



## KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

### **DNR Administrative Conditional Use File Number ACU-23-00002 FINDINGS OF FACT, DECISION AND CONDITIONS OF APPROVAL**

#### **I. GENERAL INFORMATION**

Requested Action: Department of Natural Resources (State of Washington), landowner, is proposing the placement of a radio communication tower which is to be situated between existing communications towers on a 640-acre parcel. Communication facilities may be authorized in all zoning districts with an administrative conditional use permit. The subject property is zoned Forest & Range.

Location: One (1) parcel #535234, Section 34, T18, R21, WM in Kittitas County, bearing Assessor's map number 18-21-34000-0001.

#### **II. SITE INFORMATION**

|                      |                                    |
|----------------------|------------------------------------|
| Total Property Size: | 640 acres                          |
| Number of Lots:      | 1 (no new lots are being proposed) |
| Domestic Water:      | None                               |
| Sewage Disposal:     | None                               |
| Power/Electricity:   | PSE                                |
| Fire Protection:     | None                               |
| Irrigation District: | None                               |

Site Characteristics:

North: PSE Wild Horse Wind Farm

South: PSE Wild Horse Wind Farm

East: Public Land, PSE Wild Horse Wind Farm

West: Public Land, PSE Wild Horse Wind Farm

Access: The site is accessed from Vantage Highway.

Zoning and Development Standards: The subject property has a Zoning designation of Forest and Range with a Land Use designation of Rural Working. The purpose and intent of this zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged. The proposed project is classified as a "Utility". Utilities shall be permitted within all zoning districts. Communication facilities may be permitted with an Administrative Conditional Use permit per KCC 17.61.040. This Administrative Conditional Use requires that the following be met:

**KCC 17.60A.015 Review Criteria**

- 1. The proposed use is essential or desirable to the public convenience and not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood.**

Applicant Response:

*“The communication tower will be used primarily to support statewide wildfire firefighting operations. There are no anticipated negative impacts to public health, peace, or safety. The tower will fit in with the current character of the surrounding area; replacing a previously sited tower.”*

Staff Response:

Staff agrees with the applicant that the proposed use will not be detrimental or injurious to the public health, peace, safety, or to the character of the surrounding neighborhood. The existing sited communication facilities serve similar purposes, and no additional impact is expected from replacing a previously sited tower.

- 2. The proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by finding that:**
  - a. The proposed use will be adequately serviced by existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers, and schools; or**
  - b. The applicant shall provide such facilities; or**
  - c. The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.**

Applicant Response:

- “Yes, it will be adequately serviced by existing transportation infrastructure and will be serviceable with the existing protective services. Irrigation and drainage is unchanged. Refuse disposal, water & sewer, and schools are not required.”*
- “N/A – All necessary services are already in place.”*
- “The proposed location will not be detrimental to the economic welfare of the county nor will it create excessive public costs in development and operations & maintenance costs. Washington’s Department of Natural Resources is required to exercise fiduciary responsibility regarding taxpayer funds.”*

Staff Response:

The proposed communications tower will be adequately serviced by existing facilities and public services. CDS has determined that the project will provide a public service without negative economic impacts to the Kittitas County public.

- 3. The proposed use complies with relevant development standards and criteria for approval set forth in this title or other applicable provisions of Kittitas County Code.**

Applicant Response:

*“Yes”*

Staff Response:

The project, as conditioned, complies with Kittitas County Development standards.

- 4. The proposed use will mitigate material impacts of the development, whether environmental or otherwise.**

Applicant Response:

“Yes”

Staff Response:

The application, SEPA comment period, and staff review have identified no potential environmental impacts and appropriate conditions have been included in this staff report to offset other potential impacts.

- 5. The proposed use will ensure compatibility with existing neighboring land uses.**

Applicant Response:

“Yes”

Staff Response:

The proposed use is consistent with other utility focused uses in the area. CDS finds the use, as conditioned, compatible with existing neighboring land uses and in turn consistent with this criterion.

- 6. The proposed use is consistent with the intent and character of the zoning district in which it is located.**

Applicant Response:

“Yes”

Staff Response:

CDS staff has confirmed that, per KCC 17.61.040, “Communication Facilities” may be permitted with an Administrative Conditional Use application in the Forest and Range zone. This project is consistent with the “Communication facility” definition which has been identified as a compatible use within the Forest and Range zone per KCC 17.15.060.1.

- 7. For conditional uses outside of Urban Growth Areas, the proposed use:**
- a. Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, including the policies of Chapter 8, Rural and Resource Lands;**
  - b. Preserves “rural character” as defined in the Growth Management Act**
  - c. Requires only rural government services; and**
  - d. Does not compromise the long term viability of designated resource lands.**

Applicant Response:

- a. “Yes”
- b. “Yes”

- c. "Yes"
- d. "Correct"

Staff Response:

CDS staff finds that this project, as conditioned, is consistent with the Kittitas County Comprehensive Plan as described in section IV of this staff report, preserves rural character, requires only rural government services, and does not compromise long term viability of resource lands. The proposed use is consistent with the character and impact of surrounding neighborhood uses.

Conditional Uses:

**This application is consistent with the requirements of KCC 17.60A.015 as demonstrated above.**

**KCC 17.15.060.1 Footnote #9**

9. Utilities are defined and regulated by KCC Chapter 17.61 Utilities.

*Staff Consistency Statement: The proposed project as conditioned, is consistent with this footnote and the referenced KCC 17.61 Utilities.*

**KCC 17.61.040 – Utilities**

Staff Consistency Statement: *The proposed project as conditioned, is consistent with KCC 17.61.040.*

### III. ADMINISTRATIVE REVIEW

Notice of Application: An Administrative Conditional Use permit application was submitted to Kittitas County Community Development Services department on March 7, 2023. This application was deemed complete on March 17, 2023. A Notice of Application for the DNR Administrative Conditional Use Permit (ACU-23-00002) was mailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's tax parcel & associated Agencies on March 22, 2023. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on March 22, 2023, all in conformance with the Kittitas County Project Permit Application Process (Title 15A).

### IV. COMPREHENSIVE PLAN

The Kittitas County Comprehensive Plan has established specific goals and policies associated with Rural Resource lands. The following goals and policies guide activities on Rural Resource lands throughout the County. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:

RR-G11: The County should provide for infrastructure and services necessary to rural development.

*Staff Consistency Statement: The proposed project provides infrastructure for statewide wildfire firefighting operations.*

RR-G22: Provide preservation of agriculture activities where producers can live and work on their own lands separate from Resource Lands.

*Staff Consistency Statement: The proposed project is for the replacement of a previously sited communications tower. The primary function of the proposed communications tower will be to support*

*statewide wildfire firefighting operations. The proposed communication tower and its primary function assists in the preservation of agriculture and resource lands and the activities associated with these lands.*

RR-G25: Provide areas of low intensity land use activities within the agriculture and forest activities.

*Staff Consistency Statement: The proposed communications tower is a low intensity use which has a primary function that supports agriculture and timber lands.*

RR-P9: Encourage development activities and establish development standards which enhance or result in the preservation of rural lands.

*Staff Consistency Statement: The proposed communications tower supports wildfire fire fighting operations which helps support the preservation of rural lands.*

## **V. ENVIRONMENTAL REVIEW**

A SEPA Checklist was submitted with the conditional use application and processed concurrently using the Optional DNS process under WAC 197-11-355. During the combined comment period, there were no environmental concerns raised by any agencies or the public. Following the concurrent comment period, CDS issued a Determination of Non-Significance on May 9, 2023. The appeal period for the SEPA DNS concluded on May 23, 2023. No appeals were filed.

In addition, CDS performed a critical area review of the properties. One wetland area, multiple Type 9 (U) streams, and one Type 2 (F) stream were identified on the subject parcel; however, this project site is not located near any of the associated critical area buffer zones and therefore no impact on the critical areas is anticipated.

## **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 comments during the comment period.

### **Confederated Tribes of the Colville Reservation**

The Confederated Tribes of the Colville Reservation stated the proposed project lies within their traditional territory and requested that an Inadvertent Discovery Plan be in place prior to ground disturbing activities.

*Applicant Response: Applicant states the tribes were notified via the DNR Tribal Notification process.*

*Staff Response: The submitted SEPA materials state the site will be monitored during ground disturbing activities and will have an IDP in place. The SEPA has been conditioned to prepare for the inadvertent discovery of cultural resources.*

### **Washington State Department of Transportation – Aviation**

WSDOT – Aviation stated the requirements of the applicant to file forms with the FAA regarding the proposed communication tower.

*Applicant Response: “While the tower is below FAAs reportable height, there’s a bit of uncertainty of whether it falls within their co-located tower requirements in terms of frequency use. Therefore, I’ll submit the notice just to be sure. I’ll also work with Chris on FCC compliance especially in terms of FAA/FCC overlap.*

*Staff Response: The application has been conditioned to meet all State and federal regulations.*

**Snoqualmie Tribe**

The Snoqualmie Tribe stated they have no substantive comment at this time but reserve the right to modify this position if the scope of the project were to change.

*Applicant Response: Applicant states the tribes were notified via the DNR Tribal Notification process.*

*Staff Response: As there are no substantive comments, staff has no response.*

**Yakama Nation**

Yakama Nation provided comment stating they would like to review cultural resource survey that was referenced in the SEPA checklist materials.

*Applicant Response: Applicant states the tribes were notified via the DNR Tribal Notification process but will respond regardless.*

*Staff Response: The applicant re-sent the previous cultural resource report to Yakama Nation. Yakama Nation reviewed and concurred with the report on May 3, 2023. The application has been conditioned to prepare for the inadvertent discovery of cultural resources.*

**Kittitas Valley Fire & Rescue**

KVFR stated they have no comments.

*Applicant Response: No response.*

*Staff Response: As there are no substantive comments, staff has no response.*

**Kittitas County Public Health**

Public Health stated they have no comment.

*Applicant Response: No Response.*

*Staff Response: As there are no substantive comments, staff has no response.*

**Kittitas County Public Works**

Public Works provided comment outlining access and grading permit standards and requirements.

*Applicant Response: “Access, only existing access roads will be used; Engineering, a gravel pad will be used (if determined necessary beyond what is already existing) but nothing exceeding 100 Cubic yards is expected. If that should change, an application for a grading permit will be submitted prior to construction.”*

*Staff Response: The application has been conditioned to meet grading and access requirements.*

**Bonneville Power Administration**

BPA provided comment stating the proposal will not directly impact BPA facilities and has no objections to approval at this time.

*Applicant Response: No response.*

*Staff Response: Staff has no response.*

## 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 the planning staff's analysis and consistency review for the subject application.

### Consistency with the Comprehensive Plan:

**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 Goals and Policies apply to this proposal: RR-G11, RR-G22, RR-G25, RR-P9.**

**Provided the applicant follows and maintains the Goals and Policies, they shall be in compliance with the Kittitas County Comprehensive Plan. Therefore, the County and applicant are in compliance with the Comprehensive plan.**

### Consistency with the provisions of KCC 17A, Critical Areas:

**Staff conducted an administrative critical area review in accordance with KCC 17A. GIS information indicates one wetland, one Type 2 (F) stream, and multiple Type (9) streams located on the subject parcel that are not near the project site.**

### Consistency with the provisions of KCC 17.15.060.1 and Footnote #9

**This proposal, as conditioned, is consistent with the Kittitas County Zoning Code 17.15.060.1 and Footnote #9.**

### Consistency with the provisions of KCC 17.61.040, Communication Facilities

**This proposal, as conditioned, is consistent with the Kittitas County Zoning Code 17.61.040.**

### Consistency with the provisions of KCC 17.56, Forest and Range Zone:

**This proposal, as conditioned, is consistent with the Kittitas County Zoning Code 17.56.**

### Consistency with the provisions of KCC 17.60A, Conditional Uses:

**This proposal as conditioned is consistent with the Kittitas County Zoning Code for Administrative Conditional Uses. The proposed administrative conditional use is consistent with Kittitas County Zoning Code 17.60A as described above.**

### Consistency with the provisions of the KCC Title 14.04, Building Code:

**This proposal, as conditioned, is consistent with the provisions of KCC Title 14**

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

**The proposal is consistent with the provisions of KCC Title 12.**

### Consistency with the provisions of KCC Title 20, Fire and Life Safety:

**As conditioned, the proposal must be consistent with the provisions of KCC Title 20.**

### Agency Comments:

**The following agencies provided comments during the comment period: Confederated Tribes of the Colville Reservation, Washington State Department of Transportation – Aviation, Snoqualmie Tribe, Yakama Nation, Kittitas Valley Fire & Rescue, Kittitas County Public Health, Kittitas County Public Works, Bonneville Power Administration. All comments are on file and available for public review.**

### Public Comments:

**There were no public comments submitted during the comment period.**

**Staff Conclusions:**

1. As conditioned, the development 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 17 Zoning, Title 17A Critical Areas, Title 17.15.060.1 Allowed Uses, Title 17.61.040 Communication Facilities, Title 14.04 Building Code, Title 12 Roads and Bridges, and Title 20 Fire and Life Safety.

**Conditions of Approval:**

**1. Building**

- A. The applicant shall conform to Kittitas County Code Title 14 and the International Building and Fire Codes adopted at the time of building permit submittal.
- B. Construction of all improvements shall be completed within one year of the date of building permit issuance except as provided in subsections 4 and 5 of KCC 17.61.040.

**2. State and Federal**

- A. The applicant must meet all state and federal regulations.

**3. Fire & Life Safety**

- A. All development, design and construction shall comply with the International Fire Code requirements.

**4. Road and Transportation**

- A. A grading permit is required for any dirt work exceeding 100 cubic yards of excavation and/or fill. If over 500 cubic yards engineered plans shall be required.
- B. If a change in access or addressing occurs, an access/address permit shall be required from Public Works.



**5. Archaeology and Historic Preservation**

- A. Should ground disturbing or other activities related to the proposed project result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State Department of Archaeology and Historic Preservation (DAHP). Work shall remain suspended until the findings are assessed, and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.

**From these conclusions and findings, the proposed Administrative Conditional use is approved with the above conditions. Kittitas County Code (Chapter 15A.07.010) stipulates that an appeal of this land use decision must be filed within 10 (ten) working days by submitting specific factual objections and a fee of \$1,670 to the Kittitas County Community Development Services at 411 N Ruby St. Suite 2; Ellensburg, WA 98926. The appeal deadline for this project is June 6, 2023 at 5:00p.m.**

**Responsible Official**



Chace Pedersen

**Title:** Staff Planner

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**Date:** May 23, 2023