

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

ORDINANCE NO. 2010- 007

**SIERRA GROUP HOLDINGS REZONE (Z-06-39)
IN THE MATTER OF AMENDING THE KITTITAS COUNTY ZONING ATLAS
FROM FOREST & RANGE TO RURAL-3**

WHEREAS, according to Kittitas County Code Titles 15A & 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 June 24, 2010 for the purpose of considering a zone change consisting of approximately 60.00 acres from Forest & Range to Rural-3 and described as follows:

Located east of SR-903 and north of the City of Roslyn and is access via R & R Heights Drive, Roslyn, WA, within a portion of Section 8, T20N. R15E. WM in Kittitas County. Assessor's map numbers 20-15-08000-0002 & 0003. Proponent: Sierra Group Holdings, LLC and Collins Investments, 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,

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on August 3, 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:

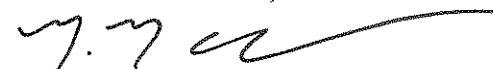
1. Sierra Group Holdings, LLC and Collins Investments, LLC, landowners, has submitted an application for a zone change from Forest & Range to Rural-3 of approximately 60.00 acres.

2. The property is located is located east of SR-903 and north of the City of Roslyn and is access via R & R Heights Drive, Roslyn, WA, within a portion of Section 8, T20N. R15E. WM. in Kittitas County. Assessor's map numbers 20-15-08000-0002 & 0003.
3. The Kittitas County Comprehensive Plan's Land Use Element designates the subject property as Rural and the current zoning is Forest & Range.
4. Community Development Services received on August 21, 2006. A Notice of Application was issued on September 29, 2006.
5. Community Development Services issued a Mitigated Determination of Non-Significance (MDNS) on December 19, 2006. No appeals were filed.
6. On June 24, 2010, the Kittitas County Hearing Examiner conducted an open record hearing where testimony was heard. On July 16, 2010 the Hearing Examiner submitted his Recommended Findings of Fact, Conclusions of Law, and Conditions of Approval of the Sierra Group Holdings rezone.
7. The Board of County Commissioners conducted a closed record hearing on August 3, 2010 for the purpose of considering the Sierra Group Holdings rezone (Z-06-39).
8. The Board of County Commissioners after review of the record and deliberation closed the hearing where a motion was made and seconded that the proposed Sierra Group Holdings rezone (Z-06-39) 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 Sierra Group Holdings rezone (Z-06-39) 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 7th day of September, 2010 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON



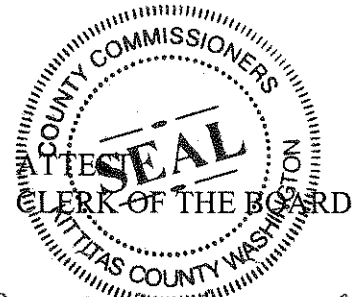
Mark McClain, Chairman

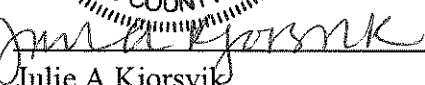


Paul Jewell, Vice Chairman



Alan A. Crankovich, Commissioner




Julie A Kjorsvik

APPROVED AS TO FORM:

Greg Zempel WSBA #19125

Exhibit “A”

KITTITAS COUNTY LAND USE HEARING EXAMINER

IN THE MATTER OF	)	RECOMMENDED FINDINGS OF
	)	FACT, CONCLUSIONS OF
Z-06-39	)	LAW, DECISION AND
Sierra Group Holdings Rezone	)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on June 24, 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. Sierra Group Holdings, LLC and Collins Investments, LLC, landowners, has submitted an application for a zone change from Forest & Range to Rural-3 of approximately 60.00 acres. (Staff report)
2. The applicants/landowners are Sierra Group Holdings, LLC, 19900 144th Ave. NE, Woodinville, WA 98072, and Collins Investments, LLC, 15425 NE 144th Place, Woodinville, WA 98072. The authorized agent is David Taylor, Taylor Consulting Group, 1661 Beane Rd, Moxee, WA 98936. (Application materials)
3. The site is located east of SR-903 and north of the City of Roslyn and is access via R & R Heights Drive, Roslyn, WA, within a portion of Section 8, T20N. R15E. WM. in Kittitas County. Assessor's map numbers 20-15-08000-0002 & 0003. (Staff report)
4. Site Information:

Total Project Size:	60 acres
Existing zoning	Forest & Range
Proposed zoning	Rural-3

Domestic Water:	Community water system
Sewage Disposal:	Community water system
Power/Electricity:	Puget Sound Energy
Fire Protection:	Kittitas County Fire District #7
Irrigation District:	N/A

(Staff report)

5. Site Characteristics: The area is forested and with moderate slopes. There is evidence that the land has been logged in the past 10-years. (Staff report)
6. Surrounding Property:
 - North: Vacant
 - South: Vacant
 - East: Vacant
 - West: Vacant
 (Staff report)
7. The Comprehensive Plan designation is Rural. (Staff report)
8. The subject property is zoned Forest & Range, which allows for a 20 acre minimum lot size, Rural 3 zoning allows for a 3 acre minimum lot size. (Staff report)
9. Application for a rezone from Forest & Range to Rural-3 was received on August 21, 2006. A Notice of Application was issued on September 29, 2006. Said notice was mailed to all neighbors within 500 feet and to interested state agencies. (Staff report)
10. This matter has a substantial procedural history. On May 15, 2007, the Kittitas County Board of Commissioners denied this rezone application. In a land use petition action was filed by the applicant on June 5, 2007. Additionally, a rezone application for a neighboring property had also been denied by the Kittitas County Board of Commissioners and it was also appealed to Kittitas County Superior Court pursuant to LUPA (MANNA rezone). (File of record and June 9, 2010, letter from Collins Investment, LLC, to Dan Valoff)
11. On November 30, 2007, Kittitas County Superior Court entered a Memorandum Decision reversing the Kittitas County Board of Commissioner's denial of the MANNA rezone application. (File of record and June 9, 2010, letter from Collins Investment, LLC, to Dan Valoff)
12. On March 28, 2008, Kittitas County Superior Court entered a Stipulated Order reversing the Kittitas County Board of Commissioners' denial of the Sierra Rezone and remanding the matter to the Kittitas County Planning Commission to conduct a de novo open record public hearing. (File of record and June 9, 2010, letter from Collins Investment, LLC, to Dan Valoff)

13. Kittitas County is now served by a Land Use Hearing Examiner, replacing the Kittitas County Planning Commission on review of rezone applications. Therefore, the Court's March 28, 2008, Stipulated Order affectively referred this matter back to the Kittitas County Land Use Hearing Examiner for a de novo open record public hearing. (File of record and June 9, 2010, letter from Collins Investment, LLC to Dan Valoff)
14. Based on the review of the submitted application materials correspondence received during this comment period and other information on file with Kittitas County Community Development, a Mitigated SEPA Determination of Non-Significance (MDNS) was issued by Community Development Services Department on December 19, 2006. The SEPA appeal deadline was January 8, 2007. There were no appeals filed. (Staff report)
15. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision can be adequately served by rural levels of service. The lots will be served by the Community water and on-site sewer systems. Staff has conducted an administrative critical area review in accordance with KCC 17A and found a small areas of steep slopes on site. (Hearing Examiner finding based on staff report)
16. The following agencies provided comments during the comment period: Department of Ecology, Department of Transportation and City of Roslyn. These comments have been included as conditions of approval to address the agency concerns. (Staff report)
17. Public Comments were received from adjacent landowners and the issues raised therein were considered when making the conditions of the SEPA threshold determination. (Staff report)
18. 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)
19. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
20. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
21. Public hearing after due legal notice was held on June 24, 2010. Appearing and testifying on behalf of the applicant was Roger Collins of Collins Investments, LLC. Mr. Collins testified that he was an agent authorized to appear and speak on behalf of the applicant. (Open record public hearing)

22. Admitted into the record were the following exhibits:

- Exhibit 1: Rezone Application dated 8-21-06
- Exhibit 2: September 29, 2006, Memorandum from Scott Turnbull to Departments regarding Notice of Application for Sierra Group Holdings, LLC Rezone (Z-06-39), Forest and Range to Rural-3
- Exhibit 3: October 30, 2006, letter from Jeri B.F. Porter, Mayor of City of Roslyn, to Kittitas County Community Development Services
- Exhibit 4: October 31, 2006, letter from Gwen Clear, Environmental Review Coordinator, Department of Ecology, to Scott Turnbull
- Exhibit 5: November 1, 2006, letter from Bill Preston, P.E., WSDOT, to Community Development Services
- Exhibit 6: November 1, 2006, Memorandum from David Gerth to Kittitas County Community Development Services regarding Sierra Group Holdings, LLC Rezone (Z-06-39) Rezone Application, SEPA Environmental Checklist
- Exhibit 7: November 1, 2006, letter from Peg Bryant to Kittitas County Community Development Services
- Exhibit 8: Notice of Action/Public Hearing dated December 19, 2006, published December 21 and December 28, 2006
- Exhibit 9: November 20, 2006, letter from Sydney McComas, futurewise, to Darryl Piercy of Kittitas County Community Development Services
- Exhibit 10: January 10, 2007, Memorandum from Christina Wollman to Scott Turnbull
- Exhibit 11: Staff Report for January 9, 2007, public hearing
- Exhibit 12: March 8, 2004, letter from Joseph L. Blazek, Forest Practice District Manager, Washington State Department of Natural Resources, to Savory Holdings, LLC
- Exhibit 13: Sierra Group Holdings Rezone, Z-06-39, Quick Information
- Exhibit 14: Minutes, Kittitas County Planning Commission Meeting, January 23, 2007
- Exhibit 15: Map
- Exhibit 16: February 12, 2007, letter from David V. Taylor, Taylor Consulting Group, to Scott Turnbull, Kittitas County Community Development Services
- Exhibit 17: Minutes, Kittitas County Planning Commission Meeting, February 13, 2007
- Exhibit 18: Minutes, Kittitas County Planning Commission Meeting, February 27, 2007
- Exhibit 19: Findings of Fact, Sierra Group Holdings Rezone (Undated)
- Exhibit 20: May 1, 2007, Agenda, Continue the Closed Record Hearing on the Sierra Group Holdings Rezone
- Exhibit 21: Resolution No. 2007-52, Board of County Commissioners: Sierra Group Holdings Rezone (Z-06-39) In the Matter of Amending the Kittitas County Zoning Atlas for a Portion of Section 08, Township 20 N., Range 15 E., from Forest & Range to Rural-3
- Exhibit 22: May 26, 2007, Memorandum from Scott Turnbull to Applicant and

- Interested Parties regarding Notice of Decision
- Exhibit 23: Complaint and Land Use Petition
- 23.1 Complaint and Land Use Petition action regarding Sierra Rezone
 - 23.2 Land Use Petition action and Complaint for MANNA funding
 - 23.3 Memorandum Decision of Kittitas County Superior Court filed November 30, 2007, regarding MANNA
 - 23.4 Stipulated Order in Sierra filed March 20, 2008
 - 23.5 Land Use Petition, Declaratory Judgment and Complaint for Damages filed July 8, 2008, regarding MANNA
 - 23.6 Memorandum Decision in MANNA dated February 5, 2009
 - 23.7 Resolution by Kittitas County Board of Commissioners regarding MANNA rezone
- Exhibit 24: Notice of Public Hearing for June 24, 2010
- Exhibit 25: Staff Report, Sierra Group Holdings Rezone, for June 24, 2010, hearing
- Exhibit 26: June 1, 2010, letter from Roger Collins, Collins Investments, LLC, to Dan Valoff

(Open record public hearing exhibits admitted into the record)

- 23. Mr. Collins testified that there is no plat plan yet for the Sierra Rezone property. Mr. Collins noted that the property adjacent to the west and to the east of the Sierra property are now zoned R-3. (Open record public hearing)
- 24. Also speaking on behalf of the applicant was its attorney, Robert Medved. Mr. Medved indicated that the applicant agreed with all the representations of the staff report. Mr. Medved correctly noted that public benefit and welfare to support a rezone can be based upon the increase in property values which will result in an increase in tax base which results in the necessary public benefit. Mr. Medved also noted that the City of Roslyn contains 2,752 acres of which only 340 are designated as a Historical District. (Open record public hearing)
- 25. There was no public testimony either in favor or against this project. (Open record public hearing)
- 26. The proposed zone change is compatible with the Kittitas County Comprehensive Plan because it proposes an R-3 zone and the purpose and intent of an R-3 zone is to provide areas where residential development may occur on a low density basis. A primary goal and intent in siting R-3 zones is to minimize adverse affects on adjacent natural resource lands. Further, this proposed rezone implements certain goals and policies relating to rural lands found in the Kittitas County Comprehensive Plan. For example, GPO 8.5 provides that Kittitas County recognizes and agrees with the need for continued diversity and densities in uses on rural lands. Further GPO 8.7 provides that “private property owners should not be expected to provide public benefits without just compensation. If citizens desire open space, or habitat or scenic vistas that would require a sacrifice by the landowner or homeowner, all citizens should be prepared to shoulder their share of the

sacrifice.” (Exhibit 23.6 and 23.1)

27. Over the past decade development has occurred in the vicinity of the proposed Sierra Rezone property similar to that which is proposed by the applicant. (see Exhibit 23.1-23.6)
28. GPO 8.19 provides that clustering of residential development adjacent to commercial forest and agricultural land should be encouraged. A rezone of this property to R-3 will facilitate the opportunity for a cluster development. (see Exhibit 23.1-23.6)
29. The proposed zoning amendment bears a substantial relation to the public health, safety and welfare by providing community water and septic systems. Additionally, because the Hearing Examiner finds that the proposed rezone implements the express policy of the Kittitas County Comprehensive Plan, this fact alone may justify the requested rezone. (Exhibit 23.6 and July 1, 2010, letter from Roger Collins to Dan Valoff)
30. The proposed amendment is appropriate because of changed circumstances because property adjacent to the proposed Sierra Rezone property is now in R-3 zoning. (Exhibit 23.1). Additionally, over the past decade, property in the vicinity of the proposed rezone property has become more dense in its zoning. (Exhibit 23.6, staff report and Exhibit 23.1)
31. The subject property is suitable for development in general conformance with the zoning standards for the proposed zone because the proposed rezone property has less topographical challenges than neighboring R-3 zone properties, both to the east and west. Accordingly, the logical conclusion is that if the adjacent R-3 zone properties were appropriate for R-3 zoning and R-3 development, then the Sierra property is as well. (July 1, 2010, letter from Roger Collins to Dan Valoff)
32. The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property because those properties are zoned R-3 to the east and west. To the north is forest land and to the south the City of Roslyn. (Staff report; July 1, 2010, letter from Roger Collins to Dan Valoff; Exhibit 23.1, 23.5, 23.6, 23.2)
33. The subject property does not have irrigation rights and therefore the proposed changes in use of the subject property will not adversely impact irrigation water deliveries to other properties. (Exhibit 23.1 and 23.6)
34. 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)
35. The proposal can be served by adequate facilities including access, fire protection, water,

storm water control, and sewage disposal facilities. (Hearing Examiner finding based on the record)

36. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this recommended decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan. (Findings of Facts 4, 7, 8, 14, 15, 24, 26, 27 and 28)
3. Public use and interest will be served by approval of this proposal. (Findings of Facts 26, 27, 28 and 29)
4. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan. (Findings of Facts 4, 7, 8, 14, 15, 24, 26, 27 and 28)
5. As conditioned, the proposal does conform to the standards specified in Kittitas County Code. (Findings of Facts 24, 26 27, 28, 29, 30, 31, 32, 33, 34 and 35)
6. 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. (Findings of Facts 24, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35)
7. 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-06-39, Sierra Group Holdings Rezone, 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.
2. The project shall proceed in substantial conformance with the plans and application materials which were deemed complete on August 21, 2006 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. All current and future landowners must comply with the International Fire Code and its Appendices.
5. Based on the comments received during the public comment period and other information submitted with this project permit application, a SEPA Mitigated Determination of Nonsignificance (MDNS) was issued by Community Development Services on December 19, 2006. The following are the mitigations contained within the MDNS and shall be conditions of approval:

I. Transportation

- A. The project is not adjacent to state highway 903, but access to the site is via SR 903. Access to the project will be via the existing private gravel road.
- B. Any future subdivision or development of the properties involved will be subject to review by WSDOT for their impacts to the WSDOT system. Impacts that are determined to be significant will require mitigation, and it is anticipated that all costs will be borne by the development(s). WSDOT may require that a traffic impact analysis (TIA) be performed by the developer. WSDOT may require improvements to include left or right turn lanes, or both.
- C. Any future subdivision or development of the properties involved within this rezone will result in the enactment of road standards review and will require road improvements to be made that comply with all applicable agency standards including Kittitas County Road Standards (see Kittitas County road standards, as adopted 9/06/05). Kittitas County Department of Public Works suggests a "maximum build-out" plan be discussed in a pre-applicant meeting with the applicant to clarify some of these issues.

- D. At the time of a project action, the applicant shall submit a stamped traffic analysis from a licensed engineer in the State of Washington considering among other factors, intersection spacing, sight distances, traffic volumes, load bearing capacity of soils, pavement thickness design, etc. Reference current Kittitas County road standards.

II. Water

- A. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require an NPDES construction stormwater permit issued by the department of ecology prior to start of construction. This permit requires the preparation of a stormwater pollution prevention plan.
- B. Storm water 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.
- C. Withdrawals of groundwater on the subject property will be subject to the rules & regulations adopted and administrated by the Washington state Department of Ecology.

III. SEPA review

- A. Any future subdivision or development of the properties involved within this rezone will be subject to additional SEPA review.

Dated this 16th day of July, 2010.

KITTITAS COUNTY HEARING EXAMINER

Andrew L. Kottkamp