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"Building Partnerships – Building Communities"

STAFF REPORT
BIG CREEK TRAILS REZONE (RZ-15-00001)

TO: Kittitas County Board of County Commissioners
FROM: Kittitas County Community Development Services Staff
RE: Big Creek Trails (RZ-15-00001)
DATE: August 30th, 2016

I. GENERAL INFORMATION

Requested Action:
D.K. Professional Consultants, Inc. has submitted a rezone application with associated site plan and project narrative to change the current zoning from Rural Recreation and Rural 5 to a Planned Unit Development (PUD) that allows from one-quarter acre to over 20 acre parcel size, with an overall density of one unit per parcel. This proposed use is an allowed use in the Planned Unit Development zone per KCC 17.36.15.02.

Location: The subject property consists of eleven (11) parcel, located approximately 8 miles east of the City of Cle Elum south of Nelson Siding Road, in a portion of Section 28, 29 and 32, T20N, R14E, WM in Kittitas County, bearing Assessor's map number 20-14-28000-0018, 20-14-28000-0054, 20-14-29000-0006, 20-14-29000-0015,20-14-29000-0017, 20-14-29000-0018, 20-14-29000-0019, 20-14-32000-001, 20-14-32000-003, 20-14-32000-0004, and 20-14-32000-005.

II. SITE INFORMATION

Total Project Size:	290 acres
Number of Lots:	58
Domestic Water:	Group B Water System/ Proposed Group A Water System
Sewage Disposal:	Individual and/or Community Septic System
Power/Electricity:	Puget Power
Fire Protection:	Fire District 7 (Cle Elum)
Irrigation District:	N/A

Site Characteristics: The site is heavily forested with areas of wetlands, steep slope, creeks and Bonneville Power Administration power lines that are located relatively in the middle of the property. The area is comprised of Category I., II, and III Wetlands, tributary streams of the Yakima River (Big and Little Creek), Kittitas Reclamation District canal is located on the easement to access the property.

Surrounding Property:

North: undeveloped/residential/agriculture
South: undeveloped/ Forest Service owned
East: Residential/Recreation
West: undeveloped/ Forest Service and Cascade Land Conservancy owned

Access: The proposed project will have access off of I-90 Exit 74 (West Nelson Siding Road Exit), onto Nelson Siding Road, east to Lund Lane, south on Lund Lane to a point of intersection where a new interior road will be constructed within an existing easement for this use.

Zoning and Development Standards: The subject property is currently located within the Rural Recreation and Rural 5 zoning district. Planned Unit Development zoning is being requested, which is an appropriate zoning classification and Rural Recreation land use designation. The purpose and intent of the Planned Unit Development zone is to meet one or more of the following objectives:

- encourage more innovative design than is generally possible under conventional zoning and subdivision regulations,
- encourage more economical and efficient use of land, streets, public services, preserve and create useable open space and other amenities superior to conventional developments,
- preserve important nature features of the land, encourage development of a variety of housing types and densities, encourage energy conservation,
- encourage development of areas or site characterized by special geographical features, or
- permit flexibility of design that will create desirable public and private open space.

III. ADMINISTRATIVE REVIEW

Rezone Application with associated site plan: Application for a rezone from Rural Recreation and Rural 5 to PUD was received on July 16, 2015. The application was deemed complete on August 13, 2015. A Notice of Application was issued on October 12, 2015. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners within 500 feet and other interested parties.

Posting of Site: The signed Affidavit of Posting was returned to CDS on September 30, 2015 indicating that the site had been accurately posted with the "Land Use Action" sign as provided by CDS and required per KCC 15A.03.110.

IV. COMPREHENSIVE PLAN

The current land use designation is **Rural Recreation.** Under the 2014 Comprehensive Plan, Kittitas County has established the following goals and policies to guide future development through a 20 year planning window. These goals and policies were developed in an effort to ensure consistency and coordination with the future land uses and support the County Wide Planning Policies:

GPO 8.2 Rural lands often have an established land use pattern that inhibits urban character and are generally, and anticipated to continue to be, served by septic systems and individual wells or small community water systems.

GPO 8.5 In order to protect and preserve Resource Lands, non-resource development and activities on adjacent Rural lands shall require preservation of adjacent vegetation, existing landforms, or use of other methods that provide functional separation from the resource land use.

GPO 8.12 Incentive-based land use strategies will be examined and adopted to encourage land uses which are compatible to the rural environment.

GPO 8.13 Encourage development activities and establish development standards which enhance or result in the preservation of rural lands.

GPO 8.14 Allow for a variety of rural densities which maintain and recognize rural character, agricultural activities, rural community and development patterns, open spaces and recreational opportunities.

GPO 8.14A Only allow comprehensive plan amendments, rezones, bonus densities, and other measures that increase rural densities where adequate supplies of potable water are available that will not adversely affect surface and ground water and agriculture.

GPO 8.14B Set allowed densities based on the available water resources and reserve adequate resources to support the Kittitas County's economic base including agriculture.

GPO 8.14C Development shall be located distances from streams, rivers, lakes, wetlands, critical areas determined necessary as outlined within existing Shorelines Management Program, the Critical Areas Ordinance and other adopted resource ordinances in order to protect ground and surface waters.

GPO 8.16 Give preference to land uses in Rural designated areas that are related to agriculture, rural residential development, tourism, outdoor recreation and other open space activities.

GPO 8.18 Limit development in rural areas through density requirements that protect and maintain existing rural character, natural open space, critical areas, and recreation areas. Direct rural development to lands that have adequate public services.

GPO 8.19 Develop buffer standards and regulations that will be used between incompatible rural uses.

V. REZONE CRITERIA

Any proposed Planned Unit Development must meet the following criteria per KCC 17.98.020.6 (a-h).

a) The proposed amendment is compatible with the comprehensive plan; and
b) The proposed amendment bears a substantial relation to the public health, safety or welfare; and
c) The proposed amendment has merit and value for Kittitas County or a sub-area of the county; and
d) The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property; and
e) The subject property is suitable for development in general conformance with zoning standards for the proposed zone; and
f) The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property; and
g) The proposed change in use of the subject property shall not adversely impact irrigation water deliveries to other properties; and
h) The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.

Staff responds to the above criteria with the following:

a) The proposed amendment is compatible with the comprehensive plan.

   Staff Response: This project proposes to create 58 parcels on 290 acres which are an allowed use in the Planned Unit Development zoning. Additionally, this proposal is currently east of Cle Elum and Roslyn with a comprehensive plan designation of Rural Recreation and Rural 5. The requested zone change from Rural Recreation and Rural 5 zoning to Planned Unit Development meets the intent of the policies listed above and is therefore compatible with the 2014 Comprehensive Plan.

b) The proposed amendment bears a substantial relation to the public health, safety or welfare.

   Staff Response: This amendment will not be detrimental to the health, safety, or welfare of the public. It is proposing to provide a Group B Water System for the first initial 9 connections. A Group A Water system shall be approved by Washington State Department of Health. On Site Sewage System shall be individual or community septic systems approved by the County Health Department will serve the lots.

The proposed PUD meets health and safety requirements.

c) The proposed amendment has merit and value for Kittitas County or a sub-area of the county.

Staff Response: The proposed amendment will provide for residential and recreation in the County that that will be economically beneficial to the County and therefore meets the intent of the Rural Recreation classification. This also meets the goals, policies, and objectives of the Comprehensive Plan by allowing a variety of rural densities which maintain and recognize rural character and recreational opportunities.

d) The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property.

Staff Response: The proposed rezone is appropriate for reasonable development of the subject property. This rezone to Planned Unit Development will make the property more useable by building of single family residences and recreation, and the development allows for mixed housing density and allowing for open space rural in nature.

e) The subject property is suitable for development in general conformance with zoning standards for the proposed zone.

Staff Response: The existing zoning designation is Rural Recreation and Rural 5 to be changed to Planned Unit Development (PUD) which is compatible with KCC 17.36.015.02.

f) The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property.

Staff Response: The proposed amendment will not be materially detrimental to the properties in the immediate vicinity of the subject property. Adjacent to the west is property currently owned by the Cascade Land Conservancy and the United States Forest Service. The property is bordered private residential property to the north. South of the proposal is property that is owned by the United States Forest Service and to the west is residential property. This proposal is compatible with the existing uses since the proposed open space will be consistent with the adjacent parcels existing uses in open space in the south, and the north will be adjacent to existing rural residential uses.

g) The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties.

Staff Response: There are no irrigation districts in this area. There will be no impact on irrigation water delivery.

h) The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.

Staff Response: Upon review of KCC 17.13 Transfer of Development Rights, staff has determined that the request to rezone from Rural Recreation, Rural 5 to planned unit development (PUD) is outside of the scope of KCC 17.13 because the Planned Unit Development meets the required density of the current zoning of Rural Recreation and Rural 5.Therefore, TDRs are not required for this rezone proposal.

V. ENVIRONMENTAL REVIEW

Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 30 day comment period and other information on file with Community Development

Services, a Mitigated Determination of Non-Significance (MDNS) was issued on June 17, 2016. The appeal period ended on July 1st, 2016 at 5:00 p.m. No appeals were filed.

VI. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments have been included as Exhibits in the Hearing Examiner packet.

VII. PROJECT ANALYSIS

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.

Comprehensive Plan Consistency:
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 following Comprehensive Plan GPOs apply to this proposal: GPO 8.2; 8.5; 8.12; 8.13; 8.14 (b & c); 8.16; 8.18; and 8.19.

Consistency with the provisions of KCC Title 12 Roads and Bridges:
All roads and accesses are required to meet all 2005 Kittitas County Road Standards., additionally, the United States Bureau of Reclamation will require the bridge to be replaced and transfer of ownership to the new replacement bridge to be privately owned. The Kittitas Reclamation District will require a Crossing License to be obtained to cross the KRD canal.

Consistency with the provisions of KCC 13 Water and Sewers Code:
This proposal with the recommended conditions is consistent with the Kittitas County Code for Water and Sewers. Department of Health (DOH) requires a Group A system to be approved.

Consistency with the provisions of KCC Title 14 Buildings and Construction:
This proposal with the recommended conditions is consistent with Kittitas County Code Title 14 for Building and Construction.

Consistency with the provisions of KCC 17.36, Planned Unit Development:
This proposal is consistent with the Kittitas County Zoning Code 17.36. The proposal is compatible with KCC 17.36.015.02 referring to the land outside the Urban Growth Area (UGA) and Rural LAMIRDs: The provision of this chapter can be used for the properties over twenty (20) acres in size, except that PUDs are prohibited on Resource Lands and Rural Lands in the Rural Working Land Use Designation. Specifically, a Planned Unit Development is compatible as a permitted use with 17.36.020.02 (A).

Consistency with the provisions of KCC 17A Critical Areas Code:
Staff has conducted an administrative critical area review in accordance with KCC 17A and found critical areas present on-site. There is a DNR stream type I – Fish bearing stream (Big Creek) along the western edge of the project site, and a DNR stream type I- Fish bearing stream (Little Creek) on the eastern edge of the project site. There is a 100 year floodplain located near both streams along the western and eastern edge of the project sites. Additionally there is a Category I, II, and III located near Big Creek and south of the Bonneville Power Easement per 2008 Wetland Inventory report. The proposed activities will take place north and between the west and east of both floodplains and no activity will occur in the two hundred [200] feet buffer from Ordinary High Water Marks (OHWMs) of Big and Little Creek.

Consistency with the provisions of KCC 20 Fire and Life Safety Code:
This proposal with the recommended conditions is consistent with the Kittitas County Code for Fire Life Safety.

Agency Comments:
The following agencies provided comments during the comment period: Washington State Department of Transportation, Washington State Department of Health, Washington State Department of Ecology, Kittitas County Environmental Health, and Kittitas County Public Works. Additional comments were provided during the pre-application meeting held on December 18, 2013 from Kittitas County Fire Marshal and Building Department.

Public Comments:
Ten comments have been received from the public.

VIII. RECOMMENDATION

As conditioned below, the application is not detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Titles 12, 13, 14, 17, 17A, and 20 of the Kittitas County Code and the Kittitas County Comprehensive Plan. Kittitas County Hearing Examiner and Staff recommend **approval** of the Big Creek Trails Rezone (RZ-15-00001) and associated site plan, subject to the following findings of fact and conditions:

Staff Findings of Fact

1. DK Professional Consultants has submitted a rezone application with associated site plan and project narrative to change the current zoning from Rural Recreation and Rural 5 to Planned Unit Development northwest of Cle Elum. This proposed use is an allowed use in the Planned Unit Development zone per KCC 17.36.15.02

2. The subject property consists of eleven (11) parcel, located approximately 8 miles west of the City of Cle Elum south of Nelson Siding Road, in a portion of Section 28, 29 and 32, T20N, R14E, WM in Kittitas County, bearing Assessor's map number 20-14-28000-0018, 20-14-28000-0054, 20-14-29000-0006, 20-14-29000-0015,20-14-29000-0017, 20-14-29000-0018, 20-14-29000-0019, 20-14-32000-001, 20-14-32000-003, 20-14-32000-0004, and 20-14-32000-005.

3.

Total Project Size:	Approximately 290 acres
Number of Lots:	58
Domestic Water:	Group B Water System converted to Group A system after 9 connections
Sewage Disposal:	Individual Septic
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District 7 (Cle Elum)
Irrigation District:	N/A

4. Surrounding Property:
   North: Undeveloped/Residential/Agriculture
   South: Undeveloped/Forest Service Owned
   East: Residential/Recreation
   West: Undeveloped/Forest Service & Cascade Land Conservancy owned

5. Site Characteristics: The site contains critical areas that include: a DNR stream type I – Fish bearing stream (Big Creek) along the western edge of the project site, and a DNR stream type I- Fish bearing stream (Little Creek) on the eastern edge of the project site. There is a 100 year floodplain located near both streams along the western and eastern edge of the project sites. Additionally, there are Category I, II, and III wetlands located near Big Creek and south of the Bonneville Power Easement per 2008 Wetland Inventory report. There is 30% and greater steep slope located on the property south of the Bonneville Power Easement. The area is contains wooded areas with some open space with low lying vegetation which is proposed to remain in open space.

6. The Comprehensive Plan designation is Rural Recreation and Rural Residential.

7. The subject property is zoned "Rural Recreation and Rural 5" and is proposing to be rezoned to "Planned Unit Development," which allows for Planned Unit Development as a permitted use.

8. A complete Rezone and Short Plat application was submitted to Community Development Services on July 16, 2015. The application was deemed complete on September 28, 2015. A Notice of Application for said applications was issued on October 15, 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. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners within 500 feet and other interested parties.

9. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 30 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on June 17, 2016. The appeal period ended on July 1, 2016 at 5:00 p.m. No appeals were filed.

10. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: GPO 2.30A; 2.32A; 2.32B; 2.34 (b, d, f, & g); 2.44; and 2.45. This proposal is consistent with the intent of the Urban Growth Areas of Kittitas County.

11. As conditioned, this proposal is consistent with the provisions of Kittitas County Roads and Bridges Title 12.

12. As conditioned, this proposal is consistent with the provisions of KCC 13 Water and Sewers Code.

13. This proposal, as conditioned, is consistent with Kittitas County Code Title 14 Building and Construction.

14. This proposal is consistent with the Kittitas County Zoning Code Title 17, more specifically KCC 17.48.

15. This proposal is consistent with Kittitas County Code Title 17A Critical Areas.

16. This proposal, as conditioned, is consistent with Kittitas County Code Title 20 Fire Life Safety.

17. Upon review of the project, it is determined that TDRs are not required for this rezone proposal.

18. The following agencies provided comments during the comment period:, Washington State Department of Health, Washington State Department of Ecology, Kittitas County Environmental Health,, Kittitas County Public Works, Bureau of Reclamation, Washington State Department of Fish and Wildlife, Bonneville Power Administration and Kittitas Reclamation District. Additional comments were provided during the pre-application meeting held on December 18, 2013 from Kittitas County Fire Marshal and Building Department. Ten comments were received from the Public. These comments have been integrated into the SEPA MDNS and the recommended conditions of approval.

Suggested Conclusions:

1. As conditioned, the development 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 and Bridges, Title 13 Water and Sewer, Title 14 Building and Construction, Title 15 Environmental Policy, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire Life Safety.

Suggested Conditions of Approval:

1. The project shall proceed in substantial conformance with the plans and application materials (RZ-15-00001 Big Creek Trails Rezone) on file dated July 16, 2015, and all submitted revisions except as amended by the conditions herein.

2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.

3. The applicant will adhere to all conditions that were agreed upon by the applicant and Department of Fish and Wildlife dated February 8th, 2016.

4. Based on comments received during the public comment period and other information submitted with this project permit application, A SEPA Mitigation Determination of Non-Significance (MDNS) was issued by Community Development Services on June 17, 2016. The following are the mitigation contained within the MDNS and shall be conditions of approval:

5. Group B water system shall be used for the initial 9 connections and shall be approved by Kittitas County Public Health Department. The Group B water system shall be converted to a Group A water system after the initial 9 connections from the Group B water system. The Group A public water system must be approved by the Washington State Department of Health (DOH) to serve all lots within the project. Site evaluations for Onsite Septic Systems must be completed at the frequency of one soil log per lot (KCC 13.04.09 (1(f)).

I. Transportation

a. Access: This project proposes to change the use of the existing access from the county road. The access must be improved to meet Kittitas County road standards. An access permit must be applied for and issued prior to beginning any work within the county right of way. Access must be completed prior to issuance of any building permits.

b. The Subject property has a federally owned bridge (United States Bureau of Reclamation) and requires a replacement of the bridge and transfer of ownership to privately owned and maintained bridge.

c. Kittitas Reclamation District requires a crossing license to be obtained to cross the KRD owned canal prior to construction.

d. Bonneville Power Administration (BPA) requires that any activity in parcels 20-14-29000-0019, 20-14-290000-0017, 20-14-32000-0001, 20-14-32000-0003, & 20-14-32000-0004 that occurs in the right of way needs to be permitted by BPA prior to installation or construction and acquire a Land Use Agreement for any portion of the development plans that lie within the BPA's right of way.

II. Water

a. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require a NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan). It is the applicant's responsibility to contact the Department of Ecology.

b. On-site stormwater management that conforms to the specifications of the most current version of the Stormwater management Manual for Eastern Washington is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The stormwater system design shall be presented to Public Works and reviewed by the County Engineer prior to issuance of a building permit. The stormwater system construction shall be certified by a licensed engineer prior to issuance of an occupancy permit.

c. All water proposed to be used must be obtained from a water budget neutral source meeting conditions of Kittitas County Code Chapter 13.35.

d. Withdrawals of groundwater on the subject property are subject to the rules and regulations adopted and administrated by the Washington State Department of Ecology; this includes the use of water for irrigation. Legally obtained water must be used on-site.

e. Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in an area becomes limited, use could be curtailed by those with senior water rights. Department of Ecology and Washington State Fish and Wildlife concur the surface water is not adequate to satisfy all water rights year-round.

f. Prior to applying for any type of building permit in Kittitas County, applicants shall be required to make appropriate provisions for potable water supplies per RCW 58.17.110 which includes, but is not limited to, the minimum requirements outlined in the Kittitas County Board of Commissioners Resolution 2012-027.

g. The Washington State Department of Health, Office of Drinking Water requires an approved water system for this project.

h. Category I wetlands require a 50' buffer from the wetland delineation in accordance to KCC 17A.02. Category II wetlands require a 25' buffer from the wetland delineation in accordance to KCC 17A.02. Category III wetlands require a 20' buffer from the wetland delineation in accordance to KCC 17A.02.

i. Setbacks to the shorelines of Big and Little Creek shall be consistent with the Shoreline Substantial Development Permit (SD-15-00002).

j. Washington State Department of Fish and Wildlife will require Hydraulic Project Approval (HPA) permit for any work that would influence flow or bed of either Big or Little Creek.

III. Air

a. If the applicant plans to burn trees or debris from the property, the applicant shall obtain a burn permit from the Department of Ecology. Only natural unprocessed vegetation may be burned in

an outdoor fire. It is the applicant's responsibility to contact the Department of Ecology regarding this permit.

b. Washington Administrative Code (WAC) 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the project site. Additionally, dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts or damaging property or business. As a result, the applicant shall be responsible for creating a site- specific Fugitive Dust Control Plan (FDCP) before starting this project. The plan shall be followed throughout the duration of any activity and construction of the project.

IV. Fire & Life Safety

a. Addresses of all new residences shall be clearly visible.

b. All construction must comply with Wildland Urban Interface Code (WUIC).

c. All structures must be sprinkled and hydrant, storage and fire flow systems are not required.

V. Light and Aesthetics

a. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.

b. RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds. Accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds.

c. All landscaping in the development area and its immediate surroundings shall follow the landscaping plan submitted with the Rezone application.

VI. Noise

a. Development and construction practices for this project shall only occur between the hours of 7:00 am and 7:00 pm to minimize the effect of construction noise on nearby residential properties.

VII. Historic and Cultural Preservation

a. 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.