

# KOTTKAMP & YEDINAK

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July 2, 2015

Kittitas County Comm. Develop Services  
Attn: Mandy Weed, Admin. Asst.  
411 N. Ruby, Suite 2  
Ellensburg, WA 98926

Re: CU-14-00004

Greetings:

Enclosed please find the Hearing Examiner's Decision for the above referenced matter.

If you have any questions or concerns please feel free to contact our office at your earliest convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. Servian". The signature is stylized with a large, circular flourish at the end.

KELLY SERVIAN

**KITTITAS COUNTY  
LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>RECOMMENDED FINDINGS OF</b>
	)	<b>FACT, CONCLUSIONS OF</b>
CU-14-00004	)	<b>LAW, DECISION AND</b>
McIntosh	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on June 25, 2015, 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. Scott and Gayle McIntosh have submitted a conditional use permit application for a small scale event facility conducting more than eight events a year. The subject property is approximately 50 acres in size and is zoned Agriculture 20. This is listed in the table under KCC Title 17.15.060 as a conditional use for the zone.
2. This proposal is on three parcels located approximately 5 miles northwest of Ellensburg at 7820 Highway 97, in a portion of Section 8, T18N, R18E, WM in Kittitas County, bearing Assessor's map numbers 18-18-08020-0002, 18-18-08000-0002, and 18-18-08020-0003. The site is accessed from State Route US 97. This is a permitted commercial access at milepost 138.89 allowing for up to 100 daily trips.
3. Site Information:

Total Property Size:	60 acres
Total project size:	50 Acres
Number of Lots:	3; no new lots are being proposed
Domestic Water:	Existing residential
Sewage Disposal:	Existing Septic System (480 gpd capacity)
Power/Electricity:	Kittitas County PUD
Fire Protection:	Kittitas Valley Fire and Rescue (Fire District 2)
Irrigation District:	Kittitas Reclamation District
4. Site Characteristics:

<u>North:</u>	Private Residential Farming and Grazing
<u>South:</u>	Private Residential Farming and Grazing
<u>East:</u>	Private Residential Farming and Grazing
<u>West:</u>	Private Residential Farming and Grazing

5. Site Characteristics: The subject property is generally flat pasture land with perimeter and occasional internal concentrations of deciduous trees and brush.
6. The Comprehensive Plan designation is “Rural Working”
7. The subject property is zoned “Agriculture 20”. Small Scale Event Facilities with more than eight (8) events occurring within a calendar year are a conditional use in this zone (KCC 17.15.060)
8. The conditional use permit application was submitted to Community Development Services (CDS) on October 7, 2014. The application was deemed incomplete on October 24, 2014 and additional information was requested. A revised application was submitted on January 27<sup>th</sup>, 2015 and subsequently deemed complete on March 9<sup>th</sup>, 2015. The Notice of Application for the conditional use permit and the utilization of the optional DNS process was mailed and published on March 16<sup>th</sup>, 2015. This notice was published in the official county newspaper of record (Ellensburg Daily Record) as well as the Northern Kittitas County Tribune and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. In accordance with Kittitas County Code 15A.03.110, this project was accurately posted 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 March 10<sup>th</sup>, 2015 and is included as part of the record as Exhibit “12”. The last day to submit written comments was on March 31<sup>st</sup>, 2015.
9. Kittitas County acted as the lead agency for the SEPA Environmental Checklist. A Mitigated Determination of Non-Significance (MDNS) was issued for this project on June 11<sup>th</sup>, 2015. The appeal period for this SEPA determination ended on June 25<sup>th</sup>, 2015 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.
11. An administrative critical area site analysis was completed by staff in compliance with Title 17A: Critical Areas. Critical areas have been identified on the site. However the conditional use permit proposes to use existing structures and development. Recommended Condition #3 provides that any future modifications, development, or construction is subject to environmental review and must comply with all appropriate Federal, State, and Local codes, laws and regulations.
12. This proposal is consistent with the Kittitas County Zoning Code as proposed under KCC 17.15.060 Small Scale Event Facilities with more than eight (8) events occurring within a calendar year.
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, the Hearing Examiner 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.

14. As conditioned, the proposal is consistent with the provisions of the Kittitas County Roads and Bridges Code (KCC Title 12).
15. As conditioned, the proposal is consistent with the provisions of the Kittitas County Water and Sewer Code (KCC Title 13).
16. As conditioned, the proposal is consistent with the provisions of the Kittitas County Building Code (KCC 14.04).
17. As conditioned, the proposal is consistent with the provisions of the Kittitas County Zoning Code (KCC Title 17).
18. As conditioned, the proposal is consistent with the provisions of the Kittitas Environmental Policy Code (KCC Title 17A).
19. As conditioned, the proposal is consistent with the provisions of the Kittitas County Fire and Life Safety Code (KCC Title 20).
20. The following agencies provided comments during the comment period: Kittitas County Public Works, Washington State Department of Transportation, Kittitas County Public Health Department, Washington State Department of Health, Kittitas County Fire Marshal, Kittitas Valley Fire & Rescue, Washington State Department of Ecology, Kittitas County Building Department, and the Kittitas Reclamation District. These comments have been included as hearing exhibits and were considered when preparing the recommended conditions for this proposal.
21. Brad Manney provided comment during the comment period. This comment has been included as a hearing exhibit and was considered when preparing the recommended conditions for this proposal.
22. An open record public hearing after due legal notice was held on June 25, 2015.
23. The entire Planning Staff file was admitted into the record at the public hearing.
24. The following exhibits were admitted into the record:
  - 24.1 Exhibit 1. Receipts – 10/7/2014
  - 24.2 Exhibit 2. SEPA Checklist 10/7/2014
  - 24.3 Exhibit 3. Conditional Use Permit Application 10/7/2014
  - 24.4 Exhibit 4. Request for Additional Information 10/24/2014
  - 24.5 Exhibit 5. SEPA Checklist Revised 1/27/2015
  - 24.6 Exhibit 6. Conditional Use Application Revised 1/27/2015
  - 24.7 Exhibit 7. Application Correspondence 3/2015
  - 24.8 Exhibit 8. Deem Complete 3/9/2015

- 24.9 Exhibit 9. Prior Surveys
- 24.10 Exhibit 10. Site Visit Photographs 3/13/2015
- 24.11 Exhibit 11. Planner's Analysis and Assessment Maps and Documentation 3/13/2015
- 24.12 Exhibit 12. Affidavit of Posting and Location Map 3/10/2015
- 24.13 Exhibit 13. Notice of Application and Public and Mailing Documentation 3/16/2015
- 24.14 Exhibit 14. Comments – Washington State Department of Health 3/16/2015
- 24.15 Exhibit 15. Comments – Kittitas Reclamation District 3/16/2015
- 24.16 Exhibit 16. Comments – Brad Manney 3/17/2015
- 24.17 Exhibit 17. Comments – Kittitas Valley Fire & Rescue 3/19/2015
- 24.18 Exhibit 18. Comments – KC Fire Marshal 3/27/2015
- 24.19 Exhibit 19. Comments – KC Building Department 3/27/2015
- 24.20 Exhibit 20. Comments – KC Department of Public Health 3/27/2015
- 24.21 Exhibit 21. Comments – KC Department of Public Works 3/31/2015
- 24.22 Exhibit 22. Comments – Washington State Department of Transportation 3/31/2015
- 24.23 Exhibit 23. Transmittal of Comments 4/7/2015
- 24.24 Exhibit 24. Transmittal of Comments Email 4/7/2015
- 24.25 Exhibit 25. Comments – Washington State Department of Ecology 3/26/2015
- 24.26 Exhibit 26. Request for Additional Information 4/8/2015
- 24.27 Exhibit 27. Transmittal of Comments Revised Email 4/8/2015
- 24.28 Exhibit 28. Kittitas County Code Chapter 5.20
- 24.29 Exhibit 29. Notice of Order to Correct Violation 3/27/2015
- 24.30 Exhibit 30. Original Transportation Concurrency Application 3/16/2015
- 24.31 Exhibit 31. Transmittal of Comments Supplement 4/8/2015
- 24.32 Exhibit 32. Correspondence RE request for additional Information 4/17/2015
- 24.33 Exhibit 33. Requested Information 4/22/2015
- 24.34 Exhibit 34. Correspondence RE request for additional Information 4/27/2015
- 24.35 Exhibit 35. Mitigated Determination of Non-Significance and Notice of SEPA Action and Public Hearing Documentation 6/11/2015
- 24.36 Exhibit 36. Transportation Concurrency and Correspondence 6/2015
- 24.37 Exhibit 37. Staff's Power Point Presentation
- 24.38 Exhibit 38. Site photographs submitted by applicant
- 24.39 Exhibit 39. Site photographs submitted by applicant
- 24.40 Exhibit 40. Site photographs submitted by applicant
- 24.41 Exhibit 41. Site photographs submitted by applicant
- 24.42 Exhibit 42. Site photographs submitted by applicant

25. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval.

26. Appearing and testifying on behalf of the applicant was Jeff Slothower. Mr. Slothower testified that he is an agent authorized to appear and speak on behalf of the property owner and applicants. Mr. Slothower indicated that no rodeos would be conducted on the site in order to avoid concerns of Washington State Department of Transportation regarding trailers lining up on the highway. He indicated that all of the proposed Conditions of Approval were acceptable with a slight modification to proposed Condition of Approval #7 and clarification of Conditions #27-30.

27. Staff and the applicant agreed to the intended interpretation of Proposed Conditions of Approval 27-30. Regarding Proposed Conditions of Approval #7, Mr. Slothower suggested that the language after "Chapter 9.45" could be deleted.
28. The applicant also agreed that there are Washington Administrative Code noise requirements that apply to the applicant's uses of this property. Those are found in WAC 173-60.
29. The applicant agreed that there would be no parking allowed on Highway 97 or within the Washington State Department of Transportation right of way. The applicant agreed that all parking would occur on site.
30. Mr. Slothower indicated that there would be no food preparation on site and all food would be brought in by caterers. There would be no lodging on site.
31. The applicant understood Proposed Condition of Approval 28, 29 and 30. The understanding is that if there is no approved fire sprinkler system for the structure on the property, that the maximum attendance at the facility, whether guests are inside or outside, is 100 persons.
32. Regarding Proposed Condition of Approval 29, if there is an approved fire sprinkler system installed within the existing structure, then the maximum attendance of guests at the site, whether inside or outside, is 300 persons.
33. For events in which there will be more than 300 guests, Proposed Condition of Approval #30 requires the applicant to comply with Kittitas County Code Chapter 5.20 regarding special event permits.
34. Mr. Slothower indicated that there are approximately 4 to 6 acres on the subject property that are available for vehicle parking.
35. Mr. Slothower, on behalf of the applicant, acknowledged that KCC 17.60A.100 allows the Kittitas County Board of Commissioners to conduct a hearing to revoke or additionally condition a Condition Use Permit upon certain conditions. One of those conditions is that the use permitted by the Conditional Use Permit "is detrimental to the public health, safety, or welfare or constitutes a nuisance." (KCC 17.60A.100)(6).
36. Testifying from the public in favor of the project were the following individuals:
  - 36.1 John Gardner. Mr. Gardner resides across the street from the subject property and was in favor of this project;
  - 36.2 Mark McCracken. Mr. McCracken is the Manager of a local Les Schwab tire facility and testified that this site would be ideal for employee retreats or other corporate events.
37. No member of the public testified in opposition to the project.

38. 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, state, and local 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. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
7. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
8. 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-14-00004 be **APPROVED** subject to the following Recommended Conditions of Approval.

## 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 January 27, 2015 except as amended by the conditions herein.

3. Environmental and statutory review shall be required for all future development, construction, and improvements. The applicant is responsible for compliance with all applicable local, state, and federal rules, codes, and regulations, and must obtain all appropriate permits and approvals. Failure to do so may result in the revocation of the conditional use permit.
4. Development shall occur in substantial conformance with the Site Plan provided on January 27, 2015 to Kittitas County in the conditional use application. 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.
5. All current and future landowners must comply with the International Fire Code.
6. Building permits will be required for any construction or structure not exempted by 2012 IBC 105.2 Work exempt from permit.
7. An annual fire and life safety inspection by the Kittitas County Fire Marshal's office is required prior to beginning operations each year.
8. Events shall meet noise regulations outlined in Kittitas County Code Chapter 9.45, and WAC 173-60.
9. The subject property is within or near designated agricultural lands on which a variety of commercial activities. Agricultural operations may occur that are not compatible with residential or other development for certain periods of limited duration. Commercial agricultural operations performed in accordance with County, State and federal laws are not subject or legal action as public nuisances.
10. The on-site septic system will serve a maximum of 150 people. Events exceeding 150 attendees will require portable toilets and hand washing stations at a minimum ratio of 1 unit per each additional 75 attendees.
11. Events which are open to the general public exceeding 100 people will require security personnel at a rate of 1 per every 100 attendees.
12. Vehicles with trailers shall be provided parking in the back parking lot. Signage shall be provided to indicate this during events.
13. All exit doors for structures occupied or utilized during events must be equipped with illuminated exit signs as well as "panic hardware". Doors must swing outward from the structure.
14. Fire extinguishers shall be required. The number and location of fire extinguishers shall be determined in conjunction with the annual fire inspections.
15. If the existing water system is used as a water source, Washington State Department of Health approval will be required for a Group A transient non-community public water system.



16. No flood control structures may be constructed on the project parcels without review and approval from Kittitas County and/or other State and Federal agencies.
17. Any future construction, ground disturbance, development, or improvements shall require additional environmental review including review and study of wetlands, streams, and floodplains.
18. Septic and waste disposal systems must be provided in accordance with all state and local laws and in accordance with the occupancy type and levels allowed herein.
19. The property has an existing permitted commercial approach at milepost 138\_89 Right. The proponent has indicated that each event may generate 50-75 new trips. The proposed change in use for the subject property does not warrant further upgrades to the existing approach. However, the conditions of this approach permit allow up to 100 daily trips. If the number of daily trips crosses this threshold, as allowed within Kittitas County guidelines, the applicant is required to upgrade the permit to a Category II – Minor Connection. The fee for a Category II connection is currently \$1,000, which allows up to 1,000 daily trips.
20. No new approaches to US 97 will be allowed.
21. Obstruction-free ingress/egress for two-way traffic beyond the approach shall be required. Signage and parking personnel shall be required to prevent vehicles from backing up onto US 97 while entering the facilities during events. In the event that the above measures should prove insufficient to prevent backup on US 97, the CUP will be revoked until the proponent constructs (at their own expense) a right turn lane to facilitate safe ingress and egress. WSDOT shall make the determination if the right turn lane is required.
22. Parking will not be permitted within WSDOT right-of-way, or along the US 97. Appropriate on-site parking provisions are required during events. The decommissioned roadbed lying parallel to US 97 on the east side of the highway is within WSDOT right-of-way. All event parking shall occur on site.
23. Parking shall be provided for and designed in a manor to allow full access to emergency vehicles at all times. Prior to conducting any events authorized by this permit, a fixed parking plan shall be developed by the applicant and approved by the Kittitas County Fire Marshal and Kittitas Valley Fire and Rescue.
24. Addressing shall be clearly visible from the road in both directions.
25. A turn around shall be provided for fire department access in conformance with International Fire Code (IFC) standards.
26. Any future development or construction done in association with the small scale event facility must conform to the most current version of the Stormwater Management Manual for Eastern Washington. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event.

27. Should ground disturbing or other activities related to the proposed use 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 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.
28. The structure identified on the submitted site plan as the "Rec Center" shall be classified as an A-2 Assembly Occupancy and must meet all requirements as such in the 2012 International Building Code (IBC) prior to final approval of the conditional use permit.
29. Events will be limited to a maximum attendance of 100 persons without an approved and inspected fire sprinkler system for the structure.
30. Events will be limited to a maximum attendance of 300 persons with an approved and inspected fire sprinkler system for the structure.
31. Events which exceed 300 attendees must be permitted in accordance with the provisions of Kittitas County Code (KCC) Chapter 5.20.
32. All current or future structures and facilities utilized with or during events must meet the appropriate version of the IBC and the International Fire Code for the occupancy type and levels described above.
33. Temporary structures erected for events are subject to codes, regulations, and possibly permits.
34. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties and US 97.
35. Any signage for the proposed use will require a sign permit as per KCC 17.70 and may not be located in State or County right of way.
36. 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 residential properties.

Dated this 2<sup>nd</sup> day of July, 2015.

KITTITAS COUNTY HEARING EXAMINER



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Andrew L. Kottkamp

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McIntosh

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