

WILLIAMSON LAW OFFICE

COLUMBIA CENTER TOWER
701 5th Avenue - Suite 5500
P.O. Box 99821
Seattle, Washington 98139-0821
Office: (206) 292-0411 / Fax: 206.292.0313
williamsonb@msn.com – www.land-useattorney.com

July 7, 2015

Kittitas County Commissioners
205 W 5th Ave #108
Ellensburg, WA 98926

Re: Additional Correspondence Regarding GT Ranch, LLC - Closed Record Hearing – Requested Denial of WDFW Highway 10 Zoning Conditional Use Permit, Shoreline Substantial Development Permit, & Shoreline Conditional Use Permit (CU-14-00006 & SD 14-00003)

Honorable Commissioners:

On behalf of GT Ranch, LLC, this supplemental letter accompanies the earlier July 6, 2015 letter to your office concerning the Examiner's Recommendation to approve WDFW's conditional use and shoreline permit applications for a Hwy 10 boat launch facility.

Given the progress demonstrated in a settlement meeting held in Olympia, Washington today with WDFW representatives to discuss Examiner Condition 15 dated July 6, 2015 GT Ranch, my clients reserve their right to later withdraw their July 6, 2015 filed with the Commissioners for the official record related to WDFW's project applications should they reach agreement with WDFW on enforcement of Condition 15 that requires the applicant to take "reasonable steps to prohibit boat launches from the site."

Sincerely,



Bill H. Williamson
cc: Gordon Tang/Calvin Tang
Larry E. Martin, Halevrson NW Law Group

GTRanch-Commisisoner's Letter-070715.doc

RECEIVED

JUL 7 2015

DOC
Neil

1st ___ 2nd ___ 3rd ___
KITITAS COUNTY BOARD OF COMMISSIONERS

WILLIAMSON LAW OFFICE

COLUMBIA CENTER TOWER
701 5th Avenue - Suite 5500
P.O. Box 99821
Seattle, Washington 98139-0821
Office: (206) 292-0411 / Fax: 206.292.0313
williamsonb@msn.com – www.land-useattorney.com

July 6, 2015

Kittitas County Commissioners
205 W 5th Ave #108
Ellensburg, WA 98926

Re: Closed Record Hearing – Requested Denial of WDFW Highway 10 Zoning Conditional Use Permit, Shoreline Substantial Development Permit, & Shoreline Conditional Use Permit (CU-14-00006 & SD 14-00003)

Honorable Commissioners:

On behalf of GT Ranch, LLC, this submission to your office requests that you reject the Examiner's Recommendation and deny the conditional use permit and shoreline substantial development permit applications filed by the Washington State Department of Fish and Wildlife (WDFW).

The sole basis for the Examiner's Recommendation at Page 2, ¶15 to approve WDFW's conditional use and shoreline permit applications is that the original Hwy 10 boat launch facility can be reasonably restricted to prohibit boat launches:

"15. The applicant shall take reasonable steps to prohibit boat launches from the site."

This condition is baseless. It refers to no WDFW testimony, application materials, or hearing exhibits to support this condition. It references and applies none of the conditional use criteria under KCC 17.60A,.020.¹ It provides no constitutionally required standards for

¹ KCC 17.60A.020 Conditions.

In permitting such uses the Director or Board may impose in addition to the regulations specified herein, such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood or the county as a whole. These conditions may include, but are not limited to, the following:

1. Increasing the required lot size, setback or yard dimensions;
2. Limiting the height of buildings or structures;
3. Controlling the number and location of vehicular access points (subject to approval by the reviewing authority with jurisdiction to issue approach or access permits);

Page 1

GT Ranch, LLC

Kittitas County Commissioners' Letter

Re: CU-14-00006 & SD 14-00003

July 6, 2016

directly affected property owners, such as GT Ranch or the applicant to know what methods, facilities, or equipment will be used to prevent boat launches. For example, will there be lockable gates closing the facility at night, reverse entry forks, and patrols by WDFW or the Kittitas County Sheriff's Office? How will this condition be enforced and by whom under KCC 17.60A.100? How will this condition be enforced under KCC 17.60B.020 "...to ensure that the activity, if established, will be in full compliance with the applicable regulations and that such uses are compatible with the comprehensive plan, adjacent uses, planned uses and the character of the vicinity?"

Is it not odd that neither the applicant (WDFW), Kittitas Development Services Staff, nor the Examiner could even list, reference, or cite one enforcement method, device, or piece of equipment (on site cameras, lockable gates preventing night use, reverse entry forks, patrols) designed to prohibit boat launches from this site? Each Commissioner should question any conditional use permit recommendation that creates such vague, open-ended, and subjective language where this facility is likely to become an attractive public nuisance incapable of being policed to prevent boat launches and use as a *de facto* public park. Who would decide what are or are not "reasonable steps?" Is this up to WDFW, Community Development Staff, or the you the Commissioners? If this decision on what is "reasonable" is up to WDFW to implement as the Examiner's Condition 15 appears to state, the County cannot lawfully or constitutionally delegate or cede its land-use regulatory jurisdiction and authority for such measures to WDFW under the Growth Management Act, RCW Chapter 36.70A, the Regulatory Reform Act, RCW Chapter 36.70B, the Land Use Petition Act, RCW Chapter 36.70C, Washington law, KCC 17.60A.100, or KCC 17.60B.020.

If there are applicable WDFW Washington State Administrative Codes, Guidelines, or best management practices for the design of state boat launching facilities that can be physically restricted to prevent boat launches, or adopted Kittitas County guidelines, why are they not cited or referenced by WDFW, Staff, or the Examiner? The obvious reason is that there

-
4. Requiring the dedication of additional rights-of-way for future public street improvements;
 5. Requiring the designation of public use easements;
 6. Increasing or decreasing the number of required off-street parking and/or loading spaces as well as designating the location, screening, drainage, surfacing or other improvement of a parking area;
 7. Limiting the number, size, height, shape, location and lighting of signs;
 8. Requiring or limiting view-obscuring fencing, landscaping or other facilities to protect adjacent or nearby properties;
 9. Designating sites for and/or the size of open space or recreational areas;
 10. Requiring site reclamation upon discontinuance of use and/or expiration or revocation of the project permit;
 11. Limiting hours and size of operation;
 12. Controlling the siting of the use and/or structures on the property;
 13. Requiring mitigation measures to effectively reduce the potential for land use conflicts with agricultural and resource lands, such as: landscape buffers, special setbacks, screening, and/or site design using physical features such as rock outcrops, ravines, and roads.
 14. Demonstrating that the requirements of Chapter 13.35, Kittitas County Code, Adequate Water Supply Determination, can be met. (Ord. 2014-005, 2014; Ord. 2013-012, 2013; Ord. 2012-009, 2012; Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988) (Emphasis added).

Page 2

GT Ranch, LLC

Kittitas County Commissioners' Letter

Re: CU-14-00006 & SD 14-00003

July 6, 2016

aren't any, and the applicant, Staff, and Examiner all know this by dumping this problem into your laps.

"Standardless" is a reference to the decision in *Anderson v. Issaquah*, 70 Wn.App. 64, 75-78, 851 P.2d 744 (1993) where the court found that unconstitutionally vague terms and the absence of specificity left the reviewing City's reviewing officials with their "own individual, subjective feelings" through the use of such terms as "interesting" and "harmonious" violated constitutional procedural due process warning rights and was the "...epitome of discretionary, arbitrary enforcement of the law." What are or are not "reasonable steps" is similarly defective as it is susceptible to multiple subjective interpretations by WDFW, the County, reviewing courts, and the adversely affected public including the adjoining owner GT Ranch who stands to be hurt the most by an unregulated boat launching facility.

Such standardless conditions violate all standards of judicial review under the Land Use Petition Act, RCW 36.70C.130(1)(a) through(f). They are *per se* unconstitutional as violative of procedural due process fair warning requirements leaving GT Ranch and other property owners to guess at its meaning.² By creating standardless methods and procedures, WDFW and the Examiner are attempting to evade the evidentiary burden of showing what specific scientific methods, procedures, improvements, enforcement steps, and equipment are approved to prevent boat launches. By analogy, see *Home Builders v. City of Bainbridge*, 137 Wn.App. 338, 347-351, 153 P.3d 231 (2007) citing *Isla Verde v. Camas*, 146 Wn.2d 740, 759, 49 P.3d 867 (2002).

Because standardless conditions provide no reviewable basis for establishing conditions of permit approval or safeguards to protect their private property rights, they also deny GT Ranch and other adversely affected property owners their constitutional right to a fair hearing. *Mansour v. King County*, 131 Wn.App. 255, 263-64, 128 P.3d 1241 (2006).³ Additional review of the Examiner's Recommendations reveal that it is drafted as a summary only with

² *Conner v. City of Seattle*, 153 Wn.App. 673, 692, 223 P.3d 1201 (2009) reaffirms the procedural due process test applied against local regulations where the court citing *Anderson v. Issaquah*, 70 Wn.App. 64, 75-78, 851 P.2d 744 (1993) determined that: "standardless design codes as...so vague that men [and women] of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law." "The ambiguities of the Issaquah code gave neither the applicant nor the development commission itself a basis for determining whether a given proposal met code requirements, and provided no ascertainable criteria by which a court could review the ultimate decision." See also, *Schroeder v. Bellevue*, 83 Wn.App. 188, 193, 920 P.2d 1216 (1996) holding that: "It is unreasonable to expect architects and other professionals to comply with unarticulated standards."

³ "Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." "In determining what process is due, a court weighs (1) the private interest affected by the official action; (2) the risk of an erroneous deprivation of that interest through the procedures used; (3) the probable value of additional procedural safeguards; and (4) the government interest involved. Due process essentially requires the opportunity to be heard "at a meaningful time and in a meaningful manner." The process followed meets minimum constitutional requirements when it provides a citizen with sufficient safeguards in a state action.

conclusory findings of fact with no references to specific exhibits or testimony to support such findings or the conditions of approval.

Conclusion

The Examiner's Recommendation is not legally supported under Washington Law and is confusing to the public.

As elected County Commissioners, you should not abdicate your responsibility to "...protect the best interests of the surrounding property or neighborhood or the county as a whole" by accepting this standardless Recommendation.

Reserving GT Ranch's other objections on the adequacy of WDFW's permit applications, the Commissioners should not accept the Examiner's Recommendation.

Please take required action and remand it back to the Examiner for further hearings to determine precisely what are "reasonable steps to prohibit boat launches from the site" and how the County will enforce such measures under the community safeguard criteria established for conditional uses under KCC 17.60A.020.

Sincerely,



Bill H. Williamson

cc: Gordon Tang/Calvin Tang

Enclosures: (1) Agenda Staff Report dated July 7, 2015; (2) Examiner's Recommendation Dated June 24, 2015.

GTRanch-Commissioner's Letter-070615.doc



KITITIAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITITIAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

"Building Partnerships – Building Communities"

AGENDA STAFF REPORT

AGENDA DATE: July 7, 2015

ACTION REQUESTED: Conduct a closed record meeting to consider the Hearing Examiner's recommendation for the WDFW Hwy 10 Zoning Conditional Use Permit, Shoreline Substantial Development Permit, and Shoreline Conditional Use Permit (CU-14-00006 & SD-14-00003).

BACKGROUND:

Washington State Department of Fish and Wildlife (WDFW) submitted an application packet requesting a zoning conditional use permit, a shoreline substantial development permit, and a shoreline conditional use permit for a new boat launch and haul-out area on the Yakima River along with up to 12 parking spaces and a portable toilet facility on a 3.19 acre parcel that is zoned Agriculture 20. The parking will include eight (8) passenger car spaces, one (1) of which will be designated as ADA accessible, and four (4) spaces intended for trailer or longer vehicles. The project was revised and two (2) passenger vehicle spaces have been eliminated.

The proposal is located in a portion of Section 12, T. 18 N., R. 17 E., W.M. in Kittitas County, Washington. More generally, it is located at MP 101 on Hwy 10 along the eastern shore of the Yakima River.

A zoning conditional use permit, shoreline substantial development permit, and shoreline conditional use permit were submitted to Community Development Services on November 6, 2014 and were deemed incomplete on December 4, 2014. Additional information was received from the applicant on December 29, 2014. On January 30, 2015, the application packet was deemed complete. The affidavit of site posting in accordance with KCC 15A.03.110 was received by CDS on February 17, 2015. The Notice of Application was issued on March 10, 2015. 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. A corrected Notice of Application was published on March 12, 2015 to correct an error regarding the lead agency for SEPA determination. The last day to submit written comments was on April 8, 2015.

The following agencies provided comments during the comment period: WA Department of Health, Kittitas Valley Fire and Rescue, KC Fire Marshal, KC Public Works, & KC Building Department. These comments have been considered and included as conditions of approval to address these agency concerns. A late comment was received by the WA Department of Ecology. Numerous public comments were submitted for this proposal at the time of staff review and were

considered. All comments received are included in the Index file.

WDFW acted as the lead agency for the SEPA determination and issued a DNS (Determination of Non-Significance) in February 2014 (Index #2). This determination was not appealed. Based on comments received during the comment period for the permits with Kittitas County, WDFW chose to revise their DNS and amend their SEPA checklist on April 28, 2015 (Index #37). This revised DNS was not appealed.

The Hearing Examiner hearing was held on June 11, 2015 at 6:00 p.m. Numerous members of the public testified both in favor and against this proposal at the hearing. On June 24, 2015 the Kittitas County Hearing Examiner recommended approval of the WDFW Hwy 10 Zoning Conditional Use Permit, Shoreline Substantial Development Permit, and Shoreline Conditional Use Permit (CU-14-00006 & SD-14-00003). This recommended decision was received by CDS on June 26, 2015. In the recommended decision, the Hearing Examiner included one (1) additional condition which states: "the applicant shall take reasonable steps to prohibit boat launches from the site."

INTERACTION: Kittitas County Hearing Examiner and Community Development Services.

ATTACHMENTS: Staff Report, File Index, & Master File

STAFF

RECOMMENDATION: Staff recommends that the Kittitas County Board of County Commissioners conduct the closed record meeting, as scheduled, to consider accepting the Hearing Examiner's recommendation of approval of the WDFW Hwy 10 Zoning Conditional Use Permit, Shoreline Substantial Development Permit, and Shoreline Conditional Use Permit (CU-14-00006 & SD-14-00003) and direct staff to prepare enabling documents based upon the decision of the Board.

HANLDING: Presentation to the Board by Kittitas County Community Development Services.

RESPONSIBLE STAFF: Lindsey Ozbolt, Planner II

SHORELINE MANAGEMENT PERMIT
ACTION SHEET

Application #: CU-14-00006
SD-14-00003
Administering Agency Kittitas County Land Use Hearing Examiner

Type of Permit: Zoning Conditional Use Permit
Recommended Action: Shoreline Substantial Development Permit
 Shoreline Conditional Use Permit
 Approved Denied

Date of Action: June 24th, 2015

Date Mailed to DOE/AG

Pursuant to Chapter 90.58 RCW and the Shoreline Master Program of the Kittitas County, a permit is hereby granted to:

Washington State Department of Fish & Wildlife

To undertake the following development: Washington State Department of Fish and Wildlife (WDFW) submitted an application packet requesting a zoning conditional use permit, a shoreline substantial development permit, and a shoreline conditional use permit for a new haul-out area on the Yakima River along with up to 12 parking spaces and a portable toilet facility on a 3.19 acre parcel that is zoned Agriculture 20. The parking will include eight (8) passenger car spaces, one (1) of which will be designated as ADA accessible, and four (4) spaces intended for trailer or longer vehicles. The project was revised and two (2) passenger vehicle spaces have been eliminated.

Upon the following property: in a portion of Section 12, T. 18 N., R. 17 E., W.M. in Kittitas County, Washington.

Within 200 feet of the Yakima River and/or its associated wetlands.

The project will be within a shoreline of state-wide significance (RCW 90.58.030). The project will be located within Rural Shoreline (west of river) and Conservancy Shoreline (eastside of river) designations. The Shoreline Master Program is applicable to this development:

Development pursuant to this permit shall be undertaken in conformance with the following terms and conditions:

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.

RECEIVED
JUN 26 2015
KITTITAS COUNTY
CDS

Received after Close of Records

2. The project shall proceed in substantial conformance with the plans and application materials on file dated November 6, 2014 and subsequent information included in the complete file index except as amended by the conditions herein.
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 development, design and construction shall comply with Kittitas County Code and the most current version of the International Fire & Building Codes.
5. The haul-out ramp shall maintain at least a 25 foot buffer from the two PSSC wetlands known to be on-site.
6. All work shall take place outside of the OHWM except that work necessary to construct the boat haul-out ramp. All work performed shall be completed in conformance with the best practices and mitigation measures described in the Biological Assessment (Index #39) and information, including site plans/construction drawings, associated with the SEPA DNS revised packet (Index #37) and additional information submitted on December 29, 2014 (Index #5).
7. Prior to any construction activity within the regulated floodplain, a floodplain substantial development permit is required to be issued by Kittitas County.
8. Prior to any construction activity on-site, a clearing and grading permit is required to be issued by Kittitas County.
9. All requirements of WA Department of Transportation (WSDOT) shall be complied with. The access permit and lease have been approved by WSDOT. The approach must be constructed and approved by WSDOT.
10. Informational signage is required to be posted on site with warnings and rules of use. The sign(s) shall include at a minimum: notice of danger regarding the dam downstream of the haul-out ramp, hours of operation, respecting surrounding private property, pack-it-out policy if no waste receptacle is provided by WDFW, and that boat launches are prohibited.
11. Signage less than 7 feet in height is exempt from a building permit and will not require engineering. Information signage is exempt from a land use sign permit. Applicant is encouraged to contact Kittitas County Community Development Services regarding any signage prior to placement to determine if any permits will be required.
12. The proposed vault toilet or portable toilet will require a building permit if the entire structure is larger than 120 square feet in size.
13. A turn-around shall be provided for fire department access. The applicant shall consult with the Kittitas County Fire Marshal's office for specific requirements.
14. Access shall be a minimum width of 20 feet and the address shall be clearly visible from both directions of travel on the highway.
15. The applicant shall take reasonable steps to prohibit boat launches from the site.

RECOMMENDED FINDINGS OF FACT

1. Washington State Department of Fish and Wildlife (WDFW) submitted an application packet requesting a zoning conditional use permit, a shoreline substantial development permit, and a shoreline conditional use permit for a new boat haul-out area on the Yakima River along with up to 12 parking spaces and a portable toilet facility on a 3.19 acre parcel that is zoned Agriculture 20. The parking will include eight (8) passenger car spaces, one (1) of which will be designated as

CU-14-00006 & SD-14-00006

WDFW

2 of 6

ADA accessible, and four (4) spaces intended for trailer or longer vehicles. The project was revised and two (2) passenger vehicle spaces have been eliminated.

- The proposal is located in a portion of Section 12, T. 18 N., R. 17 E., W.M. in Kittitas County, Washington. More generally, it is located at MP 101 on Hwy 10 along the eastern shore of the Yakima River. More generally the site is accessed off of State Hwy 10 at MP 101.

3. Site Information:

Total Property Size:	3.19 acres, project on less than 1 acre
Number of Lots:	1; no new lots are being proposed
Domestic Water:	none proposed
Sewage Disposal:	vault toilet/portable toilet
Power/Electricity:	none proposed
Fire Protection:	Fire District 2 - KVHR
Irrigation District:	Thorp Mill & Cascade

4. Site Characteristics:

North:	State Hwy 10 and private properties
South:	Yakima River and private properties
East:	State Hwy 10 and private land with dispersed single family residences
West:	Yakima River and private properties

- The Comprehensive Plan designation is "Rural Working."

- The subject property is zoned "Agriculture 20," which allows for the proposed recreational use as a conditional use.

- A zoning conditional use permit, shoreline substantial development permit, and shoreline conditional use permit were submitted to Community Development Services on November 6, 2014 and were deemed incomplete on December 4, 2014. Additional information was received from the applicant on December 29, 2014. On January 30, 2015, the application packet was deemed complete. The affidavit of site posting in accordance with KCC 15A.03.110 was received by CDS on February 17, 2015. The Notice of Application was issued on March 10, 2015. 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. A corrected Notice of Application was published on March 12, 2015 to correct an error regarding the lead agency for SEPA determination. The last day to submit written comments was on April 8, 2015.

- WDFW acted as the lead agency for the SEPA determination and issued a DNS (Determination of Non-Significance) in February 2014 (Index #2). This determination was not appealed. Based on comments received during the comment period for the permits with Kittitas County, WDFW chose to revise their DNS and amend their SEPA checklist on April 28, 2015 (Index #37). This revised DNS was not appealed.

- The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.

- This proposal is consistent with the provisions of KCC Title 12, Roads and Bridges as conditioned.

- This proposal is consistent with the provisions of KCC Title 14, Buildings and Construction as conditioned.

- This proposal is consistent with the provisions of KCC Title 17.29, Agriculture 20 zoning.

13. This proposal is consistent with the provisions of KCC 17.60A, Conditional Uses and meets the criteria of KCC 17.60A.015 (1-7).
14. Staff conducted an administrative critical area review in accordance with KCC 17A and found that this proposal is located along the eastern shoreline of the Yakima River which is a Shoreline of the State. The applicant provided a biological assessment regarding the impacts to the environment and habitat due to the placement of a boat launch and haul-out within the Yakima River. Additionally, the applicant is applying concurrently with their zoning conditional use permit for a shoreline substantial development permit and shoreline conditional use permit as required by Kittitas County. The applicant is also working with Kittitas County's Floodplain manager to obtain a floodplain development permit consistent with KCC 14.08 Flood Damage Prevention code section due to work being performed within the 100 year floodplain. Staff review also found that there are two PSSC wetlands on the subject property. The current KCC 17A.04.020 buffer width requirement is a minimum of 25 feet, which this proposal meets. Additionally, the biological assessment addresses mitigation measures both for the in-stream and upland work. Finally, this site has a Priority Habitat Species (PHS) designation of Yakima River: Bald Eagle wintering area, goose nest area. As conditioned, this project is consistent with the provisions of KCC 17A.
15. As conditioned, the proposal is consistent with the Shoreline Master Program. The Conservancy Shoreline designation allows for this proposed recreational project per Section 32 as long as a shoreline conditional use permit is approved per Section 39. Signage will be required for this site to protect the public and private property owners. The related project documents address the need for this project. This proposal meets all of the criteria in Section 39 (2) (a - e) of the current existing 1975 Shoreline Master Program for approval of a shoreline conditional use permit.
16. The following agencies provided comments during the comment period: WA Department of Health, Kittitas Valley Fire and Rescue, KC Fire Marshal, KC Public Works, & KC Building Department. These comments have been considered and included as conditions of approval to address these agency concerns. A late comment was received by the WA Department of Ecology.
17. Numerous public comments were submitted for this proposal at the time of staff review and were considered by the Hearing Examiner in rendering this Recommended Decision.
18. An open record public hearing after legal notice was held on June 11th, 2015.
19. Appearing and testifying at the hearing on behalf of the applicant was Marty Peoples. Mr. Peoples testified that he was biologist with the Washington Department of Fish and Wildlife. He testified that he was an agent to appear and speak on behalf of the applicant and property owner. He indicated that there would be no launching permitted from the project site and that signs would be erected to advise the public that launches were not allowed. He testified that all of the Proposed Conditions of Approval were acceptable. He testified that he did not anticipate that waste facilities would be provided because this would be a primitive site.

Also testifying on behalf of the applicant was John Hansen. Mr. Hansen is the project manager for Washington Department of Fish and Wildlife. Mr. Hansen testified that the applicant was fully aware of all safety issues related to the highway and the river. Launching was to be prohibited from this site. It's intended solely to be a takeout site. He submitted exhibit 65 regarding proposals not only as to the language on signs but also location of signs.
20. The following member of the public testified generally in favor of the project:
20.1 Leta Davis

- 20.2 Lee Davis
- 20.3 Ralla Vickers
- 20.4 Rick Holmstrom
- 20.5 Derek Young
- 20.6 Tim Gavin
- 20.7 Joe Rotter
- 20.8 Ninon Wheatley
- 20.9 Steve Joyce
- 20.10 Margaret Sahlastrand
- 20.11 Clay Meyers

21. The following members of the public testified generating opposition to the project:

- 21.1 Gordon Tang
- 21.2 Brian Amsbary
- 21.3 Dorothy Redlin
- 21.4 Rhonda Griffin

22. During the open record public hearing, the following exhibits were admitted into the record:

- Exhibit 1. KC application receipts – 11.6.14
- Exhibit 2. Application submittal packet – 11.6.14
- Exhibit 3. Staff Review
- Exhibit 4. Incomplete Application letter – 12.4.14
- Exhibit 5. Additional Information from applicant
- Exhibit 6. Deem complete letter – 1.30.15
- Exhibit 7. Affidavit of Sign Posting
- Exhibit 8. Notice of Application
- Exhibit 9. Notice of Application Legal
- Exhibit 10. Daily Record Notice of Application confirmation
- Exhibit 11. Notice of Application of Application Legal – corrected
- Exhibit 12. Daily Record Notice of Application confirmation – corrected
- Exhibit 13. Affidavit of Mailing & Publication – Notice of Application
- Exhibit 14. KC PW Transportation Concurrency Request
- Exhibit 15. KC PW Determination of Concurrency Finding
- Exhibit 16. Notice of Application DR publishing proof
- Exhibit 17. Notice of Application DR publishing proof – corrected
- Exhibit 18. CDS & applicant email – 4.8.15
- Exhibit 19. COMMENT PERIOD-A Department of Health Comment Email – 3.11.15
- Exhibit 20. COMMENT PERIOD-Kittitas Valley Fire & Rescue Comment Email – 3.11.15
- Exhibit 21. COMMENT PERIOD-KC Fire Marshal Comment Email – 3.11.15
- Exhibit 22. COMMENT PERIOD-D. Young Comment Email – 3.15.15
- Exhibit 23. COMMENT PERIOD-KC Public Works Comment Email – 3.19.15
- Exhibit 24. COMMENT PERIOD-KC Building Dept. Comment Email – 3.20.15
- Exhibit 25. COMMENT PERIOD-W. Fields Comment Email – 4.1.15
- Exhibit 26. COMMENT PERIOD-B. Amsbary Comment Email – 4.7.15
- Exhibit 27. COMMENT PERIOD-B. Williamson Comment Fax (duplicate of email) – 4.8.15
- Exhibit 28. COMMENT PERIOD-B. Williamson Comment Email – 4.8.15
- Exhibit 29. COMMENT PERIOD-B. Williamson Comment Fax (duplicate of email) confirmation – 4.9.15
- Exhibit 30. COMMENT PERIOD-B. Williamson Comment Email confirmation – 4.9.15

- Exhibit 31. Transmittal of Comments – 4.13.15
Exhibit 32. DOE comment letter received after comment period ended – 4.9.15
Exhibit 33. CDS & applicant email – 4.16.15
Exhibit 34. CDS & applicant email – 4.16.15.2
Exhibit 35. CDS & applicant email – 4.20.15
Exhibit 36. CDS & applicant email – 4.28.15
Exhibit 37. SEPA DNS revised packet from WDFW – 4.28.15
Exhibit 38. CDS & applicant email – 5.6.15
Exhibit 39. Biological Assessment
Exhibit 40. CDS & applicant email – 5.14.15
Exhibit 41. CDS & Williamson email – 5.15.15
Exhibit 42. Staff & applicant email – 5.26.15
Exhibit 43. Notice of Hearing & Affidavit of Publication
Exhibit 44. Existing 1975 Kittitas County Shoreline Master Program
Exhibit 45. WSDOT Requirements – Email between C. Wollman and R. Holmstrom – 6.1.15
Exhibit 46. CDS & Steve-Red's Fly Shop Email – 6.3.15
Exhibit 47. CDS & Joe-Red's Fly Shop Email – 6.3.15
Exhibit 48. Request for Continuance of HE Hearing and Declaration from B. Amsbary – 6.4.15
Exhibit 49. Hearing Examiner Email response to Continuance Request – 6.4.15
Exhibit 50. B. Amsbary Email response to Hearing Examiner Email – 6.4.15
Exhibit 51. Kittitas County Hearing Examiner Staff Report – 6.11.15 [hearing date]
Exhibit 52. Kittitas County response to Motion to continue dated June 5, 2015
Exhibit 53. GT Ranch, LLC replied to County response dated June 5, 2015
Exhibit 54. Second declaration of Bill Williamson
Exhibit 55. Washington Department of Fish and Wildlife response to Motion to continue, dated June 8, 2015
Exhibit 56. Hearing Examiner Decision on Motion to continue dated June 9, 2015
Exhibit 57. June 10, 2015 email from Mr. Amsbary regarding procedural matters with Hearing Examiner's response dated June 10, 2015
Exhibit 58. Seven additional comment letters as follows
Exhibit 58.1 June 5, 2015 letter from Attorney Lawrence Martin on behalf of Ellensburg Water Company with attached exhibits 1-8.
Exhibit 58.2 June 5, 2015 email from Patriok Barta to Lindsey Ozbolt.
Exhibit 58.3 Letter from Steve Rogers to Kittitas County Hearing Examiner dated June 11, 2015.
Exhibit 58.4 Letter from Melissa Robertson of Central Washington University to Lindsey Ozbolt dated June 11, 2015
Exhibit 58.5 Letter from Steve Locati to Kittitas County Hearing Examiner dated June 11, 2015
Exhibit 58.6 Email from William Loder to Kittitas County dated June 11, 2015.
Exhibit 58.7 Email from Leta Davis to Kittitas County dated June 11, 2015
Exhibit 59. Email comments identified as follows
Exhibit 59.1 June 8, 2015 email from Christina Gourley to Lindsey Ozbolt.
Exhibit 59.2 Email dated June 11, 2015 from Jon Easterbrooks to Leah Hendrix
Exhibit 60. GT Ranch, LLC submissions dated June 11, 2015 as follows:
Exhibit 60.1 Email from Brian Amsbary to Lindsey Ozbolt dated June 11, 2015.
Exhibit 60.2 June 11, 2015 letter from Bill Williamson to the Hearing Examiner.
Exhibit 60.3 Declaration of Calvin Tang.
Exhibit 60.4 Declaration of William Taylor, MS (with resume)
Exhibit 60.5 Declaration of Christopher Wright (with resume)

- Exhibit 61. GT Ranch, LLC submissions dated June 11, 2015 including
Exhibit 61.1 Email from Brian Amsbary to Kittitas County dated June 11, 2015.
Exhibit 61.2 Declaration of David Matthews, PLS
Exhibit 62. Powerpoint presentation prepared by Kittitas County Community Development staff
Exhibit 63. Six (6) pages of photographs submitted by staff of the project area
Exhibit 64. GT Ranch easement exhibit
Exhibit 65. Applicant's examples of signage and proposed location of signs.

23. Public agencies with potential jurisdiction over this project were given an opportunity to review the proposal. Agencies that responded with comments were admitted into the record and considered by the Hearing Examiner in rendering this Decision.
24. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

RECOMMENDED CONCLUSIONS OF LAW

1. As conditioned, the proposal 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 12 Roads & Bridges, Title 14 Building & Construction, Title 17 Zoning, Title 17A Critical Areas, and the Kittitas County Shoreline Master Program.
5. The Hearing Examiner has been granted authority to render this Recommended Decision.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

This permit is granted pursuant to the Shoreline Master Program of the Kittitas County, as amended, and nothing in this permit shall excuse the applicant from compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to this project, but not inconsistent with the Shoreline Management Act of 1971 (Chapter 90.58 RCW).

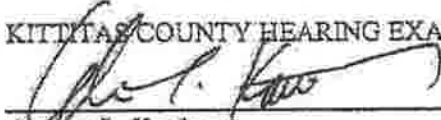
This permit may be rescinded pursuant to RCW 90.58.140(7) in the event the permittee fails to comply with the terms and conditions hereof.

CONSTRUCTION PURSUANT TO THIS PERMIT SHALL NOT BEGIN NOR IS AUTHORIZED UNTIL TWENTY-ONE (21) DAYS FROM THE DATE OF FILING AS DEFINED IN RCW 90.58.140(6) AND WAC 173-14-090, OR UNTIL ALL REVIEW PROCEEDINGS INITIATED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SUCH FILING HAVE TERMINATED; EXCEPT AS PROVIDED IN RCW 90.58.140(5)(a)(b)(c).

Substantial progress toward construction of the project for which this permit has been granted must be accomplished within two (2) years of the filing date of this permit. Authorization to conduct development activities granted by this permit shall terminate five (5) years from the filing date of this permit.

Approval Recommended this 24th day of June, 2015.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Received after Close of Record

**THIS SECTION FOR DEPARTMENT OF ECOLOGY USE ONLY IN REGARD TO A
CONDITIONAL USE OR VARIANCE PERMIT**

Date received by the Department _____

Approved _____

Denied _____

This conditional use/variance permit is approved/denied by the Department pursuant to Chapter 90.58 RCW.

Development shall be undertaken pursuant to the following additional terms and conditions:

Date

Signature of Authorized Department Official

Received after Close of Record