



# KITTITAS COUNTY LAND USE HEARING EXAMINER

<b>IN THE MATTER OF</b>	)	<b>RECOMMENDED FINDINGS OF</b>
	)	<b>FACT, CONCLUSIONS OF LAW,</b>
CU-13-00003	)	<b>DECISION AND</b>
Reds Fly Shop	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on April 24, 2014, 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. Steve Joyce, authorized agent for Jack Eaton, land owner, submitted a conditional use permit application for a commercial sporting clay course and potential archery training area on the northern 100 acres of an approximate 306 acre parcel that is zoned Forest & Range. This proposed use is consistent with KCC 17.15.060.1 (C) – shooting range.
2. The project is located approximately 12 miles southeast of Ellensburg on the east side of SR 821 (Canyon Hwy) at approximately milepost 13, in a portion of Section 33, T16N, R19E, W.M. in Kittitas County, bearing Assessor’s map number 16-19-33000-0001.

3. Site Information:

Total Property Size:	306 acres
Number of Lots:	1; no new lots are being proposed
Domestic Water:	No water proposed
Sewage Disposal:	No septic proposed
Power/Electricity:	Puget Sound Energy
Fire Protection:	Area outside of Fire Districts
Irrigation District:	None

4. Site Characteristics:

- North: Mix of vacant land, public lands and Recreational lodge
- South: Mix of vacant land, low density residential, and public lands
- East: Vacant land
- West: Mix of vacant land, recreation land and public lands

5. Site Characteristics: The area is located in the Yakima River Canyon area of Kittitas County. The area is comprised predominantly with public lands and recreational opportunities. In the greater vicinity there is some ranching, grazing, farming, and low density residential development.
6. The Comprehensive Plan designation is “Rural Working Land.”
7. The subject property is zoned “Forest and Range,” which allows for a shooting range as a conditional use.
8. A conditional use permit application was submitted to Kittitas County Community Development Services department on April 17, 2013. This application was deemed complete on May 17, 2013. Additional information was received on January 21, 2014. The Notice of Application for the conditional use permit was issued on February 5, 2014. 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 February 21, 2014.
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 Mitigated Determination of Non-Significance (MDNS) was issued on April 9, 2014. The appeal period ended on April 23, 2014 at 5:00 p.m. No appeals were filed.
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: GPO 2.7, 8.1, 8.4, 8.8, 8.13, 8.16, 8.44, 8.48, and 11.1.
11. Staff conducted an administrative critical area review in accordance with KCC 17A and found there to be critical areas on-site. There is a DNR stream type 9 – unknown, in the northern 100 acres of the subject property. There are steep slopes in the project area ranging from 0 to 50% slope. The area primarily utilized for the walking trail leading to the individual stations is located in 0-25% slopes and is along the DNR stream-type 9 drainage. Additionally, the western portion of the proposal area is listed as having Mt. Baldy Bighorn Sheep winter range on it.
12. This proposal is consistent with Kittitas County Zoning Code 17.56. The proposal is compatible with KCC 17.56.020 referring to the uses table in KCC 17.15. Specifically, this is compatible as a conditional use with 17.15.060.1 (C) shooting range.
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 and the Hearing Examiner 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.
14. This proposal is consistent with the Kittitas County Building Code.

15. This proposal is consistent with the provisions of KCC Title 12.
16. This proposal is accessed off of SR.821 (Canyon Highway) at milepost 13.90. The applicant has an approved access permit with WSDOT, allowing three parking places. The applicant will be required to provide shuttle service from the Canyon River Lodge if the three spaces are full.
17. The following agencies provided comments during the comment period: Kittitas County Department of Public Works and Kittitas County Environmental Health Department. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.
18. No public comments were submitted for this proposal by the end of the comment period. One late public comment was received prior to the completion of the staff report.
19. An open record public hearing after due legal notice was held on April 24, 2014.
20. The entire Planning Staff file was admitted into the record at the public hearing.
21. The following exhibits were admitted into the record:
  - 21.1 Exhibit 1: KC application fees receipt – 4/17/13
  - 21.2 Exhibit 2: CUP application submittal packet – 4/17/13
  - 21.3 Exhibit 3: Staff review info
  - 21.4 Exhibit 4: Deem Complete Letter – 5/17/13
  - 21.5 Exhibit 5: Affidavit of Posting – 5/30/13
  - 21.6 Exhibit 6: Request for additional info – 10/11/13
  - 21.7 Exhibit 7: Additional submittal info (revised site plan) – 1/21/14
  - 21.8 Exhibit 8: Affidavit of Posting (repost due to weathering) – 1/28/14
  - 21.9 Exhibit 9: DR Publishing confirmation – Notice of Application – 2/4/14
  - 21.10 Exhibit 10: Notice of Application memo & legal – 2/5/14
  - 21.11 Exhibit 11: Affidavit of Mailing & Publication – Notice of Application – 2/5/14
  - 21.12 Exhibit 12: Comment email from KC Env. Health – 2/11/14
  - 21.13 Exhibit 13: Comment email from KC DPW – 3/5/14
  - 21.14 Exhibit 14: Transmittal of comments letter – 3/6/14/13
  - 21.15 Exhibit 15: Email between CDS and Applicant – 3/6/14
  - 21.16 Exhibit 16: Notice of Application in DR – print
  - 21.17 Exhibit 17: SEPA MDNS – 4/9/14
  - 21.18 Exhibit 18: Notice of Decision – SEPA MDNS and Public Hearing – 4/9/14
  - 21.19 Exhibit 19: Affidavit of Mailing & Publication - SEPA Decision and Hearing– 4/9/14
  - 21.20 Exhibit 20: Comment email from B. Hickey (late) – 4/15/14
  - 21.21 Exhibit 21: Hearing Examiner Agenda – 2/13/14
  - 21.22 Exhibit 22: HE Staff Report – 2/13/14 (hearing date)
  - 21.23 Exhibit 23: Staff power point presentation submitted at the open record public hearing
22. The Kittitas County Community Development Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.

23. Appearing and testifying on behalf of the applicant was Steve Joyce. Mr. Joyce testified that he was an agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Joyce testified that most of the project cannot be viewed from the highway. The trail will be primarily for non motorized uses however small pick up trucks or four wheelers may use this road in order to service the shooting sites. Finally, Mr. Joyce indicated that all of the proposed conditions of approval were acceptable.
24. No member of the public testified at the hearing.
25. 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.
26. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
27. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
28. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

## **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 14.04 Building Code, and Title 12 Roads and Bridges.
6. 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 Conclusions of Law, the Hearing Examiner recommends that Application CU-13-00003, Red Fly Shop be **APPROVED** subject to the following Recommended Conditions of Approval.

#### IV. RECOMMENDED CONDITIONS OF APPROVAL

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. All development, design and construction shall comply with Kittitas County Code and the most current version of the International Fire & Building Codes.
3. Based on comments received during the public comment period and other information submitted with this project permit application, A SEPA Mitigation Determination of Non-Significance (MDNS) was issued by Community Development Services on April 9, 2014. The following are the mitigation measures contained within the MDNS and shall be conditions of approval:

**I. Water & Sewer**

- A. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require a NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan. It is the applicant’s responsibility to contact the Department of Ecology.
- B. Any future development requiring water or septic will be required to meet the newest requirements of Kittitas County Public Health Department, Washington State Department of Health and/or Washington State Department of Ecology effective at the time of development.

**II. Transportation**

- A. A maximum of 3 parking spaces will be allowed. The subject property has an approved access permit (ACP 5359) from WSDOT not to exceed 3 vehicles at MP 13.9 rt off of SR 821. All conditions of this access permit shall be complied with to the satisfaction of WSDOT.
- B. Shuttle service shall be provided by the applicant between Red’s Fly Shop/Canyon River Ranch and the clay shooting course if the 3 parking spaces cannot accommodate the number of vehicles needed to transport groups.

**III. Environmental**

- A. Only non-toxic shot shells are allowed to be used on the course.
- B. Only non-toxic, biodegradable clay targets are allowed to be used on the course.
- C. A plan must be completed and submitted to Community Development Services showing adherence to the practices and recommendations of the “NRA Range Sourcebook” prior to issuance of the final conditional use permit.

**IV. Light & Glare**

- A. Any future outdoor lighting shall be shielded and directed downward to minimize the effect to surrounding properties.
- V. **Noise**
  - A. Development and construction practices for this project shall only occur between the hours of 7:00 am and 7:00 pm to minimize the effect of construction noise on nearby residential properties.
  - B. Operation of the clay shooting course is only allowed during daylight hours.
- VI. **Historic and Cultural Preservation**
  - A. Should ground disturbing or other activities related to the proposed conditional use permit 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 find is 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.

Dated this 1<sup>st</sup> day of May, 2014.

KITTITAS COUNTY HEARING EXAMINER



---

Andrew L. Kottkamp

# KOTTKAMP & YEDINAK

435 Orondo Ave. | Wenatchee, WA 98801  
PO Box 1667 | Wenatchee, WA 98807



## Attorneys

Andrew L. Kottkamp

Nicholas A. Yedinak

Robert W. Grim

April 30, 2014

Ms. Mandy Weed  
Kittitas County Community  
Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA 98926

Re: CU-13-00003 Reds Fly Shop  
CU-13-00008 Helena Substation

Dear Mandy:

Enclosed please find the original Recommended Decisions regarding the above-referenced.

Should you have any questions, please do not hesitate to call me.

Sincerely,

ANDREW L. KOTTKAMP

ALK:dn  
Enclosures

*435 Orondo, Post Office Box 1667, Wenatchee, WA 98807-1667*

*(509) 667-8667 / (509) 667-8837 Fax*

[www.wenatcheelaw.com](http://www.wenatcheelaw.com)

Toll-Free **866-441-1444** | Local **509-667-8667** | Fax **509-667-8837**