



STAFF REPORT

Mardee Lake Non-Project Rezone (CP-22-00005 & RZ-22-00005) – Docket Item 22.25

I. GENERAL INFORMATION

Requested Action:

Terra Design Group Inc. (Chad Bala), agent for Mardee Lake Inc., is proposing a rezone and map amendment to four parcels (808335, 818335, 828335 and 838335) currently zoned Forest and Range with a Rural Working Land Use, rezoned to Rural Recreation zoning and land use designation. The rezone will allow the current use of the property to be consistent and compatible with the zoning code of rural recreation, as well as allow future expansion of existing uses. A comprehensive plan amendment (CP-22-00005), rezone application (RZ-22-00005), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2022 Annual Comprehensive Plan Docket process.

Location: Tax parcels 808335, 818335, 828335, 838335, located on Snoqualmie Pass northeast of the I-90 Exit 54 in Section 15, T.22N, R.11E, W.M.; Kittitas County parcel map numbers 22-11-15020-0001, 22-11-15020-0002, 22-11-15020-0003, 22-11-15010-0002.

II. SITE INFORMATION

Total Proposal Size:	approximately 150.98 acres
Number of Lots:	4
Domestic Water:	None requested/proposed at this time.
Sewage Disposal:	None requested/proposed at this time.
Fire Protection:	Snoqualmie Pass Fire District #51
Irrigation District:	None

Site Characteristics: The site is undeveloped Forest and Range with Rural Conservancy Shoreline Jurisdiction and primarily located within the Channel Migration Zone for Coal Creek.

Surrounding Property:

- North: Wenatchee National Forest
- South: I-90 Corridor/Hyak Estates
- East: Privately owned forested land
- West: Wenatchee National Forest

Access: The proposal has access from I-90 and Forest Service Road 4832.

Zoning and Development Standards: The subject property is currently zoned Forest and Range with a Rural Working Land Use. The application is to amend both the zoning and land use to Rural Recreation. The purpose and intent of the Rural - Recreation zone is to provide areas where residential development may occur on a low-density basis or in residential clusters. A primary goal and intent in siting R-R zones will be to promote rural recreation residential development associated with the many natural amenities found within Kittitas County. The proposed rezone has the potential to allow for future recreational/residential/resource activity consistent with surrounding properties. Attachment A of this Staff Report is a land use table comparison between Forest and Range and Rural Recreation showing the allowed uses within each zone, as well as the processes required for each allowed use.

III. ADMINISTRATIVE REVIEW

Complete Annual Comprehensive Plan Docket Application: Application for a comprehensive plan map amendment, rezone from Rural Working Land Use and Forest and Range Zoning to Rural Recreation zoning and land use, and SEPA environmental checklist was received on June 30, 2022. This submittal packet was received prior to the June 30th docketing deadline. The application was deemed complete on July 29, 2022. A Notice of Application was issued on August 11, 2022. These notices were published in the official county paper of record and were mailed to jurisdictional government agencies, adjacent property owners within 500 feet and other interested parties.

Posting of Site: The signed Affidavit of Posting was returned to CDS on August 1, 2022 indicating that the site had been accurately posted with the “Land Use Action” signs as provided by CDS and required per KCC 15A.03.110.

IV. COMPREHENSIVE PLAN

The current land use designation is Rural Working. The proposed land use designation is Rural Recreation. Under the 2021 Comprehensive Plan, Kittitas County has established the following goals and policies to guide future development through a 20-year planning window. These goals and policies were developed in an effort to ensure consistency and coordination with County Wide Planning Policies:

RR-G26: Maintain and enhance the extraordinary and expansive recreational opportunities in Kittitas County.

RR-G27: Provide safe opportunities to develop public and private recreational spaces while preserving rural character.

RR-G28: Increase rural tourist and rural recreational spaces while maintaining environments characteristic to rural areas.

RR-G29: Allow for and encourage commercial activities characteristic to recreational activity while maintaining rural character.

V. REZONE CRITERIA

The following criteria must be met per KCC 17.98.020.6 (a-h).

- a) The proposed amendment is compatible with the comprehensive plan; and
- b) The proposed amendment bears a substantial relation to the public health, safety or welfare; and
- c) The proposed amendment has merit and value for Kittitas County or a sub-area of the county; and
- d) 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; and
- e) The subject property is suitable for development in general conformance with zoning standards for the proposed zone; and
- f) The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property; and
- g) The proposed change in use of the subject property shall not adversely impact irrigation water deliveries to other properties; and
- h) The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.

The applicant's and staff response to the above criteria can be found below:

- a) The proposed amendment is compatible with the comprehensive plan.

Applicants Response: *“This Project's relationship and compatibility with the Kittitas County Comprehensive Plan is consistent with the goals and policies outlined within Exhibit 4 of this proposal along with the additional goals and policies listed below.*

H-G 1: Support strategies that increase and maintain the availability of affordable housing for all incomes levels throughout the county.

This zone change will allow for additional housing to be built in the future with domestic water provided by Group A water system. Housing units needed for future populations, per the comprehensive plan, is projected to be 8,611 units by the year 2037. This is one of the very few areas in the upper county that is be served by a Group A water system via the Snoqualmie Pass Utility District.

H-G3: Provide equitable housing options to allow residents with supported living needs to live as independently as possible throughout the County.

The proposal will create the possibility for new homes to be built in the future which will provide future home ownership.

H-G7: Provide a sufficient number of housing units for future populations in rural areas of Kittitas County while maintaining environmental corridors and quality habitats.

This proposal will could provide for additional housing units while maintaining the environmental corridors and quality habitats that this land contains.

H-G8: Provide for future populations while protecting individual property rights.

This proposal allows for the continued protection of private property rights.

H-P3: Identify lands within areas which are served by centralized water and sewer systems, paved streets and other public services provide to them which are suitable for high density residential use including multi-family and single family planned unit developments and cluster housing.

This proposal is within the service area of the Snoqualmie Pass Utility (water and sewer) District. This district provides domestic water and sewer to the proposed land to be re-designated to rural recreational. The subject parcels have immediate access from I-90 and are within a 1.5 to 2 miles of other public services.”

Staff Response: This project proposes to change the Land Use and Zoning designations conforming with adjacent properties zoning and recreational uses within the vicinity. The requested zone change is compatible with the County's Comprehensive Plan.

- b) The proposed amendment bears a substantial relation to the public health, safety or welfare.

Applicants Response: *“The proposed amendment must bear a substantial relation to only one of the following: public health, safety or welfare and this proposal benefits county residents in all three categories.*

Kittitas County Population Growth: The Kittitas County Conference of Governments (COG) made a recommendation to the Board of County Commissioners to adopt the Office of Financial Management's (OFM) numbers and distribution of populations projections through 2037. These projections are intended to guide in the development of Kittitas County. This recommendation included a population projection of 65,967 residents within Kittitas County by the year 2037. Using this projection, the 20-year population allocation for Kittitas County is anticipated to increase by 23,297 people. This proposal provides for the possibility of housing that will add to the greater mix of residential housing types that will assist in meeting the carrying capacity that the county is required to provide for in the Kittitas County Comprehensive Plan. By changing this zone to Agricultural-5 with property located in the future boundaries of a Group A Water System that has the water rights to serve this area bears a substantial relation to the public health, safety and/or welfare; and

Public Health: In 2016 Kittitas County had the availability of new domestic water supplies greatly reduced as the Department of Ecology has determined that the water in the upper Yakima River basin has been over allocated. In addition, the Department of Ecology has found that there is a connection between surface and ground water in the Upper Yakima River Basin and has determined that there will be no new water rights (surface or ground) issued for any use unless mitigated by an existing senior water right. Since this decision Kittitas County came into compliance with the adoption of their comprehensive plan along with the continued development on how to provide water for domestic purposes. One example is that Kittitas County has purchased water rights and developed an over the county water program to meet the domestic needs of Kittitas County. Furthermore, private water banks were developed, with approval from WA ST. Dept. of Ecology to also allow for the ability to provide domestic water for new and future residential uses. Furthermore, this proposal is within the service area of the Snoqualmie Pass Utility (water and sewer) District. This district provides domestic water and sewer to the proposed land to be re-designated to rural recreational. By providing domestic water and sewer by being within the service area of the Snoqualmie Pass Utility District this amendment bears a substantial relation to the public health; and Welfare: The Merriam-Webster dictionary defines "welfare" as "the state of doing well especially in respect to good fortune, happiness, well-being, or prosperity ". Home ownership intermixed with recreation activities are specifically designed to provide happiness and well-being. The property is located adjacent to other properties in the same area that provide for wide variety of recreational opportunities for both summer and winter (Snoqualmie Pass Skiing, snow shoeing, mtn. biking, fishing, hunting, hili.ng, access to Wenatchee National Forest to name a few). By providing these new opportunities the proposal bears a substantial relation to welfare; and Safety The Merriam-Webster dictionary defines "safety" as "the condition of being safe from undergoing or causing hurt, injury, or loss". The change in the zone from Forest & Range - 20 to Rural Recreational will provide a similar environment for the continued and growing rural population and recreation uses. The proposal is already being encircled by surrounding smaller densities along with other existing recreational uses. By zoning these parcels to Rural Recreational will bring this property into consistency with the surrounding area, allow for innovated techniques to occur for residential development while protecting the rural character and natural environment with a safe water and sewer supply in a safe environment, therefore this amendment bears a substantial relation to safety."

Staff Response: This amendment will not be detrimental to the health, safety, or welfare of the public as the proposal is currently a non-project specific application. CDS staff does have concerns in regard to the potential additional density proposed on property that has numerous critical areas, however those concerns would be addressed at the time of development review of specific projects. The primary goal and intent of the proposed zoning, Rural Recreation, is to promote rural recreation residential development associated with the many natural amenities found within Kittitas County. The property is located in the vicinity of a wide array of outdoor recreational opportunities.

- c) The proposed amendment has merit and value for Kittitas County or a sub-area of the county.

Applicants Response: *"The Merriam-Webster dictionary defines "merit" as "a good quality or feature that deserves to be praised" and/or "the quality of being good, important, or useful ".*
Protection of existing natural areas: With the concept of preserving natural areas, by designating this land as rural recreation land provides for consistency within the immediate area and those similar recreational uses. All the surrounding land has been continually developed making it even more difficult to continue with any future recreational types of scenarios. By changing the land use designation and zoning designation allows for the continued rural recreational lifestyle to occur. By doing this the amendment and rezone has merit and value for the county.
Protection of Coal Creek: Coal Creek is located on a portion of this proposal. By including this rural recreational growth on these lands allows for the continue recreational use (merit and value for the County) of Coal Creek and other associated natural areas.
Water Availability: This amendment and rezone will also allow any future recreational use/development

to use the Snoqualmie Pass Utility (water & sewer) District for domestic uses. By doing this the amendment has merit and value for the county allowing further protections to the natural recreational area.

Access: With access from I-90 and the existing county road allows for the immediate access to the subject property and provides the ability for future connectivity for future recreational development proves that this amendment has merit and value for the county."

Staff Response: CDS staff has concerns regarding the potential increased density proposed in an area identified by state and federal programs of needing enhancement for the wildlife corridor. Staff also recognizes the value and merit of creating additional recreational properties in an area with winter and summer recreational opportunities including skiing and hiking which would provide additional tax revenue for the county.

- d) 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.

Applicants Response: *"The proposed amendment needs to be found appropriate because one of the following (i) because of changed circumstances (ii) because of a need for additional property in the proposed zone (iii) because the proposed zone is appropriate for reasonable development of the subject property. As stated above the amendment for the proposal needs to meet only one of these criteria.*

Because of Changed Circumstances:

First and foremost, this proposal is forested ground but is not considered a working forest property. There have been major changes in the timber industry over the last 15 plus years, last two remaining local timber processing mills have shut down or are on limited operations and are no longer buying timber to process into lumber. This has eliminated the ability of the land to sustain any reasonable commercial timber harvest cycle and has changed the use of this land forever. With the current forest & range zoning designation covering this property and the change in the timber industry alone creates inconsistencies with the purpose and intent of the Forest & Range zoning district, which states the following "this zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where development of lands for uses and activities incompatible with resource land management are discouraged.". These conditions over the last 15 along with this land not designated as forest resource lands of long-term commercial significance warrant a change and not meeting the intent of the existing zone warrant a change in the land use and zone designation.

Secondly, there has been major changes with regards to water rights. Snoqualmie Pass Utility District has recently completed their update to their comprehensive water plan. During this update water rights have increased to allow for future growth. See Exhibit#. With these new changes in water the applicant can be provided with domestic water from an existing community water system therefore eliminating the need to for individual wells to be used. Thirdly, there has been the continued development of the surrounding areas and adjacent lands. 20 acre lots have been developed to the east of this proposal. Directly across I-90 Kittitas County recently (within the last 4-5 years) approved a planned unit development that contains residential, commercial, open space, and recreational uses. This newly planned unit development is less than a ½ mile away and along with this change will create additional need of recreational lands.

Finally, the implementation of the newly designation of Rural Recreational lands constitutes a major change. As you can see when Kittitas County designated lands in the Snoqualmie Pass Area as Rural Recreational, they just designated the existing ski pass areas and their associated uses. This property was not taken into consideration regarding whether other private lands provided a recreational use or for that matter be designated as recreational lands. This land is Rural Recreational lands designated to the west and to the south and it is only fitting, through meeting that criterial, be designated as rural recreational lands along with a zoning designation of rural recreational. Because of a need for additional property in the proposed zone his amendment is due to the need for lands to be included into the Rural Recreational

Land Use. There are limited areas within Kittitas County that were designated appropriately, and one might say inappropriately designated. For example, one of these areas is the Master Plan Resort, now called Suncadia just west of the City of Cle Elum. This master planned resort with golf courses is just that a Master Plan Resort and is continuously being built out mainly as residential development with golf courses/trails etc. There are other areas along the SR903 corridor that are mainly residential development that contain higher residential uses than recreational uses. You also have land that includes the Snoqualmie ski area, which is appropriately designated as recreational land use. It is also important to note that recreational second homes area are allowed under this land use designation. As you look at the land use map of county and the total acreage of rural recreational lands you will see there is a need for additional lands to be designated with a recreational land use designation along with a rural recreational zone. This proposal fits this needed as it is adjacent to Rural Recreational zoning to the south and to the north, but more importantly this land does not fit the Rural Working Land use designation. This land is not a working farm or forest land. This amendment is 1-2.5 miles away from Snoqualmie Pass (ski areas) and fits in with the recreational nature of hiking, snow shoeing, skiing, mountain biking etc. that occurs in the surrounding area. Also, this proposal contains a recreational element of having streams flowing through it that provides for recreational fishing activities, along with Mardee Lake, hiking, snow shoeing, skiing, mountain biking all that are similar if not the same uses allowed on the surrounding/adjacent lands. Because the proposed zone is appropriate for reasonable development of the subject property because. The surrounding land is no longer used as resource-based land. The land that is now used for rural recreational lands. The proposed rezone for the property provides for the reasonable development of the land for rural recreational uses. As stated above this proposed amendment is appropriate because of changed circumstances and because of a need for and because the proposed zone is appropriate for reasonable development of the subject property.”

Staff Response: CDS staff finds that the proposal is adjacent to the west and south of other rural recreation land use and zoning and the proposed rezone would allow for reasonable development of the land for rural recreational uses.

- e) The subject property is suitable for development in general conformance with zoning standards for the proposed zone.

Applicants Response: “Chapter 17.30 R-R-RURAL RECREATION ZONE

17.30.010 Purpose and intent.

The purpose and intent of the Rural - Recreation zone is to provide areas where residential development may occur on a low-density basis or in residential clusters. A primary goal and intent in siting R-R zones will be to promote rural recreation residential development associated with the many natural amenities found within Kittitas County.

As pointed out throughout this proposal the uses that are surrounding the subject parcels are consistent with this proposed land use and zone change by being recreational in nature compared to the existing zoning of Forest & Range. In comparison the intent of the forest & range zone is where natural resource management is the highest priority and the development of lands for uses and activities incompatible with resource management are discouraged. With respect to the uses allowed (permitted & conditional uses) within the existing zone and compared to the proposed zone of Rural Recreational there are some extremely intense uses that do not appropriately fit this recreational area (See Exhibit 9).

Within the Forest & Range-20 zone (KCC 17.56), the current zoning of this proposal, there are certain uses such as, Agricultural enhance uses, Agricultural direct marketing activities, Agricultural seasonal harvest festivities use, Agricultural expanded seasonal harvest festivities, Taverns, Asphalt/Concrete Plants, mini-warehouse, refuse & recycle centers, boarding house, Mining & excavation, & Rock Crushing uses, that are allowed within this zone. This land does not lend itself to the agricultural uses within with the Forest & Range zone. This land is mainly timber land along with natural amenities. Most importantly, The Forest & Range zone allows for one of the most intensive uses in Kittitas County, with

the use being mining and rock crushing. These two types of uses do not fit within this land or for that matter the surrounding recreational lands. These types of uses should not be allowed within a recreational area of Snoqualmie pass and if allowed could be a detriment to the recreational vitality of the area.

The surrounding land, the surrounding uses of the property, the changing uses of the land to more of a rural recreational area, the available of water & sewer through the Snoqualmie Pass Utility (water & sewer) District water only shows that the property is suitable for development in general conformance with zoning standards of the Rural Recreational zone.”

Staff Response: The existing zoning designation is Forest and Range, and the proposed zoning designation is Rural Recreation. This proposal is adjacent to property on the west and east sides currently zoned rural recreation, directly outside of the Snoqualmie Pass LAMIRD. While the proposed zoning would allow for higher density (5-acre lot sizes), it conforms with the Goals of the Rural Recreation Zoning by allowing for additional residential development on a low-density basis or in residential clusters, promoting rural recreation residential development associated with the natural amenities found within Kittitas County.

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

Applicants Response: *“The proposed rezone of the property will enhance the properties in the immediate vicinity of the subject property. Under the land use and zoning of F&R-20 that allows for certain uses that are agricultural driven that does not fit this land, and more importantly this current zone allows for a very high intense use of Mining and Rock Crushing. This type of use is not conducive to the recreational vitality in the area, or for that matter conducive to the natural environment in the immediate vicinity. By rezoning this property, will not be materially detrimental to the use of the properties in the immediate vicinity of the subject property and would be more protective to the properties in the immediate vicinity help further grow the recreational aspect of the area.”*

Staff Response: CDS staff finds that the proposed rezone and Comprehensive Plan Amendment will not likely be detrimental to the use of property owners within the immediate vicinity of the subject property. Staff does share concerns regarding the change allowing for higher density (5-acre parcels) on property that has many critical areas associated with it and has multiple plans identified by state and federal agencies to improve the wildlife corridor within the vicinity and the possible impact future development may have on the improvements.

- g) The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties.

Applicants Response: *“There are no irrigation water on the subject property nor any irrigation conveyance ditches that run through the property.”*

Staff Response: The proposal is not located within an irrigation district; therefore, it does not have any irrigation ditches for deliver. The project will not have any impacts on irrigation.

- i) The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.

Applicants Response: *“The proposed amendment is in full compliance with Chapter KCC 17.13 Transfer of Development Rights.*

According to KCC 17.13 Transfer of Development Rights, specifically 17.14.080.2 the transfer of development rights is not a precondition for any amendment to the Comprehensive Plan, Zoning Map, or

proposed development to be approved.”

Staff Response: Upon review of KCC 17.13 Transfer of Development Rights, staff has determined that the rezone request is outside of the scope of consideration and the legislative intent of KCC 17.13 when it was adopted in 2009 and further amended in 2010 and 2011. Therefore, TDRs are not required for this rezone proposal.

V. ENVIRONMENTAL REVIEW

Based upon review of the submitted application materials including an environmental checklist, correspondence received during this comment period and other information on file with Community Development Services, Kittitas County issued a Determination of Non-Significance (DNS) on September 8, 2022. The appeal period ends on October 27, 2022 at 5:00 p.m. A timely SEPA Appeal was file on October 27, 2022 and the SEPA Appeal Hearing is scheduled for November 29th, 2022 at 6pm.

VI. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments are on file and available for public review. The following parties provided substantive comments during the comment period:

Washington State Department of Natural Resources- Shane Early:

WSDNR provided comment stating that as project area appears to be primarily forested, DNR wanted to formally note that current or future landowners within the proposed rezoned area may need to obtain an approved Forest Practices Application (FPA) prior to conducting any timber harvest. DNR also wished to note that the site has a network of fish bearing and non-fish bearing streams and associated wetlands within the project site and the need for the property owner to engage with DNR and/or WDFW prior to any development in order to create access roads with approved stream crossing structures.

Staff Response: Staff has transmitted these comments to the applicant, and they are aware that any timber harvest on any of the parcels may require the need to obtain an approved Forest Practices Application (FPA) prior to conducting any timber harvest.

Snoqualmie Tribe:

Snoqualmie Tribe stated they had no substantive comments at this time but reserve the right to modify their position if the scope of the project or the parameters for defining the APE change.

Staff Response: CDS Staff transmitted the comments to the applicants and note that if any changes are made to the application Snoqualmie Tribe will be notified.

Washington State Department of Natural Resources- Luke Warthen:

WSDNR provided comment stating that as project area appears to be primarily forested, DNR wanted to formally note that current or future landowners within the proposed rezoned area may need to obtain an approved Forest Practices Application (FPA) prior to conducting any timber harvest.

Staff Response: Staff has transmitted these comments to the applicant, and they are aware that any timber harvest on any of the parcels may require the need to obtain an approved Forest Practices Application (FPA) prior to conducting any timber harvest.

Washington State Department of Ecology:

WSDOE provided comment regarding Coal Creek, Mardee Lake, Lake Keechelus, and the nearby Gold

Creek all being Shorelines of the State and any work proposed within the County's designated Shoreline Jurisdiction must meet the purposes and intent of the County's Shoreline Master Program (SMP), the need to adhere to all buffer requirements established within the County's SMP, a large wetland complex surrounding Mardee Lake and if work proposed within a wetland would require review and authorization from the DOE and U.S. Army Corps of Engineers. DOE strongly encouraged the use of mitigation sequencing and the avoidance of all wetland impacts and noted the importance of the largely undeveloped area to the wildlife, wetlands, shoreline and streams. This creates a large wildlife corridor and for these reasons they strongly encourage the existing corridor to remain intact.

Staff response: Staff shares concerns regarding the impact development of any kind will have on this sensitive area. Any proposed land use activity on the property would require additional environmental review.

Kittitas County Public Health:

KCPH state they had no comments or concerns with the project as this is a rezone and does not propose the withdrawing of groundwater or discharging wastewater at this time.

Staff Response: Community Development Services (CDS) staff agrees that the current Zoning and Comprehensive Plan Amendment is a non-project specific proposal and does not include withdrawing of groundwater or discharging wastewater currently.

Kittitas County Public Works:

KCPW provided comments solely regarding flood. KCPW stated a portion of the proposal is within the 100-year floodplain of Coal Creek and any activities within the floodplain must be permitted through the floodplain development permit process. This requirement pertains to all construction, including buildings exempt from building permit.

Washington State Department of Transportation:

WSDOT provided comment stating their concern surrounding potential buildout being up to an additional 296 additional lots according to their calculations and the density and location of the associated future development having the potential to affect the function of publicly funded improvements associated with the Interstate 90 Snoqualmie Pass East project, the 20 plus years of collaboration of WSDOT, US Forest Service and other natural resource agencies to identify and define a landscape-scale, watershed-based approach to allow for the expansion of I-90, the identification of the Gold Creek Valley as an important connectivity emphasis area due to ecological improvement opportunities within the watershed, the impacts the increased land use densities and development within the adjacent to the valley could have and that WSDOT does not believe that the Non-Significance determination for this proposal sufficiently addresses potential impacts, including ecological connectivity investments.

Staff Response: The calculations used to identify number of potential lots is incorrect. The project encompasses a total of 150.98 acres. Under the proposed Rural Recreation zoning (lot size minimum of 5 acres), the applicants could divide the property into a total of 30 parcels. If the applicants proposed a Cluster Plat subdivision under KCC 16.09 they would only be allowed up to 30 parcels in the cluster and 60% of the land outside of the cluster must remain in contiguous open space in perpetuity.

Washington State Department of Fish and Wildlife:

WDFW commented in regard to the concern of rezoning the property to allow for more intensive recreation on the property that holds multiple critical areas and the intensive recreation's incompatibility with protection of these critical areas, these areas include streams, bull trout rearing habitat, wetlands, wildlife connectivity area. WDFW brought up concerns with potential water withdrawals on Coal Creek, the public investment into the Gold Creek Valley and WDFW's recommendation on the SEPA

Determination. WDFW did not agree with the SEPA determination of DNS and the rezone proposed in this area would likely have substantial impact on the environment. WDFW requested that prior to any decision or the public hearing of this rezone, that a critical areas report be completed.

Staff Response: Staff shares some of the same concerns as the WDFW regarding increasing the allowed density on property that includes numerous critical areas as well as an area that has been highly invested in at the state and federal level to improve the ecological functions. The proposed Rezone and Comprehensive Plan Amendment is not a project specific application. Any future development proposals on the property would require critical areas review.

Confederated Tribes and Bands of the Yakama Nation:

The Yakama Nation commented on concerns for the critical areas on the property including water, wetlands, riparian, wildlife connectivity, and bull trout rearing habitat. Yakama Nation stated that the project fails to address impacts to the natural environment and has a high likelihood of contributing to habitat degradation.

Staff Response: Staff shares some of the same concerns as the Yakama Nation in regards increasing the allowed density on property that includes numerous critical areas. The proposed Rezone and Comprehensive Plan Amendment is not a project specific application. Any future development proposals on the property would require critical areas review.

Kittitas Conservation Trust:

KCT provided comment concerning the proposal which would allow more intensive recreation and development on the property in an area where bull trout recovery efforts are currently underway, and the degradation of existing habitats within this area would further hamper current investments to improve conditions for the Gold Creek Bull Trout, the significant investments made by the state and federal partners in assessing, designing, and permit large scale restoration needed to improve habitat and flow and requested that a critical areas report be conducted prior to any decision or public hearing on the proposed rezone application.

Staff Response: Staff shares some of the same concerns as the KCT regarding increasing the allowed density on property that includes numerous critical areas. The proposed Rezone and Comprehensive Plan Amendment is not a project specific application. Any future development proposals on the property would require critical areas review.

Public Comments:

Public Comments were received from Karl Flaccus, The Gold Creek Valley Landowners (Sue and Bob Mecklenburg, Kirsten and Vincent Turner, Erin Barzen, Claudia Davis, Charlie Buitron, Jody Jldersma and Matthew Jenkins, Mary Shwetz and Don Grubb, Barb and Wes Moorhead, Gordon Gray, Amy and Francisco Perez, Jennifer and Gary Gray), Richard Pierson, Tom Robey (along with Michael and Fritz Robey).

Public Comments included concerns for the inconsistency with the multi-million dollar investments made by the state and federal agencies and funded by taxpayers to support Gold Creek wildlife corridor, inconsistencies with the multi-million dollar restoration plans for Gold Creek Valley proposed by Yakima Basin Integrated Plan, inconsistencies with the preservation of an important wetland complex at Mardee Lake, concerns for recreational access, congestion, waste and light in the area, winter access to property being uniquely fragile and the current issues with plowing and access, the addition of commercially owned land in the vicinity will further reduce access to the winter recreation and harder for residents, the current zoning being more consistent with the local benefit rather than distant profit.

Staff Response: Staff shares some of the same concerns as the comments submitted by the public

regarding increasing the allowed density on property that includes numerous critical areas as well as an area that has been highly invested in at the state and federal level to improve the ecological functions. The proposed Rezone and Comprehensive Plan Amendment is not a project specific application. Any future development proposals on the property would require critical areas review.

Planning Commission Public Hearing – Agency and Public Comments:

Washington State Department of Fish and Wildlife – Elizabeth Torrey:

Elizabeth Torey provided verbal comments to support WDFW’s previous statements and elaborate on them, commenting that the Mardee Lake Rezoning proposal and the development that can reasonably be expected to follow presents significant risks to fish and wildlife habitat and other critical areas. She also commented that the proposal is inconsistent with the County Comprehensive Plan, and that as heard earlier in the hearing, consistency with the plan is required as a part of the rezoning criteria. She also commented that rezoning of over 150 acres to Rural Recreation will open the door to many types of allowable uses, including housing and other developments and consequently will increase buildout in density. She also commented that many of the Mardee Lake environmental improvements were constructed using public funding including the tens of millions of dollars that had been invested along the I-90 corridor for the purpose of enhancing fish and wildlife habitat. These projects were designed and constructed with the Comp Plan and it goes against the Comp Plan to believe the rezone will have no environmental impacts. The plan clearly states the intent to limit development in rural areas and to protect natural resources, even as going so far to call out Mardee Lake and Coal Creek and the extensive associated wetlands as areas of specific importance to protect. She concluded by saying that there are two takeaways that WDFW would like for the Commissioners to consider based on the comments provided: 1) Consistency with the Comprehensive Plan is requirement for a rezone. 2) The SEPA is currently in appeal, and it is going to be heard later this month by the Board of County Commissioners. She recommended that the Planning Commission choose not to proceed with sending this onto the County Commissioners because it is inconsistent with the rezoning criteria, but at least that they abstain from passing it on until after the County Commissioners can determine whether or not the SEPA is in good standing.

Conservation Northwest – Laurel Baum

Laurel Baum stated that Conservation Northwest is a non-profit agency that has been engaged in the Snoqualmie Pass Area and the habitat connectivity of the area for over two decades, and that they are the Co-Appellants to the SEPA DNS appeal, They are appealing the SEPA determination of nonsignificance (DNS) on the basis that part of the proposal does not comply with the comprehensive plan, the rezone and the DNS overlooks the protections needed for the critical areas consistent with the Kittitas County Comprehensive plan and the county code. The appeal letter references a number of areas of inconsistencies. The appellants are requesting a Critical Areas Report be completed for the property that includes potential future effects of the activities that would be increased under the rezoning.

James Evens:

James Evens provided comment that he appreciated the technical comments from WSDOT, WDFW and other government agencies and believes this rezoning action deserves a high level of review.

Jay Wiseman:

Jay Wiseman commented that he supports commissioner Deneen’s comments and is in support of the rezone as a property owner in Kittitas County and previously on Snoqualmie Pass.

Karl Flaccus:

Karl Flaccus stated he is the co-appellant for the SEPA DNS appeal. He commented that under SEPA the agency must address the probable impacts of any future project action the proposal would allow, and he

believes the county misapplied that standard by not considering permitted activities that would be allowed by the rezone. He believes the county made a mistake and misapplied SEPA and did not take into consideration all the laws and regulations that have been cited in the appeal. He is seeking invalidation of the DNS, as well as seeking a critical areas report and an environmental impact statement.

Liz Martin:

Liz Martin provided comment that this property is working land and that wetlands are working ways, are pathways for animals, filter stormwater runoff, provide wildlife nurturance and habitat. The zoning change seems to pave the way for development of the property. She commented that she can't see how changing the zone would prevent trespassing and she asked the commissioners to pay close attention to the agency comments.

Richard Pierson:

Richard Pierson stated he supports comments made by Carl Flaccus and Conservation Northwest.

Sandy Cope:

Sandy Cope addressed the narrative which states that the streams allow for fishing. She commented that all streams in the area are closed to fishing and that the area adjacent to the property is also a wildlife corridor which is not to be trespassed on. She also asked how the rezone will keep people from trespassing.

Scott Burbridge:

Scott Burbridge stated he is more concerned with the Mardee Lake Road that the project borders, because the road is a mess on the weekend with parking on both sides of the street, and any vehicles that stay in place don't allow for the county to plow the road. He stated maybe there is a way to partner with these landowners for the subject property, stating that it could be a win-win for everybody in the community.

Susan Mecklenburg:

Susan Mecklenburg stated that she had already made comments and invited her neighbors to make comment and that those were included in our report.

Toni Desona:

Toni Desona stated he was echoing what others have said, stating that Mardee Lake Road is a challenge and that he is concerned that development in this area will just increase the issues. He is also concerned that access to Kendall Lakes trail head will possibly be restricted if the zoning is changed.

VII. PROJECT ANALYSIS

In review of this proposal, it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.

Comprehensive Plan Consistency:

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: RR-G26, RR-G27, RR-G28, and RR-G29. This proposal is consistent with the intent of the Rural and Resource Lands of Kittitas County.

Consistency with the provisions of KCC Title 12 Roads and Bridges:

This proposal is for a non-project rezone, therefore there will be no impact on existing infrastructure. The

proposal is consistent with the provisions of KCC Title 12.

Consistency with the provisions of KCC 13 Water and Sewers Code:

This proposal is for a non-project rezone. This proposal is consistent with the Kittitas County Code for Water and Sewers.

Consistency with the provisions of KCC Title 14 Buildings and Construction:

As this is a non-project rezone and comprehensive plan request, no building or construction is being requested by this action. This proposal is consistent with Kittitas County Code Title 14 for Building and Construction.

Consistency with the provisions of KCC 17.30, Rural Recreation zoning:

This proposal is consistent with the Kittitas County Zoning Code 17.30. The proposal is compatible with KCC 17.30.020 referring to the uses table in KCC 17.15.

Consistency with the provisions of KCC 17A Critical Areas Code:

As this is a non-project specific rezone no critical areas will be affected. Future activities and/or development will be required to comply with all regulations at the time of the new proposal and the critical areas will be assessed at that time.

Consistency with the provisions of KCC 20 Fire and Life Safety Code:

As this is a non-project rezone this proposal is consistent with the Kittitas County Code for Fire Life Safety.

VIII. RECOMMENDATION

Staff recommended approval of the Mardee Lake Non-project Rezone (CP-22-00005 & RZ-22-00005) subject to the following findings of facts and conditions:

Findings of Fact

1. Terra Design Group Inc. (Chad Bala), agent for Mardee Lake Inc., is proposing a rezone and map amendment to four parcels (808335, 818335, 828335 and 838335) currently zoned Forest and Range with a Rural Working Land Use, rezoned to Rural Recreation zoning and land use designation. The rezone will allow the current use of the property to be consistent and compatible with the zoning code of rural recreation, as well as allow future expansion of existing uses. A comprehensive plan amendment (CP-22-00005), rezone application (RZ-22-00005), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2022 Annual Comprehensive Plan Docket process.
2. This proposal is located on tax parcels 808335, 818335, 828335, 838335, on Snoqualmie Pass northeast of the I-90 Exit 54 in Section 15, T.22N, R.11E, W.M.; Kittitas County parcel map numbers 22-11-15020-0001, 22-11-15020-0002, 22-11-15020-0003, 22-11-15010-0002.
3. Total Proposal Size: approximately 150.98 acres
Number of Lots: 4
Domestic Water: None requested/proposed at this time.
Sewage Disposal: None requested/proposed at this time.
Fire Protection: Snoqualmie Pass Fire District #51
Irrigation District: None
4. Site Characteristics: The site is undeveloped Forest and Range with Rural Conservancy Shoreline Jurisdiction and primarily located within the Channel Migration Zone for Coal Creek.

5. Surrounding Property:
- North: Wenatchee National Forest
 - South: I-90 Corridor/Hyak Estates
 - East: Privately owned forested land
 - West: Wenatchee National Forest

Access: The proposal has access from I-90 and Forest Service Road 4832.

6. The Comprehensive Plan designation is Rural Working.
7. The subject property is currently located within the Forest and Range zoning district and is within the Rural Working Land Use. Rural Recreation Zoning and Land Use are being requested, which is consistent with lands to the west and south of the property as well as the uses located in the vicinity, including hiking trails and The Snoqualmie ski resort. The purpose and intent of this zone is to provide areas where residential development may occur on a low-density basis or in residential clusters. The proposed zone has the potential to allow for future commercial/residential/resource activity consistent with surrounding properties.
8. Application for a comprehensive plan map amendment, rezone from Urban Residential to Forest and Range, and SEPA environmental checklist was received on June 30, 2022. This submittal packet was received prior to the June 30th docketing deadline. The application was deemed complete on July 29, 2022. A Notice of Application was issued on August 11, 2022. These notices were published in the official county paper of record and were mailed to jurisdictional government agencies, adjacent property owners within 500 feet and other interested parties.
9. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this comment period and other information on file with Community Development Services, Kittitas County issued a Determination of Non-Significance (DNS) on September 8, 2022. The appeal period for the DNS ends on October 27, 2022 at 5:00 p.m. A timely SEPA Appeal was filed on October 27, 2022 and the SEPA Appeal Hearing is scheduled for November 29th, 2022 at 6pm.
10. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: RR-G26, RR-G27, RR-G28, and RR-G29. This proposal is consistent with the intent of the Rural and Resource Lands of Kittitas County.
11. This proposal is consistent with the provisions of Kittitas County Roads and Bridges Title 12.
12. This proposal is consistent with the provisions of KCC 13 Water and Sewers Code.
13. This proposal is consistent with Kittitas County Code Title 14 for Building and Construction.
14. This proposal is consistent with the Kittitas County Zoning Code Title 17, more specifically KCC 17.30 R-R.
15. This proposal is consistent with Kittitas County Code Title 17A Critical Areas.
16. This proposal is consistent with Kittitas County Code Title 20 Fire Life Safety.

17. This proposal is consistent with Kittitas County Code (KCC 17.13) Transfer of Development Rights.
18. The following agencies commented on this proposal: Washington State Department of Natural Resources – Shane Early and Luke Warthen, Snoqualmie Tribe, Washington State Department of Ecology, Kittitas County Public Health, Kittitas County Public Works, Washington State Department of Transportation, Washington State Department of Fish and Wildlife, The Yakama Nation, and Kittitas Conservation Trust.
19. The following members of the public commented on this proposal: Karl Flaccus, The Gold Creek Valley Landowners (Sue and Bob Mecklenburg, Kirsten and Vincent Turner, Erin Barzen, Claudia Davis, Charlie Buitron, Jody Jldersma and Matthew Jenkins, Mary Shwetz and Don Grubb, Barb and Wes Moorhead, Gordon Gray, Amy and Francisco Perez, Jennifer and Gary Gray), Richard Pierson, Tom Robey (along with Michael and Fritz Robey).
20. The following agencies and members of the public commented during the Planning Commission meeting held November 8, 2022: Washington State Department of Fish and Wildlife – Elizabeth Torrey, Conservation Northwest – Laurel Baum, James Evens, Jay Wiseman, Karl Flaccus, Liz Martin, Richard Pierson, Sandy Cope, Scott Burbridge, Susan Mecklenburg, Toni Desona.

Suggested Conclusions:

1. As conditioned, the proposal meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interest will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 12 Roads and Bridges, Title 13 Water and Sewer, Title 14 Building and Construction, Title 15 Environmental Policy, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire Life Safety.

Suggested Conditions of Approval:

1. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.

After considering the application and testimony provided at the November 8, 2022 Planning Commission Public Hearing, the Planning Commission recommended approval of the proposed comprehensive plan amendment and rezone by a vote of 4-1.