

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

**CONDITIONAL USE PERMIT
DENIAL**

IRON HORSE SOLAR FARM CONDITIONAL USE PERMIT (CU-15-00006)

RESOLUTION

NO. 2017- 022

WHEREAS, according to Kittitas County Code Title 15A, relating to Hearings and Title 17.60A Conditional Uses, an open record hearing was held by the Kittitas County Hearing Examiner on October 20, 2016, for the purpose of considering a conditional use permit known as Iron Horse Solar Farm CU-15-00006 and described as follows:

The construction and operation of a 47.5acre photovoltaic solar power generation facility on approximately 68 acres in the Agriculture 20 zone. The subject property is accessed off Caribou Road and located approximately 1 mile east of the City of Kittitas at 320 South Caribou Road, in a portion of Section 01, T17N, R19E, WM in Kittitas County, bearing Assessor's map numbers 17-19-01000-0023, 17-19-01000-0028, 17-19-01000-0042, and 17-19-01000-0043. Proponent: OneEnergy Development LLC authorized agent for Bill Hanson, landowner.

WHEREAS, public testimony was heard, in favor of and 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; and,

WHEREAS, a closed record public hearing was held by the Board of County Commissioners on December 20, 2016 and January 10, 2016 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 AT LAW concerning said proposed conditional use:

1. OneEnergy Development LLC authorized agent for Bill Hanson, landowner, submitted a conditional use application for a Major Alternative Energy Facility on approximately 68 acres.

The subject property is zoned Agriculture 20. This “Utility” (KCC 17.61.010{1}) is subcategorized as a major alternative energy facility (KCC 17.61.010{9}), and as such requires approval of a conditional use for the zone 17.61.020(4)(b).

2. This proposal is located approximately 1 mile east of the City of Kittitas at 320 South Caribou Road, in a portion of Section 01, T17N, R19E, WM in Kittitas County, bearing Assessor’s map numbers 17-19-01000-0023, 17-19-01000-0028, 17-19-01000-0042, and 17-19-01000-0043. Access as proposed is provided for via an existing permit with Kittitas County.
3. The Kittitas County Comprehensive Plan’s Land Use Element designates the subject property as Rural Working and the zoning for this proposal is Agriculture 20.
4. Kittitas County Code provides under Chapter 17.60A.015 provides review criteria for conditional use permits which states that:

The Director or Board, upon receiving a properly filed application or petition, may permit and authorize a conditional use when the following requirements have been met:

- 1) The proposed use is essential or desirable to the public convenience and not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood.
- 2) The proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by finding that
 - a) The proposed use will be adequately serviced by existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers, and schools; or
 - b) The applicant shall provide such facilities; or
 - c) The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.
- 3) The proposed use complies with relevant development standards and criteria for approval set forth in this title or other applicable provisions of Kittitas County Code.
- 4) The proposed use will mitigate material impacts of the development, whether environmental or otherwise.
- 5) The proposed use will ensure compatibility with existing neighboring land uses.
- 6) The proposed use is consistent with the intent and character of the zoning district in which it is located.
- 7) For conditional uses outside of Urban Growth Areas, the proposed use:
 - a) Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, including the policies of Chapter 8, Rural and Resource Lands;

- b) Preserves "rural character" as defined in the Growth Management Act (RCW 36.70A.030(15));
 - c) Requires only rural government services; and
 - d) Does not compromise the long term viability of designated resource lands.
5. The Washington State Growth Management Act mandates the county to develop a comprehensive plan, and that within that plan a Rural Element be devised which "include measures that apply to rural development and protect the rural character of the area as established by the County." These measures must be used to control rural development, assure visual compatibility of rural development with surrounding areas, reduce sprawl and protect against conflict with the use of agricultural, forest and mineral resource lands (RCW 36.70A.070). "Rural Character" is defined in the Act thus:

"Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

- (a) In which open space, the natural landscape, and vegetation predominate over the built environment;
 - (b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
 - (c) That provide visual landscapes that are traditionally found in rural areas and communities;
 - (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
 - (e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;
 - (f) That generally do not require the extension of urban governmental services; and
 - (g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.
6. The conditional use permit application was submitted to Community Development Services (CDS) on November 12th, 2015. On December 17th, 2015 the application was deemed incomplete following a mandated pre-application meeting between county staff and representatives of the applicant. Materials required at that time included a transportation concurrency application. On March 3rd, 2016 revised project materials were submitted by the applicant who included the required information as well as an updated narrative and SEPA checklist. The application was deemed complete on May 12th, 2016. The Notice of Application for the conditional use permit was issued on May 23rd, 2016. 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 with regard to the proposal

was on June 7th, 2016.

7. Kittitas County acted as the lead agency for the SEPA Environmental Checklist and threshold determination. As per WAC 197-11-355 and KCC 15A.04.010 the county utilized the optional DNS process. Notice was given that the County was expecting to issue a Determination of Non-Significance, and that the notice of application comment period (14 days) may be the only opportunity to provide comment on the environmental impacts of the proposal.
8. The SEPA checklist was reviewed by staff in conjunction with the project narrative. On June 27th, 2016 the application was placed on hold by the applicant and review was temporarily suspended. On July 15th, 2016 the applicant requested that review continue and submitted supplemental documentation with respect to comments received.
9. After a detailed review of the SEPA checklist, the project narrative, supplemental submission, and proposed mitigation measures the SEPA official determined that there would be no significant adverse environmental impacts under the provisions of WAC 197-11-350. A Mitigated Determination of Non-Significance (MDNS) was issued for this project on August 10th, 2016.
10. The appeal period for the SEPA determination ended on August 24th, 2016 at 5:00 p.m. A timely appeal was filed with the BOCC on August 24th, 2016 by "Save Our Farms! Say No to Iron Horse". The appeal was heard before the Kittitas County Hearing Examiner on Thursday October 20th, 2016. The Hearing Examiner issued a decision on November 8th, 2016 which, based on listed findings, held *that* "...the August 10, 2016 SEPA determination by the responsible official in the above referenced matter is affirmed in every respect".
11. The Hearing Examiner open record public hearing for the SEPA appeal and the Conditional Use Permit was held on October 20th, 2016. Representatives of the applicant presented materials and testified at the hearing. Members of the public testified. On November 9th, 2016, the Kittitas County Hearing Examiner returned a recommendation that the Iron Horse Solar Farm Conditional Use Permit (CU-15-00006) be approved with the staff recommended conditions plus an additional two conditions.
12. The Board of County Commissioners conducted a closed record meeting on December 20th, 2016 and continued the meeting to January 10th, 2017 for the purpose of considering the Iron Solar Farm Conditional Permit (CU-15-00006). A motion was made and seconded that the conditional use permit be denied; the motion carried on a vote of 2-1 with the following conclusions:

NOW THEREFORE, BE IT HEREBY RESOLVED that the Kittitas County Board of Commissioners hereby deny the approval of the **Iron Horse Solar Farm Conditional Use Permit (CU-15-00006)** and adopt the above Findings of Fact, and Conclusions of Law.

1. Open space, the natural landscape, and vegetation **would not predominate** over the built environment on the subject parcels if the proposal were approved in this location (**RCW 36.70A.030(15)**).
2. The proposed use in the proposed location **is not** essential or desirable to the public convenience and is detrimental or injurious to the public health, peace, or safety, or to the character of the surrounding neighborhood (**KCC 17.60A.015(1)**)
3. The proposed use in the proposed location **would not** ensure compatibility with existing neighboring land uses (**KCC 17.60A.015(5)**).
4. The Proposed use in the proposed location **does not** preserve the "rural character" as defined in the Growth Management Act (RCW 36.70A.030(15)) (**KCC 17.60A.015(7)(B)**).

DATED this 7th day of February, 2017 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON

OPPOSED

Paul Jewell, Chairman

Laura Osiadacz, Vice Chairman

Obie O'Brien, Commissioner

APPROVED AS TO FORM:

Greg Zempel WSBA #19125



ATTEST:

CLERK OF THE BOARD

Julie A Kjorsvik
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