Ordinance 2016-024

BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON

ORDINANCE

NO. 2016-024

BIG CREEK TRAILS PLANNED UNIT DEVELOPMENT IN THE MATTER OF AMENDING THE KITTITAS COUNTY ZONING ATLAS TO DESIGNATE PORTIONS OF THE COUNTY AS PLANNED UNIT DEVELOPMENT

WHEREAS, according to Kittitas County Code Titles 15A, 16 & 17, relating to rezones and plats and adopted pursuant to RCW 36.70B & 36.70 respectively, an open record hearing was held by the Kittitas County Hearing Examiner on July 14, 2016 for the purpose of considering a zone change consisting of approximately 290 acres from Recreation-5 zone to Planned Unit Development consisting of 58 residential lots of approximately one (1) acre in size and approximately 230 acres in open space park and trails on 11 parcels of land described as follows:

> The subject property consists of eleven (11) parcels, 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 numbers: 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.

WHEREAS, testimony was taken on July 14, 2016 from those persons present who wished to be heard during said open record hearing before the Kittitas County Hearing Examiner; 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 zone change; and

WHEREAS, the Hearing Examiner recommended approval of said proposed rezone under recommended conditions on July 28, 2016; and

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on September 20, 2016 to consider the Hearing Examiner's recommendation on this matter; and

WHEREAS, the Board of County Commissioners continued such hearing to October 18, 2016 and November 1, 2016 to further consider conditions recommended by staff and the Hearing Examiner; and

WHEREAS, the following FINDINGS OF FACT regarding the rezone have been made by the Board of County Commissioners concerning this ordinance:

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(2).

2. 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.

3. A Notice of Application for said proposal 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 within 500 feet of the proposal and other interested parties. This notice was also published in the official county paper of record.

4. 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 and no appeals were filed.

5. 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.

6. The proposal is consistent with the applicable goals and policies of the Kittitas County Comprehensive Plan.

7. As conditioned, this proposal meets the provisions of Kittitas County Code Title 12, Roads and Bridges; Title13, Water and Sewers; Title 14, Building and Construction; Title 17, Zoning; Title 17A, Critical Areas; and Title 20, Fire, Life and Safety.

8. This proposal meets all the criteria required of approving a Planned Unit Development in Chapter 17.36.045(1)

9. Additional conditions are not necessary at this stage of the planning and approval process

to protect the public's interest.

NOW THEREFORE, BE IT HEREBY ORDAINED the Board of County Commissioners of Kittitas County, Washington, after due deliberation of all of the facts and in the best interest of the public, does hereby approve said zone change from Rural 5 to Planned Unit Development subject to the following conditions:

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 final plats.

b. The Lund Lane extension and the crossing of the irrigation canal will be a private road built to meet public road standards and dedicated for public use.

c. Construction of Road "A" will be a private road built meeting public road standards and dedicated for public use. Construction of Road "B" will be built to current private road standards with an all-weather surface.

d. The southerly most road depicted on the preliminary plan map shall dedicate a 60 foot easement for future connection with Misty Mountain Way.

e. The Subject property is accessed via a federally owned bridge (United States Bureau of Reclamation) and requires a replacement of the existing bridge built to County public bridge construction standards and transfer of the replacement bridge to Kittitas County. Prior to approving any final plat, the applicant or successors must obtain the necessary permits through United States Bureau of Reclamation for the permanent crossing of the canal.

f. Access to Lot 43 by driveway may occur if no access is provided by the driveway to Lots 44 and 45. Access may be provided to lots 43 through 45 if the road is constructed to meet private road standards and has an all-weather surface.

g. 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 an 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 final plat approval. The stormwater system construction shall be certified by a licensed engineer prior to issuance of any building 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 administered 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 final plat approval 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. 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.

i. Site evaluations for Onsite Septic Systems must be completed at the frequency of one soil log per lot

(KCC 13.04.09 (1)(f)).

j. Any plat within the Planned Unit Development is subject to any easements of record and does not modify such easements.

k. Construction upon the PUD and final PUD approval will be contingent upon the applicant receiving approval of a substantial development permit, SD-15-00002, from the County with review from the State Shorelines Hearings Board. No structures will occur within 200 feet of any shoreline of the State as indicated by the applicant.

III. Environmental and Open Space

a. 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.

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

c. A Hydraulic Project Approval (HPA) permit shall be obtained for any work that would influence flow or bed of either Big or Little Creek.

d. The Applicant shall establish a riparian corridor being 200 feet wide measured from the Ordinary High Water Mark (OHWM), as per RCW 90.58.030, of Big Creek in an easterly direction onto the PUD property, and of Little Creek in a westerly direction onto the PUD property.

e. The Applicant shall place signs marking the riparian and wildlife movement corridors of Big Creek and of Little Creek. A minimum of four (4) signs will be placed upon the Big Creek corridor and a minimum of four (4) signs will be placed upon the Little Creek corridor. Signs shall be a minimum of 36" square. Signs shall be placed prior to the first final plat recording. Applicant shall submit a map that shows the location of the signs prior to the first plat being recorded. Signs will also identify these areas as a wildlife movement corridor.

f. The riparian corridor of Big Creek and of Little Creek shall be marked with signs, flagging or other suitable material prior to the beginning of construction and during construction, which shows the limit of any allowed ground disturbance. Markings shall remain in place during any and all construction related to the development of the PUD.

g. There shall be no disturbance, without approved permits, within the Big Creek or Little Creek riparian areas during the construction of the PUD.

h. There shall be no disturbance, without approved permits, of any critical areas and buffers as described in the 2008 and 2015 Sewall Report during the construction of the PUD.

i. Wetlands and critical areas as identified in the Applicant's proposal shall be identified on the ground with a minimum of four signs. Signs shall be a minimum of 36" square. Signs shall be placed prior to the filing of the first final plat. Applicant shall submit a map that shows the location of the signs prior to the first plat being recorded. Signs will also identify this area as a wildlife movement corridor.

j. The applicant shall relocate lots 57 and 58 to an area adjacent to or in close proximity to the larger residential area identified on the site plan that has been submitted with the PUD application as conditioned as follows:

1) The current planned residential foot print, identified on the site plan that has been submitted with the PUD application, may be enlarged a maximum of 7.5 acres to absorb the relocation of Lots 57 and 58 (identified on the site plan attached to the PUD application);
2) The current location of the home sites may be relocated within the site as long as any additional impacts are mitigated.;
3) The road that was planned to connect the two home site foot print areas will not be required as the roads of the PUD will be built to the public road standards as defined in Kittitas County Code Title 12; and
4) The recreation storage area may be moved or split into two locations with one being located near or adjacent to the northern boundary of the BPA power line easement and not adjacent to the residential area.

k. There shall be a wildlife movement corridor established between Big Creek and the identified wetland/critical area that is located towards the center of the project. This movement corridor shall be located north of the BPA power lines on the ridge that runs above the residential area. The existing trail in this area will be identified as non-motorized access only.

l. All trails and recreation use shall be outside of the protected creek corridors and established wetlands, critical areas and the buffers established for said areas.

m. Upon approval of the Final Development Plan for the PUD and prior to the recording of the first plat, the applicant will provide WDFW with easements required to maintain the diversions and fish screens on Big Creek.

n. The Final Development Plan shall show the riparian corridors, wetlands, and critical areas. The final plat recordings shall show the riparian corridors, wetlands, and critical areas marked on the Final Development Plan map.

o. Trails developed south of the BPA easement in the forested areas that are not disturbed by the

development of trails shall be left in their natural state. Fire control and fire wise actions may be taken in the trail development.

p. The identified open space tracts shall be proportionately owned by tenants in the common, and retained by each home owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation. This requirement shall not apply to lots retained by the original landowner or subsequent landowner(s) for the purpose of providing improved recreational facilities serving the benefited parcels. For the purposes of this condition, improved recreational facilities shall be those which exceed $100,000 in value.

q. Non-buildable parcels. Any parcel created specifically for, or dominated by, easements, roadways, storm water retention facilities, septic facilities or other purposes and as a result or otherwise are non-buildable shall be proportionately owned as tenants in common of the benefited parcels, retained by each parcel owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation.

IV. 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.

V. 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. A fire suppression system shall be provided which is approved by the Kittitas County Fire Marshall and Washington State Department of Health.

VI. 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.

VII. 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.

VIII. Historic and Cultural Preservation

a. Should ground disturbing or other activities related to the proposed planned unit development 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.

NOW THEREFORE, BE IT FURTHER ORDAINED by the Board of County Commissioners that the official zoning map for Kittitas County be changed as set forth in the attached Zone File Map.

DATED this 6th day of December, 2016, at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

ATTEST: BOARD OF COUNTY COMMISSIONERS KITTITAS COUNTY, WASHINGTON SEAL

Julie Kjorsvik, Clerk of the Board

Obie O'Brien, Chairman

Paul Jewell, Vice-Chairman

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ABSENT

Laura Osiadacz, Commissioner

APPROVED AS TO FORM:

Neil Caulkins, Deputy Prosecuting Attorney for
Gregory L. Zempel
Prosecuting Attorney
WSBA #19125

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Attachment A

