

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF KITTITAS  
STATE OF WASHINGTON**

**ORDINANCE NO. 2010- 013**

**DUNFORD PLANNED DEVELOPMENT (PUD) REZONE (Z-06-39) AND  
PRELIMINARY LARGE LOT SUBDIVISION (LL-08-03)  
IN THE MATTER OF AMENDING THE KITTITAS COUNTY ZONING ATLAS  
FROM AGRICULTURE 3 AND AGRICULTURE 5 TO PLANNED UNIT  
DEVELOPMENT (PUD)**

**WHEREAS**, according to Kittitas County Code Titles 15A, 16 & 17, relating to general rezones, adopted pursuant to RCW 36.70B & 36.70 respectively, an open record hearing was held by the Kittitas County Hearing Examiner on September 23, 2010 for the purpose of considering a zone change consisting of approximately 345.69 acres from Agriculture 3 and Agriculture 5 to Planned Unit Development (PUD) and a four lot Large Lot Subdivision and is described as follows:

*Located east of the City of Cle Elum off State Highway 97 at the north intersection of Bettas Road, Cle Elum, WA, and is located in a portion of Section 3, T19N, R17E and a portion of Section 34 T20N, R17E, WM in Kittitas County. Assessor's map numbers 19-17-03000-0002 and a portion of 20-17-34000-0006 and 20-17-34000-0002. Proponent: Terra Design Group, authorized agent for The Ranch on Swauk Creek LLC landowners.*

**WHEREAS**, public testimony was heard from those persons present; and,

**WHEREAS**, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such change of zoning; and,

**WHEREAS**, the Hearing Examiner recommended approval of said proposed rezone and large lot subdivision; and,

**WHEREAS**, a closed record public meeting was held by the Board of County Commissioners on November 2, 2010 to consider the Hearing Examiner's recommendation on this matter; and,

**WHEREAS**, the Kittitas County Board of Commissioners make the following FINDINGS OF FACT and CONCLUSIONS AT LAW concerning said proposed rezone and preliminary plat:

1. Terra Design Group, authorized agent for The Ranch on Swauk Creek LLC landowners, has submitted an application for a zone change consisting of approximately 345.69 acres from Agriculture 3 and Agriculture 5 to Planned Unit Development (PUD) and a four lot Large Lot Subdivision.
2. The project is located east of the City of Cle Elum off State Highway 97 at the north intersection of Bettas Road, Cle Elum, WA, and is located in a portion of Section 3, T19N, R17E and a portion of Section 34 T20N, R17E, WM in Kittitas County. Assessor's map numbers 19-17-03000-0002 and a portion of 20-17-34000-0006 and 20-17-34000-0002.
3. The Kittitas County Comprehensive Plan's Land Use Element designates the subject property as Rural and the current zoning is Agriculture 3 and Agriculture 5.
4. Community Development Services received rezone application on June 1, 2007 and the four lot Large Lot Subdivision on February 29, 2008. A Notice of Application was issued on March 12, 2009.
5. Community Development Services issued a Mitigated Determination of Non-Significance (MDNS) on July 12, 2010. No appeals were filed.
6. On September 23, 2010, the Kittitas County Hearing Examiner conducted an open record hearing where testimony was heard. On September 30, 2010 the Hearing Examiner submitted his Recommended Findings of Fact, Conclusions of Law, and Conditions of Approval of the Dunford PUD Rezone and Preliminary Large Lot Subdivision.
7. The Board of County Commissioners conducted a closed record hearing on November 2, 2010 for the purpose of considering the Dunford PUD Rezone(Z-07-08) and Preliminary Large Lot Subdivision (LL-08-03).
8. The Board of County Commissioners after review of the record and deliberation closed the hearing and a motion was made and seconded that the proposed Dunford PUD Rezone(Z-07-08) and Preliminary Large Lot Subdivision (LL-08-03) be approved, the motion carried with a vote of 3 to 0.

**NOW, THEREFORE BE IT RESOLVED:** That the Kittitas County Board of Commissioners hereby grants approval of the Dunford PUD Rezone(Z-07-08) and Preliminary Large Lot Subdivision (LL-08-03) and adopts the Kittitas County Land Use Hearing Examiner's Recommended Finds of Fact, Conclusions of Law, Decision and Conditions of Approval (Exhibit A).

DATED this 16th day of November, 2010 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS  
KITITAS COUNTY, WASHINGTON

**ABSENT**

\_\_\_\_\_  
Mark McClain, Chairman

\_\_\_\_\_  
Paul Jewell, Vice Chairman

\_\_\_\_\_  
Alan A. Crankovich, Commissioner

APPROVED AS TO FORM:

\_\_\_\_\_  
Greg Zempel WSBA #19125



\_\_\_\_\_  
Julie A Kjorsvik

## **Exhibit “A”**

### **KITTITAS COUNTY LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>RECOMMENDED FINDINGS OF</b>
	)	<b>FACT, CONCLUSIONS OF</b>
Z-07-08 and LL-08-02	)	<b>LAW, DECISION AND</b>
Dunford PUD Rezone and Preliminary Large Lot	)	<b>CONDITIONS OF APPROVAL</b>
Subdivision	)	

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on September 23, 2010, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

#### **I. RECOMMENDED FINDINGS OF FACT**

1. Terra Design Group, authorized agent for The Ranch on Swauk Creek LLC landowners, applied for a project specific Planned Unit Development (PUD) rezone and associated 4-lot Large Lot Plat on approximately 345.69 acres of land that is currently zoned Agriculture-3 and Agriculture-5. The PUD will include a two-phased development of 65 residential units. The proposed large lot subdivision proposes four lots being 119.49 acres, 110.81 acres, 39.55 acres and 75.84 acres in size. (Staff report)
2. The project is proposed to be served by the Hidden Valley Group “A” Public Water System and multiple community septic systems and an eventual Class “A” Reclaimed Water facility. (Staff report and application)
3. The project is located east of the City of Cle Elum off State Highway 97 at the north intersection of Bettas Road, Cle Elum, WA, and is located in a portion of Section 3, T19N, R17E and a portion of Section 34 T20N, R17E, WM in Kittitas County. Assessor’s map numbers 19-17-03000-0002 and a portion of 20-17-34000-0006 and 20-17-34000-0002. (Staff report and application)
4. Site Information:

Total Project Size:	345.69 acres
Number of Lots:	4
Domestic Water:	Group “A” Public System
Sewage Disposal:	Community septic/ Class “A” Reclaimed Water facility.

Power/Electricity: PUD  
Fire Protection: Kittitas County Fire District #7  
Irrigation District: N/A  
(Staff report)

5. Site Characteristics: The site is relatively flat pasture land with rolling hills towards the east. The vegetation contains scattered trees and grassy fields. (Staff report)
6. Surrounding Property:  
  
North: Vacant  
South: Vacant  
East: Vacant  
West: Residential  
(Staff report)
7. The Comprehensive Plan designation is Rural. (Staff report)
8. Applications for a rezone from Ag-3 and Ag-5 to PUD was received on June 1, 2007 and a 4-lot Preliminary Large Lot Subdivision was received on February 29, 2008. The applications were deemed complete on February 26, 2009. (Staff report)
9. The Notice of Application was issued on March 12, 2009. Said notice was published in the official county newspaper of record and was also mailed to jurisdictional government agencies, adjacent property owners as required and other interested parties. The last day to submit written comments was April 13, 2009. (Staff report)
10. Kittitas County issued a Mitigated Determination of Nonsignificance (MDNS) on July 12, 2010 in accordance with WAC 197-11-355 (Optional DNS process). There were no appeals filed. (Staff report)
11. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by a Group A Public Water System. Staff has conducted an administrative critical area review in accordance with KCC 17A and found areas of steep slopes where slopes are in excess of 25%, several wetlands and BPA easements on the subject property. (Staff report)
12. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.36 for Preliminary Large Lot Subdivisions and KCC 17.36 for Planned Unit Developments. (Staff report)
13. The Kittitas County Department of Public Works has conditioned that all future development shall conform to Kittitas County Road Standards. The Department of Public Works shall review all future development and building permits related to this PUD for conformance with Kittitas County Road Standards, as adopted 9/6/2005. Roads must be built per Public Works requirements or bonded for prior to the issuance of a building permit. As conditioned, the proposal is consistent with the provisions of KCC Title 12. (Staff report)

14. The following agencies provided comments during the comment period: Department of Ecology, Department of Community, Trade and Economic Development (now Department of Commerce), Department of Archaeology & Historic Preservation, Washington Department of Transportation, Kittitas County Environmental Health Kittitas County Public Works and Kittitas County Fire Marshal's Office. These comments have been included as conditions of approval to address these agency concerns. (Staff report)
15. Public comments were received during the comment period. These comments have been included as an exhibit in the Hearing Examiner packet and were considered in making the SEPA threshold determination. (Staff report)
16. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval. (Hearing Examiner finding based on the record)
17. The entire Planning Staff file was admitted into the record at the public hearing. This file represents Exhibits 1 through 25 as set forth in the Index prepared by Staff. (Public hearing record)
18. Admitted into the evidence were the following additional exhibits:
  - 18.1 Exhibit 26: Applicable portions of Kittitas County Community Code.
  - 18.2 Exhibit 27: Portions of the International Fire Code the applicant believes to be relevant.
  - 18.3 Exhibit 28: Proposed conditions of approval from the applicant.
  - 18.4 Exhibit 29: Water rights documentation related to the subject property.(Public hearing record)
19. The Kittitas County Community Development Services recommended approval of this permit(s), subject to the recommended conditions of approval. (Public hearing record)
20. Public hearing after due legal notice was held on September 23, 2010. Appearing and testifying on behalf of the applicant was Chad Bala. Mr. Bala indicated that the applicant objected to proposed Condition of Approval No. 33 as not conforming to the requirements of the International Fire Code. Specifically, the applicant referred to Section D104.3 as being in conflict with proposed Condition of Approval No. 33. The Hearing Examiner would note that on Exhibit 27, Section D104 specifically relates to "Commercial and Industrial Developments." (Open record public hearing testimony)
21. The applicant also indicated that proposed Condition of Approval No. 33 was in conflict with Section D107 of the International Fire Code, specifically indicating that there is an exception to approved fire apparatus roads in the event that all dwelling units are equipped with an approved automatic sprinkler system. (Public hearing record)
22. The Hearing Examiner finds that Section D104 does not apply to this project and that Section D107 may apply, depending upon whether the dwelling units do have approved automatic sprinkler systems. This will have to be left to the final plat approval after specifics of the project are formalized. (Public hearing record)

23. The applicant also provided additional testimony regarding the proposed commercial use on the subject property. That commercial use is going to be restricted to the existing historic barn as identified on the vicinity map and other documents supplied by the applicant. The applicant states that this barn will have internal structural improvements and that the barn will be utilized in the same fashion as the Teanaway Grange. During the course of the hearing it was also stated by the applicant that there would not be a restaurant or café on the property. It would be essentially utilized for ag-tourism. No new commercial buildings are proposed. (Open record public hearing testimony)
24. The Hearing Examiner indicated a concern that the potentially affected school district had not been contacted to provide its comments in the event the full build-out of 65 homes with the potential of school-age children residing in some or all of these homes. It was agreed that the affected school district would be allowed to submit additional comments, including measures to mitigate the impacts of this project on the school district. The applicant agreed to comply with all of these as yet unknown mitigation measures. (Open record public hearing testimony)
25. It should be pointed out that the Hearing Examiner offered to keep the record open to allow the school district to comment on the project and to give the applicant an opportunity to respond to those comments. However, the applicant desired that the record be closed with the exception to allow the school district comments and the applicant would then agree to comply with all of their recommendations. (Open record public hearing testimony)
26. The applicant's representative also identified the proposed location for the water treatment facility. This will be located off the subject property and on another development on adjacent property owned by the applicant that is contiguous with the subject property. (Open record public hearing testimony)
27. The applicant indicated that they do not have a set "site plan" that would show location and size of the various residential units. (Open record public hearing testimony)
28. The applicant also indicated that they do not know exactly what type of residential units they will have, that being either single-family residences or duplex. However, the applicant did agree that they are limited to 65 residential units. For example, a duplex would be 2 residential units. (Open record public hearing testimony)
29. The applicant indicated that the existence of the four identified wetlands will be mitigated by inclusion of the wetland areas into open space. The applicant also responded to written comments by area resident, Lila Hanson. The applicant reaffirmed that they will do water and sewer hookups to the Hanson property at the time the facilities are built out. (Open record public hearing testimony)
30. No member of the public testified in favor of the project. (Open record public hearing testimony)
31. Testifying generally neutral to the project was Lila Hanson. Ms. Hanson testified that she owns property adjacent to the subject property. She recognized that the downsizing of the project size by eliminating 100 acres meant that this 100 acres would be a buffer between the project area and her property. She was reminded by the Hearing Examiner that this 100 acres still may be developed in the future. (Open record public hearing testimony)

32. Ms. Hanson had general questions relating to the commercial aspect of the project. She generally stated that she felt that the applicant had been operating in good faith and had made themselves available so that she could talk with them to have her major concerns resolved. (Open record public hearing testimony)

33. The rezone requires compliance with the following elements:

33.1 *The proposed amendment is compatible with the comprehensive plan.*

The applicant states:

**This rezone is consistent with the Rural Lands (Chapter 8) of the Kittitas County Comprehensive Plan, which allows for a variety of rural densities ranging from 3 acres to 20 acres.**

**The property is within the land use designation of “Rural Lands” as described in Chapter 8 of the comprehensive plan. The proposed rezone meets the general policies and objectives of the Rural designation of the Kittitas County Comprehensive Plan, specifically:**

**GPO 8.13 dealing with rural sprawl caused by large lot zoning.**

**GPO 8.5, 8.9, 8.11 & 8.13. The rezone also complies with non-resource agricultural land and rural residential policies.**

**GPO 8.30 and 8.46, 8.47, 8.49, 8.50, 8.51, 8.53, 8.56, 8.60.**

**GPO 3.14: “Designate high-density residential land use zones such as PUDs, cluster development, and MPRs outside of Urban Growth Areas and Urban Growth Nodes.”**

**(Please see Attachment G for complete wording of the GPOs).**

**According to RCW 36.70A.030(16)(Attachment F): “Rural Development refers to development outside of the urban growth area and outside agricultural, forest and mineral resource lands designated pursuant to RCW 36.70A.170.” The subject properties being rezoned are not designated as resource lands. RCW 36.70A.030(16) states, “Rural development can consist of a variety of uses and residential densities, including clustered residential development.”**

**Is also consistent with the Kittitas County County-Wide Planning Policies, which allow PUD’s in the rural areas. See Attachment H.**

**The proposed rezone is compatible with the Kittitas County Comprehensive Plan.**

33.2 *The proposed amendment bears a substantial relation to the public health, safety or welfare.*

The applicant states:

**Through this application only requires to show a substantial relationship to one of**

the above, this project bears a substantial relationship to each of the following:

In regards to the Public Health; the county has adopted the high population projections as provided by the Washington State Office of Financial Management to guide growth in the county for the next twenty years (Attachment N). These projections provide for substantial growth in the county outside of the cities, the UGAs and the UGNs.

One of the main concerns in regards to Public Health in the county, expressed by Kittitas County Citizens, the Department of Ecology, the County, and Upper County Cities, is the continued development of unmonitored, untested and uncontrolled exempt wells. Every new exempt well that is drilled increases the possibility of aquifer pollution, reduction of the usable aquifer, and the possibility to interfere with existing water rights.

This entire proposed project will be placed within and served by the Hidden Valley water system, which is a Group A Water System that currently meets the Department of Health's requirements and has been approved by the Department of Health. The applicant of this proposal has ownership of both ground and surface Senior Water Rights. A small portion of these water rights will be used to provide for the domestic water needs of this proposal. Group A Public Water Systems provide greater public health protection than individual exempt wells or Group B water systems due to increased federal and state testing requirements. By approving this application, a portion of the county's projected growth will be directed from other rural areas of the county where multiple individual exempt wells could be drilled to serve multiple homes and population, to this area where a Group A Water System already exists. This redirection of the population growth from areas that may require the development of individual exempt wells to an area served by an existing and approved Class A Water System with Senior Water Rights bears a substantial relation to the public, health, safety, or welfare. Additionally, due to the current well moratorium in Upper Kittitas County, this is one of the few places growth and development can occur because the applicant owns senior water rights and will not have to rely on exempt wells.

Another of the main concerns regarding Public Health in the county is that with the continued growth in the rural areas of the county, there is an increase in use of individual septic systems that could pollute the aquifer and/or surface waters of the Upper Yakima River basin. Kittitas County Citizens, County Government, Washington State Department of Health, Washington State Department of Ecology, and the Upper County Cities have expressed this view. An additional benefit to the Public Health is that this project provides a reduction of individual septic systems constructed throughout the county by providing community drain fields followed by a Class A Reclaimed Water Facility.

A Class "A" Reclaimed Water System will be constructed to provide for the sewage needs for this planned unit development. This system is currently in the design process, and is proposed to be operational as required by the volume created by construction on the parcels that have been previously created.

This facility will be constructed to meet the requirements of the Washington State Department of Health and Department of Ecology. This facility will take effluent from the project and treat it to a level that meets or exceeds Class "A" Reclaimed Water, the highest standard recognized by Department of Health and Department of Ecology and allow that water to be put to beneficial use. Class "A" Reclaimed Water is suitable for many beneficial uses including irrigation of food and non-food crops, landscape irrigation, impoundments for landscape and recreational uses, construction water, and fire fighting/protection. The standards for Class "A" Reclaimed Water, established by Department of Health and Department of Ecology, require treatment and disinfections to a level that is far above what conventional wastewater treatment facilities are required to provide. The standards also require automated alarms, redundancy of treatment units, emergency storage, and stringent operator training and certification to meet reliability criteria.

The Class "A" Reclaimed Water Facility will have the same coverage area as the Group A Water System, which includes the Hidden Valley Guest Ranch, Swauk Pines subdivision, the Ranch on Swauk Creek Planned Unit Development and this proposal.

This project provides at least three Public Safety benefits:

1. This proposal will be using an expanded Group A Water System. The water system is called the Hidden Valley Group A Water System and will be designed with enough capacity to serve the Hidden Valley Guest Ranch, Swauk Pines subdivision, the Ranch on Swauk Creek Planned Unit Development and this current proposal. The infrastructure will need to be expanded to provide water service to this proposal.
2. The Hidden Valley Water System will be designed to provide fire protection to the Hidden Valley Guest Ranch, Swauk Pines subdivision, and the Ranch on Swauk Creek Planned Unit Development and the current proposal. Approval of this application will allow the redirection of a portion of the projected population growth from other rural areas of the county which has no fire suppression storage, no ability to deliver fire fighting water, and no fire hydrants to an area that will provide fire hydrants with adequate fire flows.
3. In addition, this proposal will provide safe year round access for health and personal safety emergencies on paved and well maintained private roads. Under Kittitas County Road Standards, the roads for this proposal must meet or exceed private road standards and will be constructed to a higher standard and provide greater public safety than is typically found in other rural areas of the county. These improved roads not only reduce the risks to individual users, but also reduce the risks to the community at large. This is because county resources such as police, fire, and ambulances are able to serve these residences more efficiently than the same number of residential units spread out over a larger area of three to twenty acre tracts in other rural portions of the county.

There is a higher potential for fire to get out of hand in an area without adequate

water supplies or without easy access road access. Any of the above mentioned components of the project by themselves meets the criteria for providing Public Safety benefits and combined, provide a standard that cannot be achieved in many other areas of the rural county.

The Public Welfare of the county will also be benefited by approval of this proposal. As stated above, the County has adopted the high population projections as provided by the Washington State Office of Financial Management. These projections provide for substantial growth in the county outside of the Cities, UGAs and UGNs. The county, through its adoption of the Kittitas County Comprehensive Plan, has provided for growth within the Rural Lands of the county. With the adoption of the current population projections, the county has determined that 18.5% of the population growth shall take place within these Rural Lands. This project will provide residential units within the Rural Lands with sophisticated water and sewer systems. In addition, this project provides for recreational opportunities within the boundaries of the project for its residents thereby reducing the pressures on the Federal, State, County, and City's recreational facilities. The provided recreational opportunities and recreational facilities will be privately funded, reducing the public funding of recreational facilities and recreational opportunities.

Another benefit to the Public Welfare is that the applicant will designate a minimum of 40% of the land into open space in perpetuity therefore designating a minimum of 138.27 acres of open space that will preserve the existing farm and ranch lands and operations of the property. Subsequent benefits include wildlife protection corridors; pedestrian trail systems; open space and recreational opportunities.

Again, speaking directly to the issue of this proposed amendment bearing a substantial relation to the welfare of Kittitas County this proposal stops, forever on the land that is dedicated to open space, the continued conversion of productive ranching operations into residential housing has happened along the Hwy 97 corridor and throughout the Swank and Teanaway Valleys. The open space land that is provided for in this proposal may be used for outdoor active, passive and formal recreational purposes, for resource protection (including related structures such as barns on agriculturally productive land) and/or land which is a common area for use by the residence of this proposal. This proposal provides for the continuation of the view shed of the Hwy 97, Bettas Road, and Swauk Valley corridors. One only needs to look up the west side of the mouth of the Teanaway River Valley to see how commercially productive farmland that used to protect the view shed has been converted into residential uses. This phenomenon has already taken place further east along Bettas Road and Hwy 97; you can also see this type of conversion to the northwest of the proposal along Ranch Road, which used to be the Hartman farmland.

Again, as stated above to meet this criteria, "The proposed amendment bears a substantial relation to the public health, safety, or welfare" only one substantial relation needs to be shown and this proposal clearly provides benefits to all three elements; the public health, safety, and welfare of the county.

33.3 *The proposed amendment has merit and value for Kittitas County or a sub-area of the county*

The applicant states:

**The proposed rezone of the property provides merit and value to Kittitas County, as it will add to and increase the tax base while minimizing the impacts to its operational costs. The Planned Unit Development will provide private roads, private utilities and private recreational opportunities for its residents as it increases the tax base for the county.**

**In light of the Upper County Well Moratorium within Kittitas County, this project has a true merit and value for Kittitas County due to the Ranch On Swauk Creek LLC having obtained senior water rights that can provide water for this proposal**

**Kittitas County has adopted the high population projections as provided by the Washington State Office of Financial Management to guide growth in the county for the next twenty years. It can be predicted, based on these population projections that a large portion of this population growth as well as most of the growth of the second home market will be occurring in the Rural Lands of the county. There is merit and value in directing this growth to a location that can provide the services that will substantially reduce the impact to the environment through state of the art utility systems. This is done as stated above by providing for a Group A Water System and a Class "A" Reclaimed Water Facility as well as providing for large open spaces and buffers between the existing population and the anticipated growth in the population. By situating a portion of the anticipated growth in this area with these services, open spaces, and buffers increased merit and value Kittitas County occurs.**

**In addition, this rezone to a planned unit development will limit rural sprawl, which is a goal under the Kittitas County Comprehensive Plan GPO 8.13, which states "Methods other than large lot zoning to reduce densities and prevent sprawl should be investigated." This is done by removing the potential for development of the rangeland and agricultural lands on the valley floor to the hill above these lands where it will be clustered thereby removing growth and development pressure, not only from this property but also from other lands within the county. As provided for as a goal in the Kittitas County Comprehensive Plan, this proposal limits rural sprawl therefore providing merit and value to Kittitas County.**

**Furthermore, this proposal substantially creates merit and value for Kittitas County by designating 40% or 138.27 acres of property into open space for perpetuity.**

**It is clear that by providing an increased tax base, privately funded roads, privately funded recreation facilities, privately funded utilities that provide for fire protection, environmental enhanced sewage treatment, limiting rural sprawl, and creating/preserving open space, this proposal provides merit & value to Kittitas County.**

- 33.4 *The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property.*

The applicant states:

**Though a proposal need only meet one of the criteria above; this proposal meets all three criteria contained in the above statement as demonstrated by the following:**

**First, there has been a substantial change in circumstances: For over 100 years this property has been used as part of a working farm, cattle and horse ranch. Over the past 10 years the ranch land surrounding the property has been converted to other uses mostly being residential and recreational. A portion of the ranch was taken by the State of Washington for the development of Highway 97. The ranch is divided by State Hwy 97, which has become increasingly more traveled causing logistical problems with the day-to-day operation of the cattle ranch. It has become quite dangerous to drive cattle on the hoof to the various remaining pastures and in fact at most times in the past few years the cattle have had to be placed in a cattle trailer to be moved between pastures. This action caused increased costs, which the working cattle ranch has to absorb. Much of the land around the existing ranch is being developed for residential and recreational uses, which are also causing impacts to the ranch operation. A further negative impact to the ranching and cattle operation is the sale of much of the adjacent properties. Directly to the east of the property lies 3,000 acres of land that was owned by the Boise Cascade Corporation. The land was used for many years as additional grazing land to supplement the grazing on the ranch. Further, the majority of the property that has been part of this farming and ranching operation, has been rezoned and is now a planned unit development. Additionally, a wind farm has been proposed on both sides of Hwy 97 and the Bettas road area, which is currently under the review of the Washington State Governor for approval. If approval is granted, this wind farm will create an additional major change of circumstance.**

**The future of cattle ranching in the upper county is very limited. To continue their family business of cattle ranching, the previous owner found that they had to move a portion of their operation out of state where they could purchase large parcels of land that would help to guarantee the continuation of the family cattle ranch operation. The establishment of this PUD and the associated open space that is being created through the PUD will allow the working farm that lays in the bottom of the Swauk Valley to continue its operation. Without the PUD designation for this land, the highest and best use of this property will be to divide the subject property into five acre lots, as allowed under the current zone, and sell it for the development of residential housing units.**

**In addition to the above changed circumstances there is a need for additional property in the proposed zone as this proposed zone will allow the creation of open space which will provide for the continued operation of the farm/ranch while allowing residential development to occur outside of the flat lands of the Swank Valley.**

The proposed zone is appropriate for reasonable development of the subject property because as stated above this proposed zone will allow the creation of open space which will provide for the continued operation of the farm/ranch while allowing residential development to occur outside of the flat lands of the Swauk Valley. In addition, this zone will allow the use of an expanded Group A Water System and a new Class A Reclaimed Water System, which is an environmental benefit to its residents and the county as a whole.

In addition to the above the following has also affected the property:

- In 1992, Forest Range property was zoned from 1-acre minimum lot size to 20-acre minimum lot size.
- The Comprehensive Plan was created in 1972, amended in 1996 amended again in 1997 to include Rural Lands, which this land is designated and in 2006 it went through the required 10-year update process.

As this proposal is only required to meet one of the above criteria and as shown meets all of the criteria it is clear that the proposal meets and exceeds the requirements of this section.

Further, this amendment is appropriate because of a need for additional property in the proposed zone as follows:

- This zone provides the needed tools for this property to have the ability to cluster housing densities in areas to protect and preserve existing ranchland allowing the continuation of ranching activities.
- This zone provides the needed tools to cluster densities in order to protect wildlife habitat and allow for the continuation of wildlife corridors.

As stated above "The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property." There is only a need to meet one of the criteria listed, but; it is clear by the above information that the proposed amendment meets or exceeds each one of this section's requirements.

33.5 *The subject property is suitable for development in general conformance with zoning standards for the proposed zone.*

The applicant states:

The proposed PUD zone is only one of two planning tools available at this time, that will allow for the creation of open space for the continued preservation of the Hwy 97 and Bettas Road corridors, while allowing for the residential development that will provide the funding for continued operations of the historical use of this

property. Without this zoning the farm-ranch lands, over a period of time, will be subdivided in to residential housing lots, as allowed under the current Agricultural — 3 and Agricultural - 5 zoning designations. This would continue the trend that has already occurred to the adjacent farm and other farms in the region.

Further, this property is suitable for development in general conformance with zoning standards for the proposed zone as supported by the Kittitas County County-Wide Planning Policies. Under Contiguous and Orderly Development #4 Policies B, C, D and #5 Policies A & B, they clearly support that planned unit developments can be established to foster the efficiency of infrastructure expansions, the creation of planned unit developments outside of urban growth areas and nodes can allow for provisions such as the protection of wildlife corridors, preservation of critical areas, the creation of pedestrian trails (Attachment H).

By designating this property as a planned unit development, the uses that are allowed within this zone also create the flexibility to achieve the goals of the Kittitas County County-Wide Planning Policies, Kittitas County Comprehensive Plan and GMA 36.70A by allowing innovative development techniques to occur, such as the Planned Unit Development (PUD). The PUD allows you to maximize your land use capabilities for efficiency of utilities, densities, housing structures, open space areas and preservation of land therefore creating a more appealing and livable community.

- 33.6 *The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property.*

The applicant states:

The proposed rezone is consistent with and characteristic of the existing development in the immediate vicinity of the subject properties. The proposed zone change will enhance the surrounding properties by maintaining the Hwy 97, Bettas Road and Swauk Valley corridors. In addition, this property would enhance the ongoing farming and operation of the ranch lands adjacent and to the west of this property.

Further, the residential developed portions of the property will have large buffers of undeveloped land between it and the other properties in the surrounding area.

The property to the north of the proposal is a mixture of residential lots and timberlands. This proposal will not be materially detrimental, as the residential housing units will be placed appropriately on the property, eliminating impacts to the adjacent property owners.

The land to the east will be buffered by the existing tree line that will be protected in this proposed project and the land to the east of this proposal is up hill from the proposal so no views will be blocked. Currently, the land east of this proposal is vacant land.

**The land to the south of the proposal will be mainly buffered by open space as provided for by this Planned Unit Development.**

**To the west of this proposed PUD zone lies undeveloped land that will be buffered by the open space that the PUD creates and also joins with the approved Ranch on Swauk Creek PUD. Care will be taken to ensure that there will be connectivity between the open space areas.**

- 33.7 *The proposed change in use of the subject property shall not adversely impact irrigation water deliveries to other properties.*

The applicant states:

**No irrigation water deliveries to other properties will be affected or impacted by this proposed project.**

34. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located. (Hearing Examiner finding based on the record)
35. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval. (Hearing Examiner finding based on the record)
36. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities. (Hearing Examiner finding based on the record)
37. Based on staff's review of the application materials, including supplemental materials submitted in February 2010, and comments received during the public comment period and following submittal of supplemental application materials, staff determined that the combination of voluntary mitigation measures (as proposed in the project design), SEPA mitigation measures, and code required mitigation bring the probable environmental impacts below the level of significance; therefore, on July 12, 2010 CDS issued a Mitigated Determination of Nonsignificance.
38. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference. (Hearing Examiner finding based on the record)

## **II. RECOMMENDED CONCLUSIONS OF LAW**

1. The Hearing Examiner has been granted authority to render this recommended decision.
2. Final plat approval shall be conditioned upon compliance with the SEPA and code-related mitigation conditions listed under "Suggested Conditions of Approval."
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.

4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Public use and interest will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.
7. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
8. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
9. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
10. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Kittitas County Code or the Comprehensive Plan.
11. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
12. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

### **III. RECOMMENDED DECISION**

Based on the above Recommended Findings of Fact and Recommended Conclusions of Law, the Hearing Examiner hereby recommends that Application Z-07-08 and LL-08-02, Dunford PUD Rezone and Preliminary Large Lot Subdivision, be **APPROVED** subject to the following Recommended Conditions of Approval.

### **IV. RECOMMENDED CONDITIONS OF APPROVAL**

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.

#### **I. SEPA Conditions**

The following are the mitigations contained within the MDNS and shall be conditions of approval:  
**Stormwater Management**

2. On-site stormwater management that conforms to the specifications of the Stormwater Management Manual for Eastern Washington (2004) is required of this development. A conceptual stormwater plan was submitted with the preliminary development plan showing

potential locations for stormwater systems. Structures of stormwater systems shall not be placed within identified wetlands or in areas where cultural resources are known to exist. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The final stormwater system design and locations shall be presented to Public Works and approved by the County Engineer prior to final approval. The stormwater system construction shall be certified by a licensed engineer. The certification shall be included with the road certification and is required prior to the issuance of a building permit. Road and site construction shall not begin prior to stormwater system design approval.

3. Stormwater and surface runoff generated by this project must be retained and treated on site in accordance with regulating agencies' standards, and not be allowed to flow onto WSDOT rights-of-way.

#### **Environmentally Sensitive Areas**

4. Wetland Areas and Buffers and Stream: Wetlands A, B, C, and D, and Stream A and their associated buffers shall be shown on the face of the final development plat and on the final development plan.
5. Wetlands B, C, and D: Wetlands B, C, and D, and associated buffer areas of at least 20 feet (KCC 17A.04.020), shall be located within Open Space tracts.
6. Wetland A: Wetland A is located near the proposed access road from US 97. The applicant has indicated that road construction may result in wetland impacts. Kittitas County requires, to the extent practical, a zero net loss of wetlands (KCC 17A.04.015). In the event that disturbance to Wetland A cannot be avoided: a) disturbed areas shall be replaced at a ratio of 1.5 to 1, in accordance with KCC 17A.04.050; b) remaining undisturbed areas of Wetland A and its buffer shall be placed in an Open Space tract; and c) prior to ground disturbance, a Wetland Mitigation Plan, showing areas of wetland disturbance and creation shall be submitted to Community Development Services for review and approval in consultation with Washington State Departments of Ecology and Fish and Wildlife. Prior to final development plan approval, all necessary wetland replacement and features shall be constructed according to the Wetland Mitigation Plan.
7. Future Residential Lot Configuration: Future residential lot configuration shall be designed to minimize indirect impacts to wetlands. Indirect impacts would include changes in quantity or quality of ground or surface water flows feeding the wetlands, noise or light glare at night, removal or corridors used by wildlife to access the wetlands, and stormwater influences.

#### **Cultural Resources**

8. The three archaeological sites located during the course of the Reiss-Landreau Research cultural resources survey (known as the Zuke Spring Site, the Zuke Farmstead, and the Bettas Road Homestead) have the potential for eligibility to the National Register of Historic places, and shall be avoided in all work plans, or be evaluated for significance, and mitigated appropriately prior to construction.

9. The Department of Archaeology and Historic Preservation identified the McCallum family cemetery as being within parcel 20-17-3400-0006. The text on the back of one of the grave markers reads, "This cemetery consists of one acre deeded forever." A one acre Open Space tract containing the historic cemetery shall be placed on the final development plan. Historic cemeteries are protected from damage under Washington law.
10. If human or unknown remains area discovered at any time during project construction, a professional archaeologist shall be called, and work shall stop until the material is evaluated. Upon inadvertent discovery of human or unknown remains:
  - a. The appropriate authorities such as the county sheriff and coroner shall be contacted immediately as is required when human remains are discovered;
  - b. The State of Washington DAHP and local tribal groups, if the burials are deemed Native American, shall be called for consultation;
  - c. Arrangements shall be made as quickly as possible to identify the affected area, so that work can continue in other areas of the project. It is anticipated that delays will only impinge on the areas agreed to by the consulting parties; and
  - d. Should human remains be located, decisions about protection and/or evaluation should be made with the appropriate authorities. This procedure should be adequate to allow for minimal project delays. However, if human remains are located, contingencies, such as an alteration in project design, may be necessary.

#### **Transportation**

11. Because of the traffic impact this development will have to the intersection of US 97 and Bettas Road, the developer will be required to rebuild the intersection to provide for left turn channelization, when the condition is warranted. Design of this intersection shall be made in consultation with WSDOT.

#### **Light and Noise Impacts**

12. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties and shall be directed away from US 97.
13. Development and construction practices for this project shall only occur between the hours of 7:00am to 7:00pm to minimize the effect of construction noise on nearby residential properties.

## **II. Code-Related Conditions**

In addition to SEPA conditions, the following code-related plat conditions must be met for the proposed project:

#### **General Conditions**

14. The project shall proceed in substantial conformance with the plans and application materials which were deemed complete on February 26, 2009 except as amended by the conditions herein.
15. The applicant is responsible for compliance with all applicable local, state and federal rules and

regulations, and must obtain all appropriate permits and approvals.

16. All current and future landowners must comply with the International Fire Code and its Appendices.
17. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.
18. A plat note discussing the spread of noxious weeds shall be shown on the plat and shall read: "Per RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds; accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds."
19. Final mylars shall be submitted in accordance to KCC 16.20: Final Plats. All applicable survey data and dedications shall be reflected pursuant to KCC 16.24: Survey Data-Dedications.
20. Both sheets on the Large Lot Subdivision mylars shall reflect the Plat number: LL-08-02.

#### **Subdivision Standards and Zoning Code**

21. Conditions, Covenants, and Restrictions: Prior to final development plan approval, a copy of the proposed final Conditions, Covenants, and Restrictions shall be submitted to Community Development Services for review and approval.
22. Open Space Tracts: Prior to final development plan approval, all open space areas, including habitat protection and archaeological areas, shall be labeled as individual tracts. Tracts shall not be further subdivided or altered. These tracts shall be labeled "Open Space." Open space tracts shall be reserved for: habitat protection; cultural resource protection; continued agricultural use; passive recreation; and stormwater facilities, subject to the approved Stormwater Management Plan. All open space tracts shall be identified on the face of the final plan and on the final development plan.
23. Open Space Tract Ownership and Maintenance: Open space tracts shall be jointly owned and maintained by the developer, legally responsible owner, homeowner's association or other legal entity made up of all benefited property owners.

#### **Transportation and Infrastructure**

24. Note the current Kittitas County Road Standards, as adopted 9/6/05:

##### **12.12.010 General: Private roads shall meet the following conditions:**

- a. Private roads shall meet the minimum access requirements of the International Fire Code as adopted by the County, and
- b. Shall be designed and constructed in conformance with AASHTO Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT < 400) 2001, as now exists or hereafter amended, and

- c. Shall be inspected and certified by a licensed professional engineer for conformance with the above referenced standards. In the alternative, an applicant may request the private roadway to be inspected and subject to the approval of the Public Works Director. If certification by the public Works Director/County Engineer is desired, submission of road plans and necessary testing documentation that confirms compliance with Kittitas County Road Standards is required, and services will be performed on a reimbursable basis, and
  - d. Permanently established by an easement recorded with the Kittitas County Auditor or right-of-way, providing legal access to each affected lot, dwelling unit, or business, and
  - e. Will not result in land locking of existing or proposed parcels, and
  - f. Maintained by the developer or legally responsible owner or homeowners' association or other legal entity made up of all benefited property owners, under the provisions of an acceptable and recorded "Private Road Maintenance Agreement", and
  - g. Clearly described on the face of the plat, short plat, or other development authorization and clearly signed at street location as a private street or road, for the maintenance of which Kittitas County is not responsible and a disclosure statement of the same is filed with the County Auditor, and
  - h. The following note shall be placed on the face of the plat, short plat, or other development authorization:  
*"Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel."*
25. Private road design and second access requirements to serve future development shall be determined by the number of lots and/or units served as determined by the County Engineer.
26. Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
- a. Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
  - b. The surface requirement is for a minimum gravel surface depth of 6".
  - c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
  - d. Any further subdivision or lots to be served by proposed access may result in further access requirements.

27. Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
- a. The roadway shall be a minimum of 8' wide with gravel surface.
  - b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
  - c. Any further subdivision or lots to be served by proposed access may result in further access requirements.
28. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
29. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
30. Access Permit: An approved access permit shall be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right of way.
31. Addressing: Contact the Kittitas County Rural Addressing Coordinator at (509) 962-7523 to obtain addresses prior to obtaining a building permit. A parcel cannot receive a building permit or utilities until such parcel is identified with a 911 address.
32. Mailbox Placement: The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.

BPA Easement: The subject property contains a BPA easement with power lines and associated minimum buffers. If proposed PUD will include improvements made within the BPA easement, i.e. a road, then a Land Use Application from the BPA must be submitted to and approved by the BPA. This application can be found on the BPA website at [www.transmission.bpa.gov/LanCom/Real\\_Property.cfm](http://www.transmission.bpa.gov/LanCom/Real_Property.cfm). Please note that the current application fee is \$250, and the review process typically takes 8-10 weeks. Upon review and approval of the application, BPA will issue a Land Use Agreement which will be provided to the Applicant and the County.

### **Water and Sewer**

33. Plat Note Statement: The final recorded large lot plat and development plan shall include the following statement as a note:

*The approval of this division of land includes no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law.*

34. The Public Health Department's recommendation for final approval shall be conditioned upon the developer/owner of the PUD providing proof of water availability. For final approval, the public water system application shall be submitted, reviewed and approved by the State of Washington, Department of Health which includes final issuance of the water system ID number. If expansion of an existing public water system is proposed, documentation of the approval from Washington State Department of Health shall be submitted to the Kittitas County Health Department (KCPHD).
35. The final plat map and development plan shall show the location of any applicable well head protection zone(s) before final approval can be recommended by KCPHD.
36. Prior to final approval, if applicable, documentation from the State of Washington, Department of Ecology must be provided verifying the ownership of the water right and a determination of water budget neutrality, this must include: the location, the quantity of water, the transfer of the water right (wholly or by quantity) by ownership and/or location, and a determination of capacity to how many residences and/or lots that can be served by the transfer of such a water right.
37. Septic Availability Requirements: Provision of satisfactory sewage disposal can be provided through several different ways depending on the source and the quantity of waste disposal proposed.

**If on-site sewage systems are proposed for the plat and minimum lot sizes are satisfied:** Soil logs must be preformed prior to the Public Health Department recommending approval of the final plat application. Once the soil logs are conducted and approved by KCPHD, the requirement for septic availability will have been satisfied.

**If the application indicates that residence(s) will be connected to a public sewer system:** KCPHD will need a signed letter from the sewer district stating that the proposed project's connection(s) will be allowed before recommending approval.

**If the application proposes a large onsite sewage system (LOSS) (greater than 3500 gallons per day) or a larger system:** Approval from the licensing agency must be provided to KCPHD before final approval will be recommended.

Note from the Public Health Department regarding Vesting: Each phase of the proposed project shall be subject to the requirement in place at the time of platting. Review of each subsequent phase shall be considered a separate plat application. Subsequent plat applications, development plan revisions, and/or phases are not considered to be a vested application by KCPHD.

38. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
39. An NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with more than one acre of disturbed ground. This permit requires that the SEPA checklist fully

disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.

40. This NPDES Construction Stormwater General Permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

#### **Air Quality**

41. Washington Administrative Code (WAC) 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the site. Also, dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts, or damaging property or business.

#### **Fire Safety**

42. An approved private fire hydrant system shall be installed. The hydrant system shall be subject to plan review through the Fire Marshal's Office and shall be subject to an annual Operational Permit.
43. Water storage and hydrant spacing shall comply with the International Fire Code.
44. The minimum flow requirements for the residential structures shall be no less than 1,000 gallons per minute.
45. The minimum road width shall not be less than 26' in width.
46. A minimum of two fire apparatus access roads are required. The two access roads shall be not less than ½ the length of the maximum diagonal dimension of the property, measured in a straight line between accesses.
47. If the Fire Marshal determines that Section D107 of the International Fire Code applies, the Fire Marshal shall determine whether or not any of the exceptions of D107.01 apply to this project.
48. No fire apparatus access lane shall have a slope greater than 12%.
49. "No Parking—Fire Lane" signs must be posted per Fire Marshal requirements.
50. All cul-de-sacs must have a minimum turning radius of no less than 50'. The signs mentioned above shall be posted on all cul-de-sacs.
51. Construction documents for the proposed fire apparatus access, fire lanes and hydraulic calculations for the hydrant system shall be submitted to the Fire Marshal's Office for review prior to construction.

52. All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2006 International Fire & Building Codes.
53. Review of the final project submittals may include further requirements.
54. Due to the remote nature, topography and number of proposed lots in this area, the properties fall under the Wild-Land Urban Interface Code requirements. All new structures shall comply with the Wild-Land Urban Interface Code requirements for defensible space, fire flow and ignition resistant construction materials.

**SEPA Mitigation**

55. The following mitigation conditions from the SEPA Mitigated Determination of Non-Significance shall be noted on the face of the final development plan and included in the Covenants, Conditions, and Restrictions (CC&Rs) document recorded with the final development plan:
  - a. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.
  - b. All wetlands and wetland buffers shall be shown on the face of the final large lot plat and final development plan.

**Hearing Examiner Conditions**

56. The record will remain open so that the Kittitas County Department of Community Development may contact the affected school district and obtain their comments and proposed mitigation measures. The applicant shall abide with all mitigation measures requested by the affected school district.
57. The applicant will comply with all conditions of approval set forth in Exhibit 28, provided that in the event of an actual or perceived inconsistency between any of the conditions set forth in Conditions 1 through 56 and thus in Exhibit 28, then Conditions 1 through 56 shall control.

Dated this 30<sup>th</sup> day of September, 2010

KITTITAS COUNTY HEARING EXAMINER

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Andrew L. Kottkamp