

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

**CONDITIONAL USE PERMIT APPROVAL
HELENA SUBSTATION CONDITIONAL USE PERMIT (CU-13-00008)**

RESOLUTION

NO. 2014-_____

WHEREAS, according to Kittitas County Code Title 15A, relating to Hearings, Title 17.60A Conditional Uses, and Title 17.61.020 (A) Special Utilities, an open record hearing was held by the Kittitas County Hearing Examiner on April 24, 2014 for the purpose of considering a conditional use permit known as Helena Substation Conditional Use Permit CU-13-00008 and described as follows:

The construction and operation of an electrical substation on a parcel that is zoned Urban Residential. The subject property is located approximately 1.5 miles north of downtown Ellensburg at 721 Helena Avenue, in a portion of Section 25, T18N, R18E, WM in Kittitas County, bearing Assessor's map number 18 18 25030 0008. Proponent: Wayne Weidert, authorized agent for State of Washington (Central Washington University), land owner.

WHEREAS, no one from the public testified against the proposal; and,

WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such use; and,

WHEREAS, the Hearing Examiner recommended approval of said proposed conditional use permit; and,

WHEREAS, a closed record public hearing was held by the Board of County Commissioners on May 20, 2014 to consider the Hearing Examiner's recommendation on this matter; and,

WHEREAS, the Kittitas County Board of Commissioners make the following FINDINGS OF FACT and CONCLUSIONS OF LAW concerning said proposed conditional use permit:

1. Wayne Weidert authorized agent for State of Washington (CWU), landowner, has submitted a conditional use application for Electrical Substation. The subject property is zoned Urban Residential.
2. This proposal is located approximately 1.5 miles north of downtown Ellensburg at 721

Helena Avenue, in a portion of Section 25, T18N, R18E, WM in Kittitas County, bearing Assessor's map number 18-18-25030-0008.

3. The Kittitas County Comprehensive Plan's Land Use Element designates the subject property as Urban and the zoning for this proposal is Urban Residential.
4. A conditional use permit application was submitted to Kittitas County Community Development Services department on Wednesday, November 27, 2013. This application was deemed complete on Thursday, December 26, 2013. The Notice of Application for the conditional use permit was issued on Wednesday, March 12, 2014. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on Wednesday, April 2, 2014.
5. The following agencies provided comments during the comment period: Kittitas Valley Fire and Rescue, Kittitas County Public Health, and Washington State Department of Ecology. Other comments were provided at the pre-application meeting that took place on July 17, 2013. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.
6. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on April 6, 2013. The responsible official chose to retain the MDNS as issued; no appeals were filed.
7. The Hearing Examiner hearing was held on April 24, 2014 at 6:00 p.m. No members of the Public were present to give testimony. The applicant was present to provide testimony and describe the project. On May 1, 2014 the Kittitas County Hearing Examiner recommended approval of Helena Substation Conditional Use Permit (CU-13-00008).
8. The Board of County Commissioners conducted a closed record meeting on May 20, 2014 for the purpose of considering Helena Substation Conditional Use Permit (CU-13-00008). A motion was made and seconded that the conditional use permit be approved subject to correction of five minor scrivener errors in the Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval document (see Exhibit A), the motion carried with a vote of 3-0.
9. The Board of County Commissioners finds that item #22 on page 4 of the Hearing Examiner's Recommended Findings of Fact document (Exhibit A) contains a scrivener's error. The words "preliminary plat" shall be stricken and replaced with "conditional use permit"
10. The Board of County Commissioners finds that item #23 on page 4 of the Hearing Examiner's Recommended Findings of Fact document (Exhibit A) contains a scrivener's error. The word "aloud" shall be stricken and replaced with "allowed".
11. The Board of County Commissioners finds that item #23 on page 4 of the Hearing Examiner's Recommended Findings of Fact document (Exhibit A) contains a scrivener's error. The word "prone" shall be stricken and replaced with "prune"

12. The Board of County Commissioners finds that item #23 on page 4 of the Hearing Examiner's Recommended Findings of Fact document (Exhibit A) contains a scrivener's error. The words "Helen" shall be stricken and replaced with "Helena"
13. The Board of County Commissioners finds that item #16 on page 6 of the Hearing Examiner's Recommended Findings of Fact document (Exhibit A) contains a scrivener's error. The word "mitigation" shall be stricken and replaced with "mitigated."
14. The Board of County Commissioners finds that additional conditions **are not** necessary to protect the public's interest.

NOW THEREFORE,

BE IT HEREBY RESOLVED that the Kittitas County Board of Commissioners hereby grants approval of **Helena Substation Conditional Use Permit (CU-13-00008)** and adopts the Kittitas County Land Use Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval (Exhibit A) with the change stated above and the same hereby is approved with the proposed development configuration (See Exhibit B).

DATED this _____ day of _____, 2014 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON

Paul Jewell, Chairman

Gary Berndt, Vice Chairman

Obie O'Brien, Commissioner

ATTEST:
CLERK OF THE BOARD

APPROVED AS TO FORM:

Julie A Kjorsvik

Greg Zempel WSBA #19125

Exhibit "A"



KITTITAS COUNTY LAND USE HEARING EXAMINER

IN THE MATTER OF)	RECOMMENDED FINDINGS OF
)	FACT, CONCLUSIONS OF LAW,
CU-13-00008)	DECISION AND
Helena Substation)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on April 24, 2014, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. Wayne Weidert authorized agent for State of Washington (CWU), landowner, has submitted a conditional use application for Electrical Substation. The subject property is zoned Urban Residential.
2. This proposal is located approximately 1.5 miles north of downtown Ellensburg at 721 Helena Avenue, in a portion of Section 25, T18N, R18E, WM in Kittitas County, bearing Assessor's map number 18-18-25030-0008.
3. Site Information:

Total Property Size:	52 acres
Number of Lots:	1; no new lots are being proposed
Domestic Water:	City Ellensburg services (for landscape irrigation only)
Sewage Disposal:	None required at this time
Power/Electricity:	City of Ellensburg
Fire Protection:	Fire District 2 - KVHR
Irrigation District:	Cascade

4. Site Characteristics:

North: Low and high density residential
South: High and medium density residential
East: medium density residential
West: Low density residential

5. The subject property is zoned "Urban Residential"; KCC Title 17.61 allows for the siting of "Special Utilities" in all zones as a conditional use.

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Helena Substation
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6. A conditional use permit application was submitted to Kittitas County Community Development Services department on Wednesday, November 27, 2013. This application was deemed complete on Thursday, December 26, 2013. The Notice of Application for the conditional use permit was issued on Wednesday, March 12, 2014. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on Wednesday, April 2, 2014.
7. SEPA review as per WAC 197-11 for this project was conducted in April of 2013. An MDNS under the provisions of WAC 197-11-340 and 350 was issued on April 6, 2013. Comments were received but as per WAC 197-11- 340 (2)(f) the responsible official chose to retain the MDNS as issued.
8. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the proposal is consistent with 35 relevant GPOs and Strategies from Chapters 2, 3, 5, 6 and 10 of the Kittitas County Comprehensive Plan.
9. Staff conducted an administrative critical area review in accordance with KCC 17A and found a PEMC wetland onsite, as well as some Airport Overlay zoning restrictions. The location of the improvements is well away from the Airport overlay. The improvements appear to be south of the wetland as well but may encroach into an appropriate. Conditions will be recommended to adequately investigate, designate, and mitigate (if necessary) for the wetland. No other critical areas were found to be on site.
10. This proposal is consistent with the Kittitas County Zoning Code 17.61 which provides for the siting of special utilities in all zones subject to seven special criteria.
11. This proposal not subject to the Kittitas County Building Code.
12. As conditioned, the proposal is consistent with the provisions of KCC Title 12.
13. The following agencies provided comments during the comment period: Kittitas Valley Fire and Rescue, Kittitas County Public Health, and Washington State Department of Ecology. Other comments were provided at the pre-application meeting that took place on July 17, 2013. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.
14. Four comment letters were received from the public regarding this application. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.
15. The applicant has entered into an outside utilities extension agreement with the City of Ellensburg. Coordination with the City of Ellensburg shall occur throughout the development and building process for this proposal.
16. The proposal is located in an Urban Land Use designation; Urban Residential Zoned; and is and

island of County jurisdiction Urban Growth Area surrounded by the City of Ellensburg.

17. The applicant is a department of the City of Ellensburg.
18. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
19. An open record public hearing after due legal notice was held on April 24, 2014.
20. The entire Planning Staff file was admitted into the record at the public hearing.
21. Admitted into the record were the following exhibits:
 - 21.1 Exhibit 1: Pre application materials – 5/3/2013
 - 21.2 Exhibit 2: KC SEPA application fees receipt – 11/30/2012
 - 21.3 Exhibit 3: SEPA Checklist 11/30/2012
 - 21.4 Exhibit 4: SEPA Application Review Maps and Materials 2/25/2013
 - 21.5 Exhibit 5: SEPA Affidavit of Posting 4/4/2013
 - 21.6 Exhibit 6: SEPA Publication Documentation 4/5/2013
 - 21.7 Exhibit 7: SEPA MDNS 4/6/2013
 - 21.8 Exhibit 8: SEPA Comment Letter – CWU4/19/2013
 - 21.9 Exhibit 9: SEPA Comment Letter – Timothy Park 4/18/2013
 - 21.10 Exhibit 10: SEPA Comment Letter – Steve Willard 4/10/2013
 - 21.11 Exhibit 11: Conditional Use Application 11/27/2013
 - 21.12 Exhibit 12: Site Plans and Elevations 11/27/2013
 - 21.13 Exhibit 13: CUP Review Maps and Materials 12/26/2013
 - 21.14 Exhibit 14: CUP Deem Complete 12/26/2013
 - 21.15 Exhibit 15: CUP Affidavit of Posting 1/7/2014
 - 21.16 Exhibit 16: CUP Notice of Application Mailing Labels 3/12/2014
 - 21.17 Exhibit 17: CUP Notice of Application 3/12/2014
 - 21.18 Exhibit 18: CUP Notice of Application Affidavit of Mailing 3/18/2014
 - 21.19 Exhibit 19: CUP Notice of Application Returned Mail - Dates Vary
 - 21.20 Exhibit 20: CUP Notice of Application Adjacent Properties for Notification Map 3/12/2014
 - 21.21 Exhibit 21: Notice of Application Email to Agencies 3/12/2014
 - 21.22 Exhibit 22: CUP Notice of Application Publication Documents 3/13/2014
 - 21.23 Exhibit 23: Comments - Wayne Weidert 3/14/2014
 - 21.24 Exhibit 24: Comments - Kittitas County Public Health 3/14/2014
 - 21.25 Exhibit 25: Comments – Kittitas Valley Fire and Rescue 3/15/2014
 - 21.26 Exhibit 26: Comments – Milton Johnston 3/31/2014
 - 21.27 Exhibit 27: Comments Wash Dept Ecology – Gwen Clear 3/28/2014
 - 21.28 Exhibit 28: Comments – Barnaby and Barbara Peters 4/1/2014
 - 21.29 Exhibit 29: Comments – Kathryn Hales 4/1/2014
 - 21.30 Exhibit 30: Comments – Jason Smith 4/2/2014
 - 21.31 Exhibit 31: Correspondence Wash. Dept. Ecology – Cathy Reed 4/3/2014
 - 21.32 Exhibit 32: Transmittal of Comments & Email 4/16/2014
 - 21.33 Exhibit 33: Hearings Examiner Staff Report 4/24/2014

- 21.34 Exhibit 34: Staff power point presentation presented at the open record public hearing
- 21.35 Exhibit 35: Ellensburg's Municipal Code chapter 15.410 (streetscape design)
- 21.36 Exhibit 36: Ellensburg's Municipal Code chapter 15.570 (landscaping)
- 21.37 Exhibit 37: Ellensburg's Municipal Code chapter 15.580 (outdoor lighting)
- 21.38 Exhibit 38: Ellensburg's Municipal Code chapter 15.620(wetlands)
- 21.39 Exhibit 39: Digital "Movie" showing the subject property being surrounded by an 8ft chain link fence, 8ft stay up concrete wall and a 16ft stamped concrete wall.
22. The Kittitas County Community Development Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.
23. Appearing and testifying on behalf of the applicant was Merritt Ketcham. Mr. Ketcham testified that he was the agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Ketcham testified that he is a professional electrical engineer working on behalf of the City of Ellensburg. Mr. Ketcham testified that this project would be the third electrical substation for the City of Ellensburg. There is one substation serving the southwest quadrant of the city and a second in the southeast quadrant of the city. This substation is intended to serve the growth in the northern sections of Ellensburg.
- Mr. Ketcham testified that all of the proposed conditions of approval were acceptable to the applicant. However, they did suggest a modification to propose condition of approval #10 regarding landscaping. (Accurately recommended condition #11) Mr. Ketcham testified that their concern was that the type A landscaping under the city code requires the planting of trees that may interfere with electrical transmission lines entering the substation. The applicant was requesting type B landscaping as an alternative.
- In response to questioning by the Hearing Examiner, Mr. Ketcham indicated that the applicant would agree to type A landscaping as long as they were aloud to prone and otherwise cut back the landscaping so its not to interfere with the electrical transmission lines. Finally, Mr. Merritt indicated that their preferred access point would be off of Helen, perpendicular to N. Chestnut street.
24. No member of the public testified at the hearing.
25. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
26. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
27. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
28. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 14.04 Building Code, and Title 12 Roads and Bridges.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

As conditioned below, staff found that the application is not detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 12, Title 14, Title 17.61, Title 17.60A, & Title 17A of the Kittitas County Code and the Kittitas County Comprehensive Plan. The Hearing Examiner recommends approval of conditional use permit CU-13-8, Helena Substation.

IV. RECOMMENDED CONDITIONS OF APPROVAL

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file dated November 27, 2013 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. Development shall occur in substantial conformance with the Helena Substation Construction Site Plan provided on November 27, 2013 to Kittitas County. 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 including appendix D.

6. All development, design and construction shall comply with all Kittitas County Codes and the International Fire and Building Codes.
7. The property will be addressed according to Kittitas County Code with the address clearly visible from both directions of travel.
8. The property owner will provide KVFR with a site specific plan on mitigation of electrical hazards on the property.
9. All Street, Alley, Sidewalks, Curbs, Gutters, Driveways, Planting Strips, Utility Poles and other relevant "Public Works Construction" shall be in accordance with Ellensburg City Code (ECC) Title 4.
10. All frontage along the improvement area for the subject parcel along Helena Street shall be done in conformance to ECC Chapter 15.410 Streetscape Design as appropriate.
11. All landscaping in the development area and its immediate surroundings shall be in accordance with the standards established in ECC Chapter 15.570 . Chapter 15.570.040 Landscaping Type A shall be the designation utilized for the project and it shall be applied to the entire circumference of the development, provided that the landscaping may be pruned or trimmed so that the landscaping does not interfere with the overhead electrical transmission lines.
12. All Outdoor Lighting shall be in conformance with the standards established in ECC Chapter 15.580.
13. The wetland identified within the Critical Areas analysis shall addressed, regulated, and mitigated if necessary in accordance with the standards established in ECC Chapter 15.620 Wetlands.
14. Stormwater retention and disposal during and after construction shall be done in accordance with the standards in Ellensburg City Code.
15. Fencing shall be in accordance with the designs and site plans submitted with the application; it shall be 16 feet in height as indicated and be of a site obscuring nature.
16. A SEPA Mitigation Determination of Non-Significance (MDNS) was issued by Community Development Services on April 6, 2013. The following are the mitigation contained within the MDNS and shall be conditions of approval:

Water

- 16.1 Storm water and surface runoff generated by this project shall be retained and treated on-site in accordance with regulating agencies standards.

Air

- 16.2 Measures shall be taken on the project site for the duration of construction to control blowing dust and dirt.

Light & Aesthetics

- 16.3 All outdoor lighting shall be shielded and directed downward to minimize the effect of artificial lighting.

Noise

- 16.4 Development and construction practices for this project shall only occur between the hours of 7:00am to 7:00pm to minimize the effect from construction noise.

Dated this 1st day of May, 2014.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

1 EXISTING CONDITIONS SURVEY PROVIDED BY
DUCOMPASS ENGINEERING & SURVEYING





