



# KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

## STAFF REPORT

**TO:** Kittitas County Hearing Examiner

**FROM:** Lindsey Ozbolt, Planner II

**DATE:** October 30, 2014 (Hearing)

**SUBJECT:** Webb Conditional Use Permit CU-12-00003 & SE-13-00002  
The operation of a home occupation which involves outdoor work or an activity which produces noise on approximately 12 acres in the Commercial Agriculture zone.

### I. BACKGROUND INFORMATION

#### **Proposal:**

A Conditional Use Application from Matt & Jessi Webb to operate a home occupation which produces noise on approximately 12 acres in the Commercial Agriculture zone. The applicant plans to utilize the existing barn facility to host weddings, parties, and other events which may involve overnight dry camping, and other outdoor activities during the summer months.

#### **Location:**

This proposal is on two (2) parcels located approximately eight (8) miles southeast of Ellensburg at 6280 Badger Pocket Road, in a portion of Section 36, Township 17 N., Range 19 E., W.M. in Kittitas County, Washington. Assessor's map numbers 17-19-36000-0016 & 17-19-36000-0025 (must be sold with -0016).

### II. SITE INFORMATION

Total Property Size:	12 acres
Number of Lots:	2 (must be sold with); no new lots are being proposed
Domestic Water:	Bottled water will be provided
Sewage Disposal:	Sani-cans will be provided
Power/Electricity:	Puget Sound Energy
Fire Protection:	Kittitas County Fire & Rescue
Irrigation District:	Cascade Irrigation District

#### Site Characteristics:

North: Mix of agricultural lands and dispersed residences.

South: Mix of agricultural lands and dispersed residences.

East: Agricultural lands

West: Mix of agricultural lands and dispersed residences.

Access: The site is accessed off of Badger Pocket Road.

Project History: This project was originally submitted on July 13, 2012. It was processed by staff and a hearing was held by the Board of Adjustment on October 10, 2012 where the Board approved this proposal with a vote of 3-0. The Notice of Decision was issued on November 14, 2012. A timely appeal was filed on December 10, 2012. On January 10, 2013, a Stipulation and Order for Remand was issued by Superior Court. This remand order directed staff to do three things: 1) Kittitas County shall conduct review under the State Environmental

Policy Act, 2) the Hearing Examiner shall conduct the open public record hearing, and 3) the proposal shall be considered under Kittitas County Code as it exists on the date of this remand order. The applicant submitted the SEPA Checklist on February 8, 2013.

### **III. ADMINISTRATIVE REVIEW**

#### **Notice of application:**

A conditional use permit was received by Community Development Services on July 13, 2012. The application was deemed complete on July 31, 2012. A Notice of Application was issued on August 22, 2012. This notice was mailed to government agencies, adjacent property owners, and the applicant. The SEPA Checklist was received by Community Development Services on February 8, 2013. The application was deemed complete on March 3, 2013. A Notice of Application was issued on March 21, 2013. This notice was mailed to government agencies, adjacent property owners, people of record and the applicant.

#### **Posting of Site:**

In accordance with Kittitas County Code 15A.03.110, this project was accurately posed with the “Land Use Action” sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner on August 10, 2012 and is included as part of the record. This site was posted again as part of the continued processing efforts on March 7, 2013 and again posted on May 9, 2013.

### **IV. COMPREHENSIVE PLAN**

The Kittitas County Comprehensive Plan designates the subject property as Commercial Agriculture. Kittitas County has established goals and policies to guide activities within the resource lands. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:

- A. The Comprehensive Plan Land Use designates this parcel as Commercial Agriculture and the property is zoned Commercial Agriculture.
- B. The purpose and intent of the Commercial Agriculture zone is that it be “*an area wherein farming and ranching are the priority. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses and protect the rights and traditions of those engaged in agriculture.*” It is the intent of the code that “*all conditional uses permitted in this zone shall be subordinate to primary agricultural uses...*”.

GPO 2.129B        Require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, shall contain a notice that states that: “The subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities and mineral operations may occur that are not compatible with residential development for certain periods of limited duration. Commercial natural resource activities and/or mineral operations performed in accordance with county, state and federal laws are not subject or legal action as public nuisances. (RCW 7.48.305)”

### **V. ENVIRONMENTAL REVIEW**

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 October 6, 2014. The appeal period ended

on October 20, 2014 at 5:00 p.m. No appeals were filed.

## VI. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments have been included as Exhibits in the Hearing Examiner packet.

## 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.

### 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.

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

An administrative critical area site analysis was completed by staff in compliance with Title 17A: Critical Areas. No Critical Areas were identified on the site.

### Consistency with the provision of KCC 17.31, Commercial Agriculture zoning:

This proposal is consistent with the Kittitas County Zoning Code 17.31. The proposal is compatible with KCC 17.31.030 (10): A conditional use permit is required for "Home occupations which involve out door work or activities or which produce noise." The Webb proposal has been determined to fit this description and is therefore, permitted with the approval of the conditional use permit. This project is vested to the code as it existed on January 10, 2013.

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

The Board of Adjustment was dissolved as part of the 2012 Annual Docket process through Ordinance No. 2012-009. Conditional use permits are now required to have a public hearing before the Hearing Examiner for a recommendation and then a closed record hearing before the Board of County Commissioners, where the BOCC will make the final decision on the conditional use permit.

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 finds 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.

- A) *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.*

**Staff response:** The proposed use is not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood. This use is utilizing an existing agricultural barn and access driveway off of Badger Pocket Road. As stated in the SEPA checklist document, the applicant will require live music/DJ to end at 10:00 p.m.

- B) *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 (1) it will be adequately serviced by existing facilities such as highways, roads, police and fire protection,*

*irrigation and drainage structures, refuse disposal, water and sewers, an schools; or (2)that the applicant shall provide such facilities; or*

**Staff response:** This proposal will be required to meet the requirement of the Fire Marshal and have an annual fire and life safety inspection prior to the beginning of operations each year. The transportation concurrency determination from Public Works determined that there will not be a significant impact to the County roads serving the project and that there is sufficient capacity on the serving roadways for the additional traffic to be generated by this project. Additionally, this project is proposing a dry facility that will not impact water or septic in the area. Bottled water and sani-cans will be provided for each event.

C) *Demonstrate that the proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.*

**Staff response:** The use of this existing barn for events during the summer months will not be economically detrimental to the community. Other existing businesses in the Kittitas County community will benefit from this use as they will provide services such as sani-can rentals, catering, music, photography, lodging, etc. to the people utilizing this facility.

Consistency with the provisions of KCC Title 12, Roads and Bridges:  
The proposal is consistent with the provisions of KCC Title 12.

Agency Comments:

The following agencies provided comments during at least one of the two comment periods: Kittitas County Fire & Rescue, Kittitas County Public Health, and Kittitas County Public Works. Comments were also received by Kittitas County Fire Marshal after the end of the SEPA comment period. All comments have been included in the index file record.

Public Comments:

Numerous public comments were received during both comment periods and have been included in the index file record.

## VIII. RECOMMENDATION

As conditioned below, staff finds that the application is not detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 12, Title 17.31, Title 17.60A, & Title 17A of the Kittitas County Code and the Kittitas County Comprehensive Plan. Staff recommends approval of the Webb Conditional Use Permit application, subject to the following findings of fact and conditions:

### Staff Findings of Fact

1. A Conditional Use Application from Matt & Jessi Webb to operate a home occupation which produces noise on approximately 12 acres in the Commercial Agriculture zone. The applicant plans to utilize the existing barn facility to host weddings, parties, and other events which may involve overnight dry camping, and other outdoor activities during the summer months.
2. This proposal is on two (2) parcels located approximately eight (8) miles southeast of Ellensburg at 6280 Badger Pocket Road, in a portion of Section 36, Township 17 N., Range 19 E., W.M. in Kittitas County, Washington. Assessor's map numbers 17-19-36000-0016 & 17-19-36000-0025 (must be sold with - 0016).

3. Site Information:

Total Property Size:	12 acres
Number of Lots:	2 (must be sold with); no new lots are being proposed
Domestic Water:	Bottled water will be provided
Sewage Disposal:	Sani-cans will be provided
Power/Electricity:	Puget Sound Energy
Fire Protection:	Kittitas County Fire & Rescue
Irrigation District:	Cascade Irrigation District

4. Site Characteristics:

North: Mix of agricultural lands and dispersed residences.

South: Mix of agricultural lands and dispersed residences.

East: Agricultural lands

West: Mix of agricultural lands and dispersed residences.

5. The Comprehensive Plan designation is “Commercial Agriculture.”

The subject property is zoned “Commercial Agriculture,” which allows for a home occupation which produces noise as a conditional use.

6. A conditional use permit was received by Community Development Services on July 13, 2012. The application was deemed complete on July 31, 2012. A Notice of Application was issued on August 22, 2012. This notice was mailed to government agencies, adjacent property owners, and the applicant. The SEPA Checklist was received by Community Development Services on February 8, 2013. The application was deemed complete on March 3, 2013. A Notice of Application was issued on March 21, 2013. This notice was mailed to government agencies, adjacent property owners, people of record and the applicant.
7. 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 October 6, 2014. The appeal period ended on October 20, 2014 at 5:00 p.m. No appeals were filed.
8. 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.
9. Staff has conducted an administrative critical area review in accordance with KCC 17A and found no critical areas identified on the site.
10. This proposal is consistent with the Kittitas County Zoning Code 17.31. The proposal is compatible with KCC 17.31.030 (10): A conditional use permit is required for “Home occupations which involve out door work or activities or which produce noise.” The Webb proposal has been determined to fit this description and is therefore, permitted with the approval of the conditional use permit. This project is vested to the code as it existed on January 10, 2013.
11. 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 finds 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.
12. As conditioned, the proposal is consistent with the provisions of KCC Title 12.

13. The following agencies provided comments during at least one of the two comment periods: Kittitas County Fire & Rescue, Kittitas County Public Health, and Kittitas County Public Works. Comments were also received by Kittitas County Fire Marshal after the end of the SEPA comment period. All comments have been included in the index file record.
14. Numerous public comments were received during both comment periods and have been included in the index file record.
15. The subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities and mineral operations may occur that are not compatible with residential development for certain periods of limited duration. Commercial natural resource activities and/or mineral operations performed in accordance with county, state and federal laws are not subject or legal action as public nuisances. (RCW 7.48.305).

**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, and Title 12 Roads and Bridges.

**Recommended Conditions of Approval:**

1. The project shall proceed in substantial conformance with the plans and application materials on file dated July 13, 2012 and February 8, 2013 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. Development shall occur in substantial conformance with the Site Plan provided on February 8, 2013 to Kittitas County. Any alterations to this site plan shall be reviewed by Kittitas County prior to construction to ensure it still meets the requirements of all applicable regulations.
4. All current and future landowners must comply with the International Fire Code.
5. All development, design and construction shall comply with all Kittitas County Codes and the 2009 International Fire and Building Codes.
6. An annual fire and life safety inspection by the Kittitas County Fire Marshal's office is required prior to beginning operations each year.
7. Access to the party barn shall be from the existing approach to 6280 Badger Pocket Road.
8. The applicant shall pave the apron onto Badger Pocket Road prior to final approval of the CUP. A bond for 135% of the project cost will also be accepted, as outlined in KCC 12.01.150

9. No event parking shall be allowed on the county road.
10. Events shall meet noise regulations outlined in Kittitas County Code Chapter 9.45, meaning all music (live or DJ) will end at 10:00 p.m.
11. The associated dry camping is to only be used by guests of the event utilizing the barn and no generators are allowed to be in operation from 10:00 p.m to 7:00 a.m.
12. All Kittitas County Health Department regulations and requirements shall be met.