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KITTITAS COUNTY
LAND USE HEARING EXAMINER

JUN 19 2013

KITTITAS COUNTY
CDS

IN THE MATTER OF)	RECOMMENDED FINDINGS OF
)	FACT, CONCLUSIONS OF
CU-12-00002)	LAW, DECISION AND
Canyon River Ranch)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on June 13, 2013, 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. Mr. Steve Joyce, property owner, submitted a conditional use permit application for the expansion of an existing recreational facility in the Forest and Range zone. (Staff report)
2. The project is located approximately a Milepost 15 on Canyon Road (Highway 821) lying easterly of the Yakima River in the SW ¼ of Section 28, T16N, R19E, W.M. in Kittitas County. Map number: 16-19-28050-0000. (Staff report)
3. Site Information:
 - Total Property Size: 12.2 acres
 - Number of Lots: 1; no new lots are being proposed
 - Domestic Water: Obtained from an existing Class A water system serving Canyon River Ranch
 - Sewage Disposal: Septic to be approved by Public Health
 - Power/Electricity: Puget Sound Energy
 - Fire Protection: Kittitas Valley Fire and Rescue
 (Staff report)
4. Site Characteristics:
 - North: Vacant, Public lands
 - South: Vacant, Public lands
 - East: Vacant, Public lands
 - West: Vacant, Public lands
 (Staff report)
5. Site Characteristics: The area is easterly of the Yakima River and is primarily covered in brush, trees and bare land. Project buildings are proposed more than 200 feet easterly of the River's Ordinary High Water Mark (OHWM). (Staff report)

6. The project vested under the Comprehensive Plan Designation of "Rural." (Staff report)
7. The project vested under the zoning designation of "Forest and Range," which allows for the proposed project as a conditional use. (Staff report)
8. A complete conditional use permit application was submitted to Community Development Services on June 22, 2013. The Notice of Application for the conditional use permit was issued on July 30, 2012. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on August 17, 2012. (Staff report)
9. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Determination of Non-Significance (DNS) was issued on March 29, 2013. The appeal period ended on April 15, 2013 at 5:00 p.m. No appeals were filed. (Staff report)
10. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. (Staff report)
11. Staff has conducted an administrative critical area review in accordance with KCC 17A and found that the proposal is located along a shoreline of the state with a "Natural" shoreline designation, a portion of the site is within the 100 year floodplain, and two wetlands were found on the site: PSS1C and R3UBH. As conditioned this proposal is consistent with KCC 17A. (Staff report)
12. This proposal is consistent with the Kittitas County Zoning Code 17.56. Specifically this proposal is compatible with KCC 17.56.030(40), guest ranches, group homes, retreat centers. (Staff report)
13. This proposal is consistent with the Kittitas County Zoning Code for Conditional Uses. The proposed conditional use will be adequately served by rural levels of service. As conditioned, staff found the proposal is 1) desirable to public convenience, 2) will not be detrimental to public health, safety or welfare, 3) is not economically detrimental to the public, and 4) is adequately serviced by public facilities. (Staff report)
14. All roads are required to meet all Kittitas County Road Standards if applicable. (Staff report)
15. As requested in the Yakima Nation comment letter dated July 31, 2012, the applicant did submit a Cultural Resources Study in November 2012 prepared by Fennelle Miller of Fennelle deforest Miller Consultants. The conclusion of the report is that the project will not impact any archaeological resources. (Staff report)
16. The proposed project is adjacent to State Highway 821, a Class 3 managed access facility with a posted speed limit of 45 miles per hour. DOT determined that it is acceptable for the proponent to continue to use the approach at milepost 14.78 during construction provided

additional crushed surfacing top course is placed along the shoulder to prevent any further deterioration of the asphalt pavement. (Staff report)

17. The proposed project is located along the Yakima River. The applicant has not supplied a larger scaled drawing documenting the ordinary high water mark (OHWM) in relationship to the planned building and grading areas. (Staff report)
18. Per DOE, the National Wetland Inventory Map shows a significant emergent wetland on both sides of the side channel in the phase 2 area. There is also a historic side channel to the east of the wetland which extends to the south into phase 1. (Staff report)
19. The following agencies provided comments during the comment period: WA Department of Ecology, WA Department of Transportation, WA Department of Fish and Wildlife, and Yakima Nation. Comments were also received from Kittitas County Public Health Department. These comments have been included as conditions of approval to address these agency concerns. (Staff report)
20. No public comments were submitted for this proposal at the time of staff review. (Staff report)
21. 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)
22. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
23. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
24. An open record public hearing after due legal notice was held on May 2, 2013. (Open record public hearing)
25. The following exhibits were admitted into the record:
 - 25.1 Exhibit 1: Application Packet dated June 22, 2012.
 - 25.2 Exhibit 2: Staff review info.
 - 25.3 Exhibit 3: Affidavit of Posting dated July 24, 2012.
 - 25.4 Exhibit 4: Notice of Application dated July 30, 2012.
 - 25.5 Exhibit 5: Affidavit of Noticing & Publishing – Notice of Application dated August 2, 2012.
 - 25.6 Exhibit 6: Comment letter from Yakima Nation dated August 3, 2012.
 - 25.7 Exhibit 7: Comment letter from WSDOT dated August 7, 2012.
 - 25.8 Exhibit 8: Comment letter from WA DOE dated August 17, 2012.
 - 25.9 Exhibit 9: Comment email from M. Teske, WDFW dated August 27, 2012.
 - 25.10 Exhibit 10: Letter to S. Joyce from CDS dated August 30, 2012.
 - 25.11 Exhibit 11: Email to CDS from S. Joyce – re: Comment response dated September 19, 2012.

- 25.12 Exhibit 12: Email between CDS & S. Joyce dated September 19, 2012.
 - 25.13 Exhibit 13: Archaeological Report/Study (NOT SUBJECT TO PUBLIC DISCLOSRE) dated Nov. 2012.
 - 25.14 Exhibit 14: SEPA DNS dated March 29, 2013.
 - 25.15 Exhibit 15: Notice of Decision SEPA Action & Public Hearing dated March 29, 2013.
 - 25.16 Exhibit 16: Comment letter from Kittitas County Public Health Department dated April 11, 2013.
 - 25.17 Exhibit 17: Hearing Examiner Agenda for May 2, 2013.
 - 25.18 Exhibit 18: Hearing Examiner Staff Report dated May 2, 2013 (hearing date).
 - 25.19 Exhibit 19: Affidavit of SEPA Notice publishing from Daily record (4/17/13)
 - 25.20 Exhibit 20: Amended Hearing Examiner Agenda for 5/2/13.
 - 25.21 Exhibit 21: Email from J. Sharar to Andrew Kottkamp, Hearing Examiner with Attachment 5/1/13.
 - 25.22 Exhibit 22: Hearing Examiner Hearing 5/2/13 Cancellation and rescheduling email and posting.
 - 25.23 Exhibit 23: Email from DOE C. Reed to CDS with attachment (5/2/13)
 - 25.24 Exhibit 24: Email from DOE S. Park to CDS with attachment (5/2/13)
 - 25.25 Exhibit 25: Fire Protection Contract
 - 25.26 Exhibit 26: Hearing Examiner Hearing 5/23/13 Cancellation & Rescheduling email 5/17/13.
 - 25.27 Exhibit 27: Email from S. Joyce to CDS with attachment response to WDFW and DOE comments (6/5/13).
 - 25.28 Exhibit 28: Hearing Examiner Agenda for 6/13/13.
 - 25.29 Exhibit 29: Hearing Examiner Staff Report-updated-6/13/13 (hearing date).
 - 25.30 Exhibit 30: Email from Melissa Bates to the Hearing Examiner (6/13/13).
 - 25.31 Exhibit 31: Powerpoint Presentation.
 - 25.32 Exhibit 32: DOE Letter and materials (3/31/06) addressed to Daryl Piercy.
26. Appearing and testifying on behalf of the applicant was Steve Joyce. Mr. Joyce testified that he is an agent authorized to appear and speak on behalf of the property owner and applicant. Mr. Joyce indicated that they had no objection with any of the proposed conditions of approval. Mr. Joyce stated that all development would occur outside of the 200 foot setback from the ordinary high watermark of the Yakima River. Mr. Joyce testified that, regarding the cabins, all would be seasonal and temporary housing and would not be permanent housing. Mr. Joyce indicated that he had no objection to a condition requiring the proposed archery range to be delineated on the site plan.
27. No member of the public testified at the hearing. (Hearing Examiner finding based on the record)
28. No supplemental materials were submitted by Staff at the hearing. (Public hearing record)
29. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located. (Hearing Examiner finding based on the record)

30. 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)
31. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities. (Hearing Examiner finding based on the record)
32. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference. (Hearing Examiner finding based on the record)

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this recommended decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
8. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
9. 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.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. 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 CU-12-00002, Canyon River Ranch, be **APPROVED** subject to the following Recommended Conditions of Approval.

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IV. RECOMMENDED CONDITIONS OF APPROVAL

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

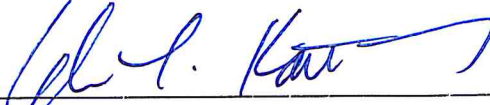
1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file dated June 22, 2012.
3. The applicant 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.
5. A burn permit must be obtained from Ecology if the proponent plans to burn trees or debris from the property. Only natural, unprocessed vegetation may be burned in an outdoor fire.
6. Washington Administrative Code (WAC) 173-400-040 requires that reasonable precaution be taken to prevent dust from leaving the site. Also, dust is prohibited from interfering unreasonable with the use and enjoyment of property, causing health impacts, or damaging property or business.
7. An NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with more than one acre of disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.
8. This NPDES Construction Stormwater General Permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.
9. All development, design and construction shall comply with all Kittitas County Codes Zoning and the International Fire and Building Codes.
10. The applicant shall immediately contact the Washington State Department of Archaeology & Historic Preservation, and the Yakama Nation if any items of possible cultural or historic significance are encountered during construction activities. Work shall be immediately halted with the area and a large enough perimeter established in order to maintain the integrity of the site.

11. Development and construction practices during building of this project shall only occur between the hours of 7:00 am to 7:00 pm to minimize the effect of construction noise on nearby properties.
12. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby properties.
13. Additional connections to the Canyon River Ranch Group A Transient Non-community water system (ID #72990U) must be approved by the Washington State Department of Health. Future expansion of the Canyon River Ranch Upper Group B water system (ID #AB832E) needs to be approved by the Kittitas County Public Health Department. The applicant must notify the Department to record the water intended for use by the project.
14. For sewage flows less than 3500 gallons per day, an onsite sewage septic permit or permits are required from the Kittitas County Public Health Department. For sewage flows greater than or equal to 3500 gallons per day, the permitting authority is either Washington State Department of Health or Department of Ecology, depending on flow quantities.
15. The applicant shall maintain regular garbage collection service and proper storage of solid waste generated on the site. Solid waste generated must be stored off of the ground, and covered to prevent exposure to the elements and animals to prevent the harboring of insects and vectors.
16. All mailboxes will be located outside WSDOT rights-of-way.
17. Any outdoor advertising or motorist signage for this project will need to comply with State criteria. Any proposed lighting will be directed down towards the site, and away from SR 821.
18. Stormwater and surface runoff generated by this project must be retained and treated on site and not allowed to flow onto State rights-of-way.
19. The proponent will provide additional crushed surfacing top course along the shoulder to prevent any further deterioration of the asphalt pavement. The proponent will contact WSDOT Maintenance Supervisor to coordinate removal of the approach.
20. Because the request for the expansion of the development does not include any work within the shoreline regulated by the Shoreline Master Program, all development proposed will be shown on scaled 1" = 50' final site plan documenting the Ordinary High Water Mark (OHWM) along the Yakima River in relation to planned building and grading areas and existing and proposed utilities. Floodways and associated wetlands are considered part of that shoreline area, and any indication of floodways or wetlands upon the property as determined by the Department of Ecology, and which are associated with the Yakima River will require floodway assessment and/or wetland analysis prior to any construction on the site.
21. The applicant shall provide a specific location for the proposed archery range on the site plan.

22. All of the cabins shall be used for temporary, seasonal housing of guests and shall not be used for permanent residences.
23. In coordination with the Washington State Department of Transportation, the applicant shall remove the grandfathered access at milepost 14.78, once the project is completed.

Dated this 18th day of June, 2013.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp