

**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF

CU-19-00001
Shadow Wing Ranch

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FINDINGS OF FACT, CONCLUSIONS
OF LAW, DECISION AND
CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on May 9, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. The proposed project is a 7,056 sq. ft. indoor riding academy for equine assisted learning activities with associated parking. The project site is a 4.88 acre parcel in the Agriculture 20 zone. The proposed use would operate Monday through Friday from 10:00 AM to 7:00 PM. Each scheduled session will not exceed 10 persons present including instructors, volunteers, and students. The applicant anticipates less than 10 vehicle trips per day.
2. Location: Parcel 951596, located at 401 Radiant View Drive, Ellensburg, WA. In the NE1/4 of Section 1, Township 17N, Range 17 E, W.M.; Assessor's map number 17-17-01051-0002.
3. Site Information

Total Property Size:	4.88 Acres
Number of Lots:	1
Domestic Water:	Well
Sewage Disposal:	On-Site Septic
Power/Electricity:	PSE
Fire Protection:	Fire District 2 (KVFR)
Irrigation District:	KRD
4. Site Characteristics:
 - North: Privately owned land, primarily agricultural and residential uses
 - South: Privately owned land, primarily agricultural and residential uses

East: Privately owned land, primarily agricultural and residential uses

West: Privately owned land, primarily agricultural and residential uses

5. Access: The site is accessed from Radiant View Drive, a private road. Radiant View Drive is accessed via Weaver Rd, approximately 3.5 miles west of the city of Ellensburg.
6. The Comprehensive Plan land use designation is Rural Working.
7. The project is within the Agriculture 20 zoning designation.
8. A conditional use permit application for the Shadow Wing Ranch (CU-19-00001) was submitted to Kittitas County Community Development Services department on February 04, 2019. The application was deemed complete on February 25, 2019. The site was posted in accordance with KCC 15A.03.110 on February 27, 2019
9. A Notice of Application for the Shadow Wing Ranch Conditional Use Permit (CU-19-00001) was mailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's tax parcel & associated agencies. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on March 7, 2019, all in conformance with the Kittitas County Project Permit Application Process (Title 15A).
10. A SEPA Checklist was submitted with the conditional use application and processed concurrently using the Optional DNS process under WAC 197-11-355. During the combined comment period environmental concerns were raised by public agencies as well as private citizens and neighbors. CDS has considered these comments and found no significant environmental risks with the proposed project. Following the concurrent comment period, CDS issued a Determination of Non-Significance on April 18, 2019. The appeal period for the SEPA DNS will conclude on May 3, 2019. No appeals were filed.
11. In addition CDS performed a critical areas review of the property. GIS information indicates that no critical areas exist on the property as demonstrated in the critical areas map provided in the review materials.
12. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The following Comprehensive Plan GPO's apply to this proposal: GPO 8.1, 8.2 8.4, and 8.8.
13. The proposal is consistent with Kittitas County Review Criteria 17.60A.015 as described in section VIII "Project Analysis" of this determination. Riding Academy development is a permitted use in the Agricultural 20 zoning district with a conditional use permit.
14. Road Standards and access requirements are subject to the standards outlined in Kittitas County Code Title 12.
15. The following agencies provided comments during the comment period: Kittitas County Public Health, Kittitas County Public Works, Kittitas County Fire Marshal, Washington State Department of Ecology, and Washington State Department of Health Office of Drinking Water.
16. Ten comment letters from the public were received. Eight comment letters were in support of the project. Two comment letters raised various concerns associated with the project.

17. A late comment was received from KRD on April 23, 2019 stating that KRD guidelines will not need to be met for this project, but that no permanent structures will be allowed in KRD right of ways.
18. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.
19. This proposal is consistent with the provisions of KCC Title 12, Roads and Bridges as conditioned.
20. This proposal is consistent with the provisions of KCC Title 14, Buildings and Construction as conditioned.
21. This proposal is consistent with the provisions of KCC Title 17.29, Agriculture 20 zoning.
22. This proposal is consistent with the provisions of KCC 17.60A, Conditional Uses and meets the criteria of KCC 17.60A.015 (7).
23. This proposal is consistent with the provisions of KCC 17A, Critical Areas.
24. This proposal, as conditioned is consistent with KCC 20, Fire Life and Safety.
25. The project is consistent with the provisions of KCC 17.29, Agricultural 20 zoning as follows:
 - 25.1 This proposal is consistent with the Kittitas County Zoning Code 17.29 as conditioned. The proposal is consistent with the “rights and traditions of those engaged in agriculture” as described in the purpose and intent section of KCC 17.29.010.
26. The project is consistent with the provisions of KCC 17.60A.015(1), Conditional Uses as follows:
 - 26.1 Applicant Response: The applicant’s narrative states that the proposed use is desirable to the public convenience by teaching youth “the necessary skills to appreciate, and continue the pursuit of, appropriate rural activities.” The applicant asserts that size and scope of the proposed use will result in limited impacts with no risk to safety, peace, or character of the surrounding neighborhood.
 - 26.2 Staff Response: CDS staff agrees that the proposed use will not be detrimental to the safety or character of the surrounding neighborhood. In addition CDS finds that the proposed use is desirable to the public in that it services disadvantaged youth through equine educational activities.
27. The project is consistent with the provisions of KCC 17.60A.015(2)(C), Conditional Uses as follows:
 - 27.1 Applicant Response: The applicant states that, “no significant public costs should be necessary as the facility is already accessed by an adequate county road, and the riding academy will not require increased police or fire protection, or impact schools in the area. There is no public detriment to the proposal, as it does not involve additional public costs being required.”
 - 27.2 Staff Response: CDS agrees that the proposal should not have any notable impact on public services and facilities. The applicant anticipates a maximum of 10 vehicle trips per day which is within the capacity of a certified private road. The proposed use is

adequately serviced by existing facilities. CDS does not anticipate any significant stress added to public facilities or services that would require mitigation.

28. The project is consistent with the provisions of KCC 17.60A.015(3), Conditional Uses as follows:
 - 28.1 Applicant Response: The applicant notes, “the proponent is working with the various county departments to ensure the facilities being provided by applicant work well with the existing public facilities, as well as to be sure the relevant development standards are complied with fully.”
 - 28.2 Staff Response: The project, as proposed, complies with Kittitas County Development standards. Recertification of the private access road as well as water and septic system approval will be necessary to ensure safety and adequate capacity.
29. The project is consistent with the provisions of KCC 17.60A.015(4), Conditional Uses as follows:
 - 29.1 Applicant Response: The applicant states that ,”it is not anticipated that there will not be any significant mitigation measures being necessary, but the SEPA review/determination should clarify what actions might be suggested to address these impacts, however negligible.”
 - 29.2 Staff Response: The application, public/agency comments, and staff review have identified potential environmental impacts and appropriate mitigation measures have been included in the recommended conditions.
30. The project is consistent with the provisions of KCC 17.60A.015(5), Conditional Uses as follows:
 - 30.1 Applicant Response: The applicant states that, “the nature of the proposed use is compatible with neighboring land uses, in both a long term and short term analysis.”
 - 30.2 Staff Response: Equine activities are consistent with agricultural uses and have been demonstrated as compatible throughout agricultural areas in Kittitas County.
31. The project is consistent with the provisions of KCC 17.60A.015(6), Conditional Uses as follows:
 - 31.1 Applicant Response: The proposed use “is consistent with the intent and character of the Agricultural zone.”
 - 31.2 Staff Response: Equine uses are historically consistent with Agricultural zones and as such are commonly permitted uses within these zones.
32. The project is consistent with the provisions of KCC 17.60A.015(7)(d), Conditional Uses as follows:
 - 32.1 Applicant Response: The applicant asserts that the proposal is “consistent with a number of rural planning policies specified in the Kittitas County Comprehensive Plan.” The applicant states that the proposal is consistent with GPO’s 8.1, 8.2, 8.3, 8.4, and 8.8.
 - 32.2 Staff Response: Kittitas County Code allows for riding academies in the Agricultural 20 zone with a Conditional Use Permit. The project preserves rural character as it

does not increase density, impact rural lifestyles or economies, require urban government services, and does not impact surface or groundwater flows.

33. This proposal, as conditioned, 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, 4) is adequately serviced by public facilities, 5) is compatible with the neighborhood character, and 6) is consistent with the character of the zoning district. The project is being proposed outside of the UGA. KCC 17.60A.015(7) requires 4 additional review criteria considerations; 1) the proposed project is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan including Chapter 8, Rural and Resource Lands as demonstrated above, 2) preserves “rural character” as defined by GMA 36.70A.030, 3) requires only rural government resources, and does not compromise the long term viability of designated resource lands.
34. The project is consistent with KCC 17A, Critical Areas as follows:
 - 34.1 CDS conducted an administrative critical areas review in accordance with KCC 17A and found no critical areas on the property.
35. The project is consistent with KCC 14.04, Building Code as follows:
 - 35.1 All buildings must be consistent with International Building Codes. Future building permits for this project will require a pre application meeting.
36. An open record Public Hearing after due legal notice was held on May 9, 2019.
37. At this hearing the following exhibits were admitted into the record:
 - 37.1 Exhibit 1: Pre Application Meeting Packet/Notes
 - 37.2 Exhibit 2: CUP Application
 - 37.3 Exhibit 3: SEPA Checklist
 - 37.4 Exhibit 4: Narrative
 - 37.5 Exhibit 5: Site Plan
 - 37.6 Exhibit 6: GIS Maps
 - 37.7 Exhibit 7: Deem Complete Letter
 - 37.8 Exhibit 8: Affidavit of Posting (Land Use Sign)
 - 37.9 Exhibit 9: Notice of Application – Memo
 - 37.10 Exhibit 10: Notice of Application – Legal
 - 37.11 Exhibit 11: Affidavit of Mailing & Publication (Notice of Application)
 - 37.12 Exhibit 12: KVFR Comment
 - 37.13 Exhibit 13: Department of Health Comment
 - 37.14 Exhibit 14: KRD Comment
 - 37.15 Exhibit 15: Department of Ecology Comment

- 37.16 Exhibit 16: O'Leary Comment
 - 37.17 Exhibit 17: KC PH Comment
 - 37.18 Exhibit 18: Ridgway Comment
 - 37.19 Exhibit 19: KC PW Comment
 - 37.20 Exhibit 20: KC Building Department Comment
 - 37.21 Exhibit 21: Transmittal of Comments
 - 37.22 Exhibit 22: Applicant Response to Comments 4.26.2019
 - 37.23 Exhibit 23: SEPA DNS
 - 37.24 Exhibit 24: Notice of SEPA Action and Public Hearing - Memo
 - 37.25 Exhibit 25: Notice of SEPA Action and Public Hearing – Legal
 - 37.26 Exhibit 26: Affidavit of Mailing & Publication (Notice of SEPA Action and Public Hearing)
 - 37.27 Exhibit 27: Deemed Complete Email Correspondence 2.20.2019
 - 37.28 Exhibit 28: Public Works Transportation Requirement 4.5.2019 Correspondence
 - 37.29 Exhibit 29: SEPA Register Email Correspondence 4.22.19
 - 37.30 Exhibit 30: Applicant Email Correspondence 4.26.2019
 - 37.31 Exhibit 31: Wendy Schufreider Comment
 - 37.32 Exhibit 32: Transmittal of Comments to Applicant
 - 37.33 Exhibit 33: Notice of SEPA Action and Hearing
 - 37.34 Exhibit 34: Notice of SEPA Action and Hearing Legal
 - 37.35 Exhibit 35: Notice of SEPA Action and Hearing Email
 - 37.36 Exhibit 36: KRD Comment (received after comment period)
 - 37.37 Exhibit 37: Correspondence with Tony Fox
 - 37.38 Exhibit 38: Correspondence with Proponent
 - 37.39 Exhibit 39: Updated Staff Report
 - 37.40 Exhibit 40: CDS Staff Hearing Presentation
 - 37.41 Exhibit 41: Merrily Jones Comment Letter
 - 37.42 Exhibit 42: Applicant Agent Submittals
 - 37.43 Exhibit 43: Mike Radich First Submittal
 - 37.44 Exhibit 44: Mike Radich Second Submittal
38. Appearing and testifying on behalf of the Applicant was John Ufkes. Mr. Ufkes is the attorney for the Applicant. Mr. Ufkes' testimony generally related to statements regarding the

- Conditional Use Permit criteria being supported by facts found within the staff report. Mr. Ufkes submitted Exhibit 42 which was his letter to the Hearing Examiner with attachments A and B. Exhibit 42 was admitted into the record.
39. Also appearing and testifying for the Applicant was Karen Jackson. Ms. Jackson is the Applicant and property owner. Much of her testimony was not specifically related to any of the Conditional Use Permit criteria. However, she did indicate that there would only be 2 students per session with sessions lasting between 90 and 120 minutes. She stated that the indoor arena is needed for summer use due to smoke, wind and other weather elements that interfere with the teaching process.
40. The following members of the public testified:
- 40.1 Terry Starke: Ms. Starke spoke of her personal experience regarding her 6 year old grandson attending Shadow Wing Ranch.
- 40.2 Mike Radich: Mr. Radich testified in opposition to the project. Mr. Radich owns property to the west of the site. Mr. Radich submitted Exhibit 43 and Exhibit 44 which were admitted into the record. Exhibit 43 related to covenants that he argued applied to the Applicant's property. The Hearing Examiner told Mr. Radich that the Hearing Examiner does not have the authority to interpret or enforce private covenants. Exhibit 44 was represented to be signatures of neighbors on a statement paper opposed to the project.
- 40.3 Mark Jackson: Mr. Jackson is the son of Karen Jackson and spoke highly of his mother.
- 40.4 Dawnie Morgan: Ms. Morgan spoke in favor of the project and indicated that she is a parent of a child who participates in activities at the ranch.
- 40.5 Kathy Hagbo: Ms. Hagbo is a neighbor of the Applicant's property, has lived in her home for 22 years and she supports the project.
- 40.6 Joyce Palelek: Ms. Palelek is a retired teacher who also has experience with horses. She feels that having a facility that serves emotionally damaged kids is very important.
- 40.7 Colleen Bol: Ms. Bol is a volunteer at the ranch. She stated volunteers help with the horses and the children so that Ms. Jackson can focus on her teaching.
- 40.8 Karen Poulsen: Ms. Poulsen is a fifth generation farmer in Ellensburg and supports the project.
40. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this 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, Title 12 Roads and Bridges, and Title 20 Fire and Life Safety.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Application CU-19-00001 is hereby APPROVED subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

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

1. The project shall proceed in substantial conformance with the plans and application materials on file with CDS dated February 4, 2019 and subsequent information included in the complete file index except as amended by the conditions herein.
2. Applicant must meet all applicable state and federal regulations.
3. All new construction must meet the International Building Code requirements.
4. A pre application meeting shall be required prior to building permit submittal.
5. Access Roads will need to meet Kittitas County Code Chapter 12 and International Fire Code Appendix D requirements. The Applicant shall provide dust abatement pursuant to County requirements.
6. Fire Apparatus Turnarounds will need to be constructed to International Fire Code Appendix D.
7. No event parking will be allowed on the ingress/egress to the facility and must remain clear for fire response.
8. All development, design and construction shall comply with the International Fire Code requirements.

9. No event parking will be allowed on the ingress/egress to the facility and must remain clear for Fire Response.
10. Stormwater Plan designed to the Eastern Washington Storm Water Manual.
11. If the proposed site is between one and five acres of excavation and/or paving, an Erosivity Waiver is required.
12. A well site inspection shall be conducted to the satisfaction of Kittitas County Public Health to approve the water system as a public water source. The applicant shall comply with all water system requirements.
13. A site evaluation shall be performed by Kittitas County Public Health to determine and implement recommended septic requirements.
14. It is a proponent's responsibility to demonstrate compliance with the approval conditions of a conditional use permit. Compliance with all conditions must be demonstrated in writing to Kittitas County CDS prior to Final Conditional Use Permit issuance. Final approval of a Conditional Use Permit is required within 5 years of the approval date pursuant to KCC 17.60A.090.

Dated this 21st day of May, 2019.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

This decision is subject to appeal pursuant to the procedures set forth in the Kittitas County Code and the Revised Code of Washington.