



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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March 14, 2024

Jamey Ayling
Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA 98926

SUBJECT: WDFW COMMENTS ON CP-24-00001 LEWINGTON

Dear Mr. Ayling,

Thank you for the opportunity to comment on notice of application for the Lewington comp plan amendment and rezone, CP-24-00001. The proposal, by Mardee Lake Inc., is requesting that the land be rezoned from Rural Working Land Use to Rural Recreation. Washington Department of Fish and Wildlife (WDFW) previously commented on a application to rezone these parcels, our comments were submitted in September 2022 and are on record with that previous application (RZ-22-00005). This request for comments includes both the potential rezone of these properties and comments on a potential SEPA determination. WDFW as a recognized agency of technical expertise under Growth Management Act's (GMA) Critical Area Ordinance (CAO) Fish and Wildlife Habitat Conservation Areas (FWHCA) have substantial concerns over rezoning these parcels to a zoning that would allow for more intensive recreation. We offer up our comments below on how the project needs to properly identify and address impacts under Kittitas Counties CAO, Title 17A.

Critical Areas on the Property with Connection to Fish and Wildlife Habitat Conservation Areas

- **Streams:** Coal Creek and its tributaries flow through these parcels. Within these parcels, Coal Creek is a Shoreline of the State. Coal Creek is used by a variety of fish species, but notably as foraging and rearing habitat for Bull Trout which is listed under the Endangered Species Act (ESA). The Gold Creek Bull Trout population which uses Coal Creek is in decline and at risk of local extinction if restoration is not accomplished in this watershed. Coal Creek is a tributary of Gold Creek.
- **Bull Trout rearing habitat:** Coal Creek is currently occupied juvenile Bull Trout rearing habitat and has already been degraded by upstream development. Coal Creek represents ~13% of all the historically accessible tributary rearing habitat of all the tributaries to Lake Keechelus. Protecting and restoring the riparian area and associated floodplain here is critical to the Bull Trout recovery efforts. Further development in any of the riparian area or the floodplains would have a significant negative effect on any recovery efforts for Bull Trout in the Gold Creek watershed.

- **Wetlands:** There is a large wetland complex that covers much of the parcels associated with the application, see Figure 2 showing the large wetland complex. That picture was taken as part of the I-90 East EIS. The extent of the currently mapped wetlands (Figure 1) is likely less than the actual extent (Figure 2). The wetland complex supports a wide diversity of wildlife and is key to the wildlife connectivity of this watershed. Any infrastructure impacts on the wetland are likely to degrade its habitat condition and thus impact on the overall quality of habitat.
- **Wildlife Connectivity Area:** These parcels are part of a larger wildlife connectivity/migration area in the Gold Creek Valley. Large wildlife bridges on I-90 at Gold Creek were built to facilitate animal movement in this area. From 2014 (when structures were installed)-2023, 8000+ successful wildlife crossings have occurred by animals at the Gold Creek crossing structures. Use of animals by these structures ensured successful population connections and reduction of animal vehicle collision.

This connectivity area is mapped as a Biodiversity Area and Corridor under WDFW Priority Habitats and Species (PHS). Wildlife, especially species more sensitive to human presence such as predators, will not utilize this corridor to the current extent with increased human recreation in this area and thus permitting more intensive recreation within this corridor is likely to undermine the function and values of the wildlife connectivity structure that WSDOT and partners have invested millions of dollars of public funds on. Any increase in recreation density within this corridor is likely to displace wildlife movement to come extent and has the potential to reduce the viability of the wildlife crossing structures.

- **Listed Wildlife Species**
As correctly noted in the SEPA application, the parcels contain potential habitat and historical sightings of a suite of Washington State and Federal listed species including Northern Spotted Owl, Marbled Murrelet and Fisher.

Potential Water Withdrawal on Coal Creek

Coal Creek and the adjacent Gold Creek are already flow limited (areas of dewatering or flows low enough to endanger fish in the dry season by precluding fish passage and reducing production potential of rearing habitat) and the instream flow limitations are having impacts on ESA listed Bull Trout and other aquatic life. Depending on the proposed recreation associated with this rezone, it will likely need to have additional associated water usage. Due to current instream flow limitations to fish and wildlife, any additional water withdrawals/usage proposed from the watershed of either Coal or Gold Creek is a concern. Any additional water would have to be from sources proven to not be in continuity with surface waters on Coal Creek or the Gold Creek watershed.

Public Investment into the Gold Creek Valley

As part of the Yakima Basin Integrated Plan, substantial (millions of dollars) investments have been made into the Gold Creek Valley for aquatic and terrestrial habitat restoration. Increased recreation in and around Coal Creek and next to Gold Creek has the potential to significantly undermine these prior habitat restoration and wildlife connectivity investments. For successful recovery of fish and wildlife in the Gold Creek watershed, restoration of this area is needed, not further impact on the valley, creeks, or wetlands.

Potential Uses Allowed Under a Rural Recreation Designation

The current proposal is asking for a rezone of the property to a rural recreation designation without providing details on what would be constructed on the property. There are many allowed uses under Kittitas County Rural Recreational zoning that are not currently permitted under the Forest and Range zoning. These new permitted uses could include indoor recreation, recreational vehicle park, additional housing or a boarding house. The rezone could increase residential units from approximately 7 units to approximately 30-60 units. The action would also reduce the minimum lot size to five acres and allow a cluster development. Without further detail on what is proposed, review of this application must assume that any of these new permitted uses could be possible. Once the property is rezoned, the permitting pathway for additional high density recreation infrastructure is opened.

WDFW Recommendation on SEPA Determination

In regards to the SEPA determination, there are several guiding principles laid out in the Growth Management Hearings Board (GMHB) decision on the previous application of this proposal, RZ-22-00005. In that decision the GMHB stated that “The County must evaluate the environmental impacts that are probable as a result of the change proposed. Those impacts should be measured in terms of the maximum potential development of the property under the changed land use designation.” The GMHB decision further calls out that the SEPA checklist was incomplete because the applicant failed to detailed information on potential changes as a result of this zoning change and concluded that “The generic answers provided in the Checklist fail to meet that requirement.” While the SEPA checklist for the new application, provides a more complete picture of potential critical areas on the parcel, it is insufficient again in providing detailed information on what this rezone could mean for potential changes to the land and thus is incomplete to allow proper environmental review.

In our comments, we have identified many FWHCA critical areas that could be affected by this potential rezone. The SEPA application is incomplete in clarifying what is likely to be proposed for development by this rezone. As stated in the GMHB the county must evaluate the maximum potential development as part of the rezone in the absence of additional details. These factors combine for **WDFW to request of Kittitas County that a Determination of Significance (DS) is the proper SEPA determination for this action.**

As part of the DS, WDFW requests that an Environmental Impact Statement (EIS) be prepared and sent to agencies and interested parties for review, including WDFW. In that EIS, the applicant needs to fully identify all the potential critical areas on these parcels, including but not limited to the ones identified in these comments. If the applicant or Kittitas County needs further clarification on the definition or the extent of FWHCA critical areas, WDFW is ready and willing to assist. Once all the critical areas are identified, the EIS needs to examine all potential developments that are reasonably possible or planned under this rezone and analyze their potential impacts on the critical areas defined. The EIS needs to include mitigation measures including avoidance, minimization through potentially compensatory mitigation to ensure that there is no net loss of critical area function by this rezone and subsequent development proposal. WDFW requests that as a agency of expertise in FWHCA that we be consulted and coordinated with for mitigation measures for FWHCA impacts, particularly those identified in this letter.

Thank you again for the opportunity to comment and look forward to reviewing an EIS and working with the county and the applicant should this proposal go forward. Please contact me at 509-607-3578 or Scott.Downes@dfw.wa.gov with concerns or questions regarding the above comments.

Sincerely,

A handwritten signature in cursive script that reads "Scott Downes".

Scott Downes
Regional Land Use Planner

Cc: Perry Harvester, WDFW Region 3 Habitat Program Manager
Elizabeth Torrey, WDFW Region 3 Assistant Habitat Program Manager.

Attachments:

Figure 1. Mardee Lake FWHCA currently identified critical areas.

Figure 2. Mardee Lake wetland complex.

Figure 1 showing known critical areas around the Mardee Lake parcels (outlined in light blue). Based on the aerial photos and the photo in Figure 2, the wetlands at Mardee Lake are likely larger than are mapped under the National Wetlands Inventory (NWI).



Figure 2. Mardee Lake wetland complex, looking south towards I-90. Picture is from the I-90 East EIS.

