



## Staff Report and Administrative Decision

Report Date: May 25, 2018

Application Complete Date: March 19, 2018      Application Submittal Date: March 19, 2018

**To:** Seth Hanson, Authorized Agent  
[brewingseth@gmail.com](mailto:brewingseth@gmail.com)  
Interested Parties and Parties of Record

**RE:** **Permit Number:** 18-01246  
**Project Name:** Tiernan Brewery  
**Type of Application:** Administrative Conditional Use Permit – Agriculture

### Decision Summary:

Type-II Decision, Subject to conditions of approval.

**THE DECISION OF THE DEPARTMENT IS FINAL, UNLESS APPEALED TO THE KITSAP COUNTY HEARING EXAMINER ON OR BEFORE 14 DAYS FROM THE DATE OF DECISION PER KITSAP COUNTY CODE 21.04.290.**

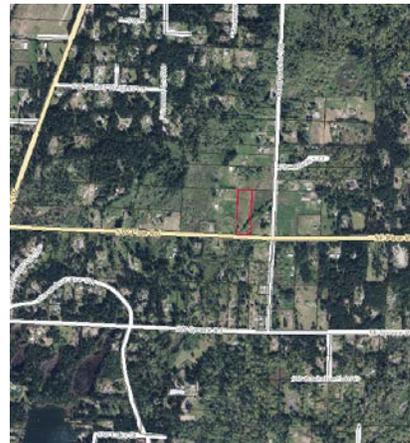
The written appeal shall be made on, or attached to, an appeal form found on DCD's website:  
<http://www.kitsapgov.com/dcd/forms/DocumentLibrary/applications/Appeals.pdf>.

### Project Request:

The request is for brewery production, bottling, packaging, delivery of supplies for beer production, distribute offsite review consistency with KCC 17.455 Agriculture. The project includes a multi-phased implementation of the brewer use on the subject property. In the first year the applicant will focus on starting the brewery production with no tasting room or appointments from the public. After the second year when brewery production goals are achieved, the applicant will implement a small tasting room by appointment only. Year-3, if brewery production goals are being met, the brewery may implement a tasting room with open hours of operation.

### Project Location:

Project site located 523 SW Pine Road,  
Port Orchard, WA 98367, South Kitsap  
County



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**Assessor's Account #:**

032201-4-014-2002

**Applicant/Owner of Record:**

Peter Tiernan  
14170 Madrona Road SW  
Port Orchard, WA 98367-9689  
[tiernpj@aol.com](mailto:tiernpj@aol.com)

**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 KCC 18.04 State Environmental Policy Act, the project is SEPA exempt and falls below the threshold for environmental review.

**Physical Characteristics:**

The parcel is located near the intersection of SW Pine Road and Madrona Road SW and is rectangular in shape and approximately 3 acres in size with frontage onto SW Pine Road.. Most of the site is pasture with a 20-foot elevation change from the northwest to the southeast. Burley Creek, which is a fish-stream, crosses the southeast corner of the property includes the stream channel within a vegetated riparian area. Kitsap County requires a 150-foot stream buffer with a 15-foot construction setback. The property has a vehicle access located along the west property line separate from the neighbor located west of the property that serves a recently constructed 1,600-square foot home. The well is located near SW Pine Road and the home's onsite sewage disposal system is located on the north side of the property. The location of the proposed brewery building will be approximately 45 feet from west property line.

**Comprehensive Plan Designation and Zoning:**

The property has a comprehensive plan designation and zoning of Rural Residential. The intent of the zone is to promote low-density residential development and agricultural activities that are consistent with the rural character. Pursuant to KCC 17.410.040 (A) the Tiernan Brewery is required to be reviewed by an Administrative Conditional Use Permit. The following are applicable land use footnotes:

KCC 17.410.050 Footnote #12 – Building Activities

KCC 17.410.050 Footnote #15 – Animal Density Thresholds

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The following are density, dimensions, and setbacks per KCC 17.420.050(A):

Base/Maximum Density: one dwelling unit per 5-acres

Minimum Lot Area - 5 acres

Minimum Lot Width - 140 feet

Minimum Lot Depth - 140 feet

Maximum Height - 35 feet

Standards Zoning Code Zoning Setbacks

Front - 50 feet minimum

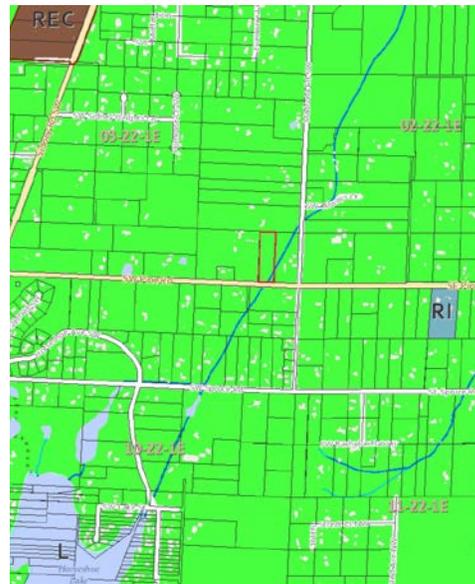
Side - 20 feet minimum

Rear - 20 feet minimum

5 feet minimum side and rear - Accessory Structures

**Surrounding Land Use and Zoning:**

The parcels near the proposed project are similar in size and zoned Rural Residential with single-family homes and out buildings.



**Public Utilities and Services:**

Water: Well

Power: Puget Sound Energy

Sewer: Septic

Police: Kitsap County Sheriff

Fire: South Kitsap Fire and Rescue

Schools: South Kitsap School District

**Policies and Regulations Applicable to the Subject Proposal:**

The Growth Management Act (GMA) of the State of Washington, Revised Code 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.

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Kitsap County Comprehensive Plan  
Adopted December 11, 2006 (Amended June 30, 2016)

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

*Rural Lands Goals and Policies*

*Land Use Policy 50*

*Limit the designated rural area to low residential densities that can be sustained by minimal infrastructure improvements, cause minimal environmental degradation, and that will not cumulatively create the future necessity or expectation of urban levels of service.*

*Land Use Policy 51*

*Permit residential uses in rural areas consistent with the planned rural character of the surrounding area.*

*Land Use Policy 54*

*In accordance with RCW 36.70A070(5)(c):*

- *Preserve rural character of the County, emphasis controlling rural development.*
- *Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area,*
- *Protect critical areas, as provided in RCW 36.70A.060, surface water and groundwater resources, and*
- *Protect against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170*

The County’s development regulations are contained within the Kitsap County Code (KCC). The following regulations are most relevant to this application:

Kitsap County Code (KCC)

- Title 12 Storm Water Drainage
- 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

**Documents Consulted in the Analysis:**

**Applicant submittals:**

<u>Document</u>	<u>Dated or date stamped</u>
Health District Concurrent Review	March 19, 2018
Administrative CUP Application	March 19, 2018
Site Plan	April 17, 2018
Final Health District Approval	April 23, 2018

**Public comments:**

Pursuant to KCC Title 21, Land Use, and Development Procedures, the Department gave proper public notice 800 feet around the subject property for the Administrative Conditional Use Permit. The Department has received comments on the proposal from the neighbor Gina Coleman at 551 SW Pine Road, on the west side of the property. The neighbor has concerns

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that patrons may go down the wrong drive way and concerned the proposed land is not consistent with the Rural Residential zone.

### **Land Use and Zoning Analysis:**

The proposal was reviewed for consistency with zoning requirements in KCC Sections Chapter 17.420.030 Design Standards, Administrative Decision Criteria Conditional Use Permit and 17.455 Agricultural Code. The Department is required to make findings for the following requirements:

#### 17.455.060.H Wineries, Breweries, Cideries and Distilleries

H. Pursuant to KCC 17.455.060 and accessory agricultural use of agritourism is allowed as an accessory agricultural use on a farm where a primary agricultural use exists.

1. A tasting room is an allowed use in conjunction with a winery, brewery, cidery, or distillery as defined in KCC 17.455 subject or licensed by the Washington State Liquor and Cannabis Board subject to and Administrative Conditional Use Permit approval.

Applicant: The project will be a phased brewer use on the subject property. The first year, the focus will be on starting brewery production with no tasting room or appointments from the public. All tasting and retail sales will occur off-site. The second year when brewery production goals are met, there will be a small tasting room for the public to visit by appointment only. Upon year-3, if brewery production goals are being met, the brewery may implement a tasting room with open hours of operation consistent with Code.

Staff Comments: *The applicant's phased approach is consistent with the intent of the Agricultural Code to allow limited micro-brewery uses.*

2. Structures and equipment related to the operations of a winery, brewery, cidery or distillery shall comply with KCC Title 14 and 17 and not exempt from building permits.
  3. Retail sales are directly related to the facility and related merchandise.
- I. Assembly Events. Assembly as defined in this chapter are allowed on the farm.

Staff Comments: *The applicant has stated that when production goals are met, their desire is for low volume retail sales. It is anticipated that the proposed microbrewery use will produce only minor impacts, which will be limited to the subject property.*

### **Setbacks**

The proposal is consistent with setback requirements in KCC Table 17.420.050(A) Rural Residential zone.

Staff Comments: *The applicant is proposing a 1,295 square foot building that will be setback 45 feet from the north property line. The proposal is consistent with dimensional standard in KCC 17.420 of the Zoning Code.*

### **Access, Roads and Traffic**

1. Development is limited to one ingress /egress per 300 lineal feet along a public arterial. Small parcels that provide less than 200 feet of road frontage shall be limited to one parking lane and exit.

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Staff Comments: *The applicant will be using the existing approved access off the county road.*

### **Off-Street Parking**

#### 2. Off-street parking and loading per KCC Chapter 17.490.

The project is required to provide adequate off-street parking consistent with the standards in KCC Chapter 17.490 Off-street Parking and Loading.

Staff Comments: *The applicant shows off-street parking on the site plan for a small number of visitors consistent with scale of the proposal.*

### **Signage**

#### 3. Signs permitted according to KCC Chapter 17.510.

The applicant is required to apply for sign permits in accordance KCC Section 17.510 Signs.

Staff Comments: *The agricultural brewery use will be subject to the requirements in KCC 17.510.060 Agricultural and Farm Stand Signage Program. The applicant is allowed to use temporary A-frame signs in the County right-of-way. A permanent arm sign is permitted with no permit and limited to 6 square feet of sign area. Arm signs are only required to be registered with Kitsap County The driveway should be clearly addressed to prevent vehicles mistakenly go down the neighbor's driveway.*

### **Kitsap County Public Health District**

The Kitsap Public Health District has reviewed the land use request, had no comments and issued approval on August 23, 2017.

### **Findings:**

The department has reviewed the Administrative Conditional Use Permit application for the Tiernan Brewery against the requirements in KCC 17.455.060 Design Standards and satisfies the criteria set forth in KCC 17.540.040(A). Findings on each criterion are hereby made as follows:

1. As found above, the proposal is consistent with the Commercial designation of the Kitsap County Comprehensive Plan.

Staff Comments: *The proposed use is consistent with the Kitsap County Comprehensive Plan, and the County Zoning Code for the brewery – agricultural use.*

2. The proposal complies with applicable requirements for the rural use set forth in Title 17 Kitsap County Code, assuming compliance with conditions of approval.
3. The proposal in the Rural Residential zone will not be materially detrimental to existing or future uses or property in the immediate vicinity; and
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.

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*Staff Comment: As proposed, the microbrewery will be compatible with the Rural Residential zoning, and physical characteristics of the development site.*

**Administrative Decision:**

Based upon the above findings, for the Tiernan Brewery, the Department of Community Development hereby approves the Administrative Conditional Use Permit, subject to the following 15 conditions of approval:

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

**Land Use**

2. The brewery will be required to be accessory to the agricultural use consistent with KCC Chapter 17.455.
3. Applicant agrees to not serve products in serving glassware, cups, or containers greater than 4-ounce capacity.
4. All signage design and location (including exempt signs) are required to comply with Kitsap County Code (KCC) 17.510.060.L Agricultural and Farm Stand Signage Program. The arm sign will be required to be registered with the County.
5. 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 an 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.
6. 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 Kitsap County Code (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.
7. The decision set forth herein is based upon representations made and exhibits contained in the project application (insert #). 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.
8. 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

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development or activities into compliance.

9. 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.
10. Any violation of the conditions of approval shall be grounds to initiate revocation of this Administrative Conditional Use Permit.

### **Health**

11. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
12. Kitsap Public Health District requires approval of the commercial building clearance in review for this application

### **Development Engineering**

13. The existing approach will need to be improved to meet current standards. Submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code.
14. Erosion and sedimentation control measures shall be employed during construction. Construction shall comply with any conditions regarding stormwater management imposed through review of the associated building permit.

### **Solidwaste**

15. Solid waste generated by the brewing operations shall be disposed of by using it for animal feed, as proposed by the applicant. In the event there is not enough demand for use as animal feed, the applicant is responsible for proper disposal of solid wastes generated by the brewing operation.

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 at the Department of Community Development; if you wish to view the case file or have other questions, please contact [help@kitsap1.com](mailto:help@kitsap1.com) or (360) 337-5777. Please note DCD is open Monday to Thursday from 8:00 am to 4:00 pm and on Friday from 9:00 am to 1:00pm except holidays.

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Jeff Smith, Project Lead

5/25/2018  
Date



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Shawn Aire, Development Services and  
Engineering Supervisor

5/25/2018  
Date

CC: Peter M. Tiernan, tiernpj@aol.com

Interested Parties:

Gina Coleman 551 SW Pine Road, Port Orchard, 98367  
Kitsap County Health District, MS-30  
Kitsap County Public Works Dept., MS-26  
DCD Staff Planner: Jeff Smith  
DCD File 18-01246,  
DCD Building Permit File 18-01189

