

# KOTTKAMP & YEDINAK

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May 15, 2019

Kittitas County Comm. Develop Services  
Attn: Lindsey Ozbolt  
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Ellensburg, WA 98926

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Kittitas Co. CDS

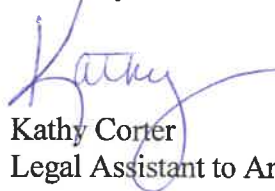
Re: CU-19-00001 – Shadow Wing Ranch  
CU-19-00002 – Brightside Farms Event Center

Dear Lindsey:

Enclosed please find the Hearing Examiner's Decisions in the above reference matters.

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

Sincerely,



Kathy Corter  
Legal Assistant to Andrew L. Kottkamp

Enclosures

KITTITAS COUNTY  
LAND USE HEARING EXAMINER

IN THE MATTER OF	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW, DECISION AND
	)	CONDITIONS OF APPROVAL
CU-19-00002	)	
Brightside Farms Event Center	)	

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. Heidi Bright, owner of Brightside Vintage Farms, is proposing to run a small scale event facility for weddings and other gatherings. Events will be held to 200 guests' maximum and is proposed to be developed in 2 phases as business allows.
2. The proposed project site is located at 511 Moreau Rd Ellensburg, WA. in a portion of NW ¼ NW ¼ of S. 22, T. 18N., R.19 E., W.M.; Assessor's map number 18-19-22000-0001.
3. Site Information
  - Total Property Size: 41.2 Acres
  - Number of Lots: 1
  - Domestic Water: Well
  - Sewage Disposal: On-Site Septic
  - Power/Electricity: Kittitas County PUD
  - 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: Moreau Rd, Privately owned land, primarily agricultural and residential uses

West: Privately owned land, primarily agricultural and residential uses

5. Access: The site is accessed from Moreau Road, and is located approximately eight (8) miles from the City of Ellensburg.
6. The Comprehensive Plan land use designation is Rural Working.
7. The project site is in the Agriculture 20 zoning designation.
8. A conditional use permit application for the Brightside Farms Small Scale Event Facility (CU-19-00002) was submitted to Kittitas County Community Development Services department on February 07, 2019. The application was deemed complete on February 19, 2019. A notice of application for the Brightside Farms Small Scale Event Facility Conditional Use Permit (CU-19-00002) were 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 February 28, 2019, all in conformance with the Kittitas County Project Permit Application Process (Title 15A).
9. A land use sign giving project specifications was posted at the proposed project site on February 25, 2019 per KCC 15A.03.110.
10. A SEPA checklist was submitted with the Conditional Use Permit and processed concurrently. A notice of application and SEPA Checklist for the Brightside Farms Small Scale Event Facility Conditional Use Permit (CU-19-00002) were mailed and/or emailed 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 February 28, 2019. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Determination of Non-Significance (DNS) was issued on April 22, 2019. The appeal period ended on May 3, 2019 at 5:00 p.m. No appeal was filed.
11. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section V of this staff report, the following Comprehensive Plan GPO's apply to this proposal: GPO 8.2, 8.4, 8.8, 8.18, and 10.4.
12. This proposal is consistent with the Kittitas County Zoning Code 17.29 as conditioned. Small Scale Event Facilities are permitted with a Conditional Use Permit in this zoning district
13. The following agencies provided comments during the comment period: Kittitas County Public Health, Kittitas County Building, Kittitas County Public Works, Washington State Department of Health, Washington State Department of Ecology, Kittitas Reclamation District, and Kittitas Valley Fire and Rescue (See Index #12, 13, 14, 15, 17, 19, 20).
14. There were two public comments submitted during the comment period by Joe & Mary O'Leary, and Jim Ridgway.
15. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.
16. This proposal is consistent with the provisions of KCC Title 12, Roads and Bridges as

conditioned.

17. This proposal is consistent with the provisions of KCC Title 14, Buildings and Construction as conditioned.
18. This proposal is consistent with the provisions of KCC 17.60A, Conditional Uses and meets the criteria of KCC 17.60A.015 (7).
19. This proposal is consistent with the provisions of KCC 17A, Critical Areas.
20. This proposal, as conditioned is consistent with KCC 20, Fire Life and Safety.
21. The project is consistent with the provisions of KCC 17.60A(1) in the following respects:
  - 21.1 Applicant Response: The applicant states that, “The proposed use is desirable to the public as there are very few options in Kittitas County for small event hosting. We will also be preserving a beautiful “vintage and elegant” farm homestead property and the rural character will be preserved within our valley and neighborhood. Very little will change about this farm, the improvements will be complimentary and in keeping with an English countryside elegant, green pastoral setting. The peace, serenity and “farm charm” will be enhanced and preserved with the approval of this use
  - 21.2 Staff Response: CDS staff agrees that the proposed use will not be detrimental to the safety or character of the surrounding neighborhood. Certain measures may be necessary regarding event impacts to ensure the peace of neighbors is not impacted through approval of this use. These are addressed in the proposed conditions section of this staff report.
22. The project is consistent with the provisions of KCC 17.60A(2)(c) in the following respects:
  - 22.1 Applicant Response: The applicant states that, “proposed use will be beneficial to local economy by using local Caterers, Restaurants, Florists, Bakeries, Hotels, Photographers, Shopping, and more. We will not create excessive public cost as the use is limited to a small area on private land”
  - 22.2 Staff Response: CDS agrees that the proposal should not have any notable impact on public services and facilities. 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.
23. The project is consistent with the provisions of KCC 17.60A(3) in the following respects:
  - 23.1 Applicant Response: The applicant notes, “the proposed use complies with relevant development standards and criteria for approval”
  - 23.2 Staff Response: The project, as conditioned, complies with Kittitas County Development standards.
24. The project is consistent with the provisions of KCC 17.60A(4) in the following respects:
  - 24.1 Applicant Response: The applicant states that, “the proposed use will mitigate material impacts (if any), we do not foresee any”
  - 24.2 Staff Response: The application, SEPA comment period, and staff review have identified no potential environmental impacts and appropriate conditions have been

included in this staff report to offset other impacts.

25. The project is consistent with the provisions of KCC 17.60A(5) in the following respects:
  - 25.1 Applicant Response: The applicant states that, “proposed use is compatible with existing neighboring land uses; again the English Countryside Pastoral Green setting is a cherished part of what Brightside Vintage Farm is all about”
  - 25.2 Staff Response: As proposed the facility will be a secondary use to an existing producing farm, therefore it is compatible with the surrounding property uses.
26. The project is consistent with the provisions of KCC 17.60A(6) in the following respects:
  - 26.1 Applicant Response: The applicant notes that the proposed use “is consistent with the intent and character of the Agricultural zone”
  - 26.2 Staff Response: Small Scale Event Facilities are an allowable use within agricultural lands, specifically Agriculture 20 zoning. Per KCC “The agriculture (A-20) zone is an area wherein farming, ranching and rural life styles are dominant characteristics.” The dominant use of the proposed site remains in agriculture production therefore maintaining its consistency with the intent of the zone.
27. The project is consistent with the provisions of KCC 17.60A(7)(d) in the following respects:
  - 27.1 Staff Response: Kittitas County Code allows for Small Scale Event Facilities in the Agriculture 20 zone. This project is consistent with these policies. The project preserves rural character as it does not increase density, maintains the existing agricultural use, does not impact the rural lifestyles or economies, does not require urban government services, and does not compromise the viability of designated resource lands.
  - 27.2 Staff Conclusions: Staff finds that the proposed use will not be injurious to the public or surrounding neighborhood and adequate public services exist to accommodate the new use. Also, that the project as conditioned, is consistent with the provisions outlined in KCC 17.60A.015 Review Criteria.
28. 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, and 4) does not compromise the long term viability of designated resource lands.
29. An open record Public Hearing after due legal notice was held on May 9, 2019.
30. At this hearing the following exhibits were admitted into the record:

- 30.1 Exhibit 1: Pre Application Materials
- 30.2 Exhibit 2: CUP Application
- 30.3 Exhibit 3: SEPA Checklist
- 30.4 Exhibit 4: Narrative
- 30.5 Exhibit 5: Site Plan
- 30.6 Exhibit 6: GIS Maps
- 30.7 Exhibit 7: Deem Complete Letter
- 30.8 Exhibit 8: Affidavit of Posting (Land Use Sign)
- 30.9 Exhibit 9: Notice of Application – Memo
- 30.10 Exhibit 10: Notice of Application – Legal
- 30.11 Exhibit 11: Affidavit of Mailing & Publication (Notice of Application)
- 30.12 Exhibit 12: KVFR Comment
- 30.13 Exhibit 13: Department of Health Comment
- 30.14 Exhibit 14: KRD Comment
- 30.15 Exhibit 15: Department of Ecology Comment
- 30.16 Exhibit 16: O’Leary Comment
- 30.17 Exhibit 17: KC PH Comment
- 30.18 Exhibit 18: Ridgway Comment
- 30.19 Exhibit 19: KC PW Comment
- 30.20 Exhibit 20: KC Building Department Comment
- 30.21 Exhibit 21: Transmittal of Comments
- 30.22 Exhibit 22: Applicant Response to Comments 4.26.2019
- 30.23 Exhibit 23: SEPA DNS
- 30.24 Exhibit 24: Notice of SEPA Action and Public Hearing - Memo
- 30.25 Exhibit 25: Notice of SEPA Action and Public Hearing – Legal
- 30.26 Exhibit 26: Affidavit of Mailing & Publication (Notice of SEPA Action and Public Hearing)
- 30.27 Exhibit 27: Deemed Complete Email Correspondence 2.20.2019
- 30.28 Exhibit 28: Public Works Transportation Requirement 4.5.2019 Correspondence
- 30.29 Exhibit 29: SEPA Register Email Correspondence 4.22.19
- 30.30 Exhibit 30: Applicant Email Correspondence 4.26.2019
- 30.31 Exhibit 31: Staff Report

30.32 Exhibit 32: Staff Powerpoint Presentation

31. Appearing and testifying on behalf of the Applicant was Heidi Bright. Ms. Bright testified that she was the Applicant and the property owner. She indicated that they farm hay on the property. She indicated that they would comply not only with county code noise restrictions, but also the Washington Administrative Code noise restrictions. She stated that all of the proposed Conditions of Approval were acceptable.
32. Also testifying from the public was Joe Done. Mr. Done's testimony generally related to his discussions with people in the area indicating that there is a need for this type of a facility in the community.
33. Testifying from the public was:
  - 33.1 Todd Schnebly. Mr. Schnebly had concerns related to alcohol use on the property, and the fact that he will still be performing his farming activities (he farms Timothy Hay for export to Japan). He had concerns of litter and garbage blowing onto his property from the applicant's property due to their event use that may make hi shay ineligible for export. He also had concerns about noise and alcohol resulting in intoxicated drivers.
34. Ms. Bright additionally testified that there would be alcohol on site with proper licensing and that they had an alcohol policy for users which included the requirement to the use of licensed bartenders and that the last call for alcohol would be at 9:15 in the evening. She further testified that all amplified music would be turned off by 10:00 and that the guests would be leaving at that time and that the staff would clean up and be gone by 11:00 p.m. Mr. Done also testified that there would be a wind fence near the tent that is expected to be used by the guests. While this is primarily for convenience of the guests, it would also result in mitigating the possibility of napkins or other items from the guests' use of the property onto neighboring property.
35. 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 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-19-00002 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 7, 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 buildings, renovated buildings, or structures that have a change of use in either phase, shall be regulated by and permits required under the following codes as discussed during the pre-application meeting 12/19/18 (See Index #20):
  - 3.1 IBC 303.3 Occupancy Class A2
  - 3.2 IBC 903.2.1.2 Fire Sprinklers
  - 3.3 IBC 1103.1 Accessibility
  - 3.4 IBC Table 2902.1 Restrooms and IBC 2902.3.2
  - 3.5 IBC 3103.1 Temporary Structures
  - 3.6 Kittitas County Code Title 14 Entirety
4. All new structures considered a "Commercial Structure" by CDS building department shall be subject to additional pre-application meetings.
5. No parking in County Right-of-Way is allowed associated with any activity of the conditional use permit.
6. A grading permit is required if more than 100 cubic yards of material are excavated from the site or imported onto the site during either phase.
7. The new proposed access shall meet all requirements of Kittitas County Code Title 12.
8. Access roads will need to meet International Fire Code appendix D requirements.
9. In lieu of a transportation concurrency application, "Event Ahead" signs shall be placed along Brick Mill Road, 500' East, and 500' West of the intersection of Moreau Road and Brick Mill Road, for two (2) hours prior and one (1) hour after every event (See Exhibit #28).



10. Fire apparatus turn around to be constructed to International Fire Code Appendix D hammerhead requirements at the location where it terminates at an outbuilding as approved by the Fire Marshal, so long as no parking anywhere on or along the driveway in and the driveway to the right takes place.
11. If any of the event spaces are secured or if there is a locked access gate, a Knox box located as designated by KVFR shall be required.
12. 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.
13. Plans prepared in accordance with the Stormwater Management Manual for Eastern Washington by a Professional Engineer, licensed in the State of Washington, are required to be submitted to Public Works for approval prior to development of any permanent structures or development of Phase Two, whichever comes first.
14. All events must end by 10 pm.
15. The maximum number of attendees allowed at any and all events shall not exceed 200 guests.
16. Any signage to advertise the activities on-site will be required to obtain a land use sign permit and meet KCC 17.70 prior to placement. Depending on the specifications of the signage a building permit may also be necessary.
17. All caterers that come to the site to prepare and/or serve food shall be licensed by the Kittitas County Public Health Department.
18. The Phase One (1) portable restroom trailer shall be maintained/cleaned after each event.
19. The existing well on site shall be approved through DOH as a Group A transient non-community water system before any events can take place.
20. It is the applicant/proponent's responsibility to demonstrate compliance with the approval conditions of this conditional use permit. Compliance with all 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 five (5) years of the approval date pursuant to KCC 17.60A.090.
21. The Applicant shall take reasonable steps to clean up the Applicant's property to prevent any garbage or debris from the Applicant's guests from traveling to neighboring property.

22. **HEARING EXAMINER CONDITION**

This permit is subject to administrative review by Kittitas County Planning Staff at the end of the first, third and fifth years of full operation. If unforeseen adverse consequences are found to exist by staff during their review, or if staff finds that the current Conditions of Approval are not adequate to mitigate the impacts related to the project, then staff may refer this matter back to the Hearing Examiner to conduct a public hearing to determine whether or not the

existing Conditions of Approval are adequate or need to be modified or expanded. Further, if, during this period of time, staff determines in its sole discretion that additional professional studies need to be performed, staff is hereby authorized to require the Applicant to conduct those additional studies related to potential or actual adverse consequences of the ongoing project.

22. The Applicant shall comply with all noise requirements not only set forth in the Kittitas County Code but also the Washington Administrative Code 173-60.

Dated this 15<sup>th</sup> day of May, 2019.

KITTITAS COUNTY HEARING EXAMINER



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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.