable requirements of KCC Title 17;

The request is only limited to a tenant improvement and generally bulk regulations are not applicable. With overflow parking being provided, this helps reduce impact on the surrounding businesses that are open in the vicinity at the same time.

3. The proposal will not be materially detrimental to existing or future uses in the immediate vicinity; and

The applicant states that the surrounding uses are commercial with different hours of operation, which helps prevent conflicts. Staff agrees that most of the adjacent commercial activities operate during the day, while the Bistro operates at night reducing potential impacts. If the occupancy requirements are adhered to, existing and future uses should only experience moderate impacts.

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.

Sufficient off-street parking to meet demand, landscaping, and adherence to all other Kitsap County Code requirements for public health and safety shall improve the physical characteristics of the business, improving the character within the neighborhood.

Recommendation:

Based upon the above findings, staff recommends that the Conditional Use Permit request for the Old Town Bistro be **approved**, subject to the following conditions:

1. Land use approval is limited to the uses proposed by the applicant. Any modifications or expansion of the project will be subject to further review pursuant to the requirements of the appropriate sections of the Kitsap County Code.
2. Additional landscaping shall be planted and maintained within landscape beds around the perimeter of the off-street parking areas, consistent with the standards in KCC Chapter 17.485 Landscaping.
3. Pursuant to KCC 21.04, land use approval is valid for a period of up to three (3) years from the decision date.
4. The applicant shall record a Land Use Permit Binder with the Kitsap County Auditor's Office prior to acceptance of the Site Development Activity Permit and prior to issuance of Building Permits.

All applicable Kitsap County Health District requirements shall be adhered to, including the following:

5. Sewer Service shall be provided by Kitsap County and water service shall be provided by Silverdale Water District.

The applicant shall adhere to all requirements of the Kitsap County Fire Marshal's Office, including the following:

6. All requirement listed under the conditions of approval of 07-48200 shall be complied with. A fire suppression system and fire alarm system is required.

Development Engineering accepts the concept with the preliminary submittal and requires the following:

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

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Michael F. Wnek, P.E., PS, Consulting Civil Engineer, 3388 NW Byron Street,
Ste 200, Silverdale, WA 98383

Interested Parties: **None**
Kitsap County Health District, MS-30

Kitsap County Parks & Recreation Dept., MS-6
Kitsap County Development Engineering / Public Works
DCD Staff Planner Jeff Smith
DCD Code Enforcement
Hearing Examiner
Clerk of Hearing Examiner
DCD File
DCD Building Permit File