

KITTITAS COUNTY BOARD OF ADJUSTMENT

MEETING MINUTES - January 18, 2006

HAL HOLMES COMMUNITY CENTER

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Board Members Present:

Chair, Richard Kloss, Roy Chance, Frank Jones, Stan Bossart, Daryl Akkerman

Staff Present:

Marco Rains, Joanna Valencia, Noah Goodrich, Community Development Staff Planners; Darryl Piercy, Community Development Services Director; Randy Carbary, Public Works Planner; Susan Barret, Clerk of the Board.

Public Present:

Approximately 9 people were present representing the public and applicant interest.

I. Call to Order

With a quorum present, Chairman Kloss called the meeting of the Board of Adjustment to order at 7:00 p.m.

II. Election of Board Chairman and Vice-Chairman

The Chair opened nominations for the 2006 & 2007 term of Board of Adjustment Chairman and Vice-Chairman.

Stan Bossart moved to nominate **Roy Chance** to the position as Board of Adjustment Chairman. The motion was seconded and approved unanimously.

Daryl Akkerman moved to nominate **Frank Jones** to the position as Board of Adjustment Vice-Chairman for a term of two years – 2006 & 2007. The motion was seconded and approved unanimously.

III. Correspondence

The Clerk reported no new correspondence.

IV. Minutes

Stan Bossart moved to approve the November 9, 2005 minutes with two amendments. First, minutes need to reflect the adoption of the new Rules of Procedure. Second, the actual vote on the Freeman motocross was 4/1. The motion was seconded and approved unanimously.

V. Unfinished Business:

- A. A.C. & Chris Freeman & Gary and Becky Inge Motocross Facility in the Forest and Range Zoning District - C 05-06.**

The Chair opened the meeting for the Findings of Fact, Conclusions of Law and Decisions for A.C. & Chris Freeman and Gary and Becky Inge Motocross Facility in the Forest and Range Zoning District - C 05-06.

Staff Planner, Marco Rains, presented the Finding of Fact and Conclusions of Law. Attached hereto and incorporated herein is a copy of those Findings.

Roy Chance moved to approve the Findings of Fact. The motion was seconded and unanimously approved by a poll of the Board.

Finding of Fact – Freeman/Inge Motocross Facility – C 05-06

This matter having come before the Kittitas County Board of Adjustment on November 9th, 2005 concerning the Conditional Use Permit for the Freeman/Inge Motocross Facility (File No. C-05-06), the Board of Adjustment makes the following Findings of Facts, Conclusions at Law and Decision related to the above referenced matter:

1. The Board of Adjustment finds that Richard T. Cole, authorized agent for A.C. & Chris Freeman and Gary and Becky Inge, landowners, on August 16th, 2005, submitted a application for a Conditional Use Permit for a motocross facility in the Forest and Range zoning district on tax parcel #17-21-13000-0005 (File No.C-05-06).
2. The Board of Adjustment finds that the Community Development Services Department issued a Notice of Application pursuant to KCC 15A.03 on September 14th, 2005 and a revised Notice of Application on September 20th, 2005 with a comment period ending on October 5th, 2005. The Board of Adjustment finds further that said notice solicited comments from jurisdictional agencies and landowners within 300 feet of the subject property as required by law.
3. The Board of Adjustment finds that the Community Development Services Department on October 24th, 2005 issued a SEPA Mitigated Determination of Non-significance (MDNS). The Board finds that the notice of said determination was provided to all required parties and published pursuant to 43.21C RCW with a November 8th, 2005 appeal deadline.
4. The Board of Adjustment finds that a public hearing was held by the Board of Adjustment on November 9th, 2005 to consider the Conditional Use Permit and that testimony was taken from those persons who wished to be heard. The Board also finds that due notice of this hearing has been given as required by law, and the necessary inquiry has been made into the public interest to be served by this proposal.
5. The Board of Adjustment finds that “Private Trail Clubs” may be permitted with a Conditional Use Permit in the Forest and Range zone (specifically KCC 17.56.030(B), Private Trail Clubs (snowmobiles, motorbikes), subject to the conditions set forth in KCC 17.60 (Conditional Uses).
6. The Board of Adjustment finds that the Freeman Motocross Facility application does not meet the definition of a “private trail club” as was intended in the Forest and Range zoning district. Additionally, the Board of Adjustment finds that adequate information

pertaining to the details of the proposed facility was not provided to the satisfaction of the board.

7. The Board of Adjustment finds that the proposed use **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 based upon the following findings:
 - a. The surrounding property is primarily range land where grazing and other agriculture activities occur. Testimony was received indicating motocross events in the area would be injurious to the public peace, safety and character of the neighborhood, including harm to livestock and ongoing agriculture activities in the surrounding area. Prior motocross events and/or races in the area have resulted death of livestock. Therefore, the proposed use is detrimental or injurious to the public peace, or safety and to the character of the surrounding neighborhood; and
 - b. The comprehensive plan designates the subject property as Commercial Agriculture. In the Commercial Agriculture land use designation, commercial agricultural activities take priority over other activities.
8. The Board of Adjustment finds that the proposed use at the proposed location **will be** unreasonably detrimental to the economic welfare of the county and that it **will** create excessive public cost for facilities and services by finding that the application has not adequately addressed fire and ambulance services.
9. The Board of Adjustment finds that the application submitted **does not** meet the requirements for approval (as stated in items 7 and 8 above) pursuant to KCC 17.60.010.

VI. New Business:

A. Puget Sound Energy Natural Gas Pipeline Extension: Phase II Yakima River Pipeline Crossing: Shoreline Substantial Development Permit (S-2005-02)

The Chair opened the hearing to the Shoreline Substantial Development Permit (S-2005-02)

Staff Planner, **Marco Rains**, presented his Staff Report by reading it into the record. Attached hereto and incorporated herein is a copy of that Staff report with Suggested Findings of Fact.

The Chair opened the hearing to Applicant presentation.

Brian Lenz, representing Puget Sound Energy, made himself available for questions and submitted a map labeled **Exhibit A**.

Larry Tornburg, representing Puget Sound Energy, briefly reviewed the project, giving more detailed information on the process of the drilling, locations and firms contracted to do the work. He suggested a seventh Finding of Fact be added to those already proposed. The Board questioned the soil make up of this area. Mr. Tornburg referred to Exhibit A (Boring Alignment Profile) and further detailed the strata. Discussion ensued.

The Chair opened the hearing to Public testimony. Having no public testimony the board began deliberations.

Daryl Akkerman made a motion to approve Puget Sound Energy Natural Gas Pipeline Extension: Phase II Yakima River Pipeline Crossing: Shoreline Substantial Development Permit (S-2005-02). The motion was seconded and approved by a 5/0 poll of the board.

Roy Chance moved that the board approve the Findings of Fact as submitted with an additional seventh Finding that would read as follows: *The Board of Adjustment has no objection to a modest change in the pipeline alignment to meet the requests of property owners who are in the process of completing negotiations with Puget Sound Energy.* Also note in Finding 6 that additional conditions are *not necessary* to protect the interest of the public. The motion was seconded and approved by a 5/0 poll of the board.

Findings of Fact - Shoreline Substantial Development Permit (S-2005-02)

The following general findings have been prepared by the Community Development Services Department Staff for consideration by the Board of Adjustment in rendering its decision on this matter. These findings may be used to reasonably support a recommendation in favor of or against this proposal; however additional findings may also be necessary.

1. The Board of Adjustment finds that a complete shoreline substantial development permit application was submitted to the Planning Department by Puget Sound Energy for the purpose of constructing a natural gas pipeline across the Yakima River, a shoreline of the state pursuant to 90.58 RCW.
2. The Board of Adjustment finds that the Community Development Services Department issued a Notice of Application pursuant to KCC 15A.03 on December 23rd, 2005. The Board finds that said notice solicited comments from jurisdictional agencies and landowners within 300 feet of the subject properties.
3. The Board of Adjustment finds that the Community Development Services Department issued a SEPA Mitigated Determination of Non Significance on December 23rd, 2005. The MDNS adopted the MDNS issued by the County on May 22nd, 2002 and covers the entire PSE Natural Gas Pipeline Extension – Phase II. The Board finds that the notice of said determination was provided to all required parties of record pursuant to 43.21C RCW.
4. The Board of Adjustment finds that a public hearing was held by the Board of Adjustment on January 11th, 2006 to consider this matter and that testimony was taken from those persons present who wished to be heard. The Board also finds that due notice of this hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by the proposed use.
5. The Board of Adjustment finds that the proposed shoreline development is consistent with the goals and policies of Kittitas County's Shoreline Master Program.
6. The Board of Adjustment finds that additional conditions **are not** necessary to protect the public's interest.
7. The Board of Adjustment finds that a slight change in the pipeline alignment is justifiable to meet the requests of property owners who are in the process of completing negotiations with Puget Sound Energy.

B. Williams Conditional Use Permit (C-2005-08)

The Chair opened the hearing to the Williams Conditional Use Permit (C-2005-08)

Staff Planner, **Joanna Valencia**, presented her staff report by reading it into the record. Attached hereto and incorporated herein is a copy of that staff report.

The Chair opened the hearing to Applicant presentation.

Peter Ewen, 300 North Sprague, Apt. 2, Ellensburg, Washington, representing Ellensburg Cement Products, gave a brief update on the project and made himself available for questions.

The Chair opened the hearing to Public testimony. Having no public testimony the board began deliberations.

Roy Chance made a motion to approve the Williams Conditional Use Permit (C-2005-08). The motion was seconded and approved by a 5/0 poll of the board.

Roy Chance moved that the board approve the Suggested Findings of Fact as submitted, noting in Finding 11 that the development *has* met the requirements, and Finding 12 that additional conditions *are not* necessary to protect the public interest. The motion was seconded and approved with a 5/0 poll of the board.

Findings of Fact - Williams Conditional Use Permit (C-2005-08)

This matter having come before the Kittitas County Board of Adjustment upon the above referenced Conditional Use Application of Don Williams, the Board of Adjustment makes the following Findings of Facts, Conclusions at Law and Decision related to the above referenced matter:

1. The Board of Adjustment finds that Peter Ewen of Ellensburg Cement Products, authorized agent for Michael Williams, landowner, submitted a complete application for the excavation and hauling of sand and gravel to enlarge an existing pond in the Agriculture-3 zone (KCC 17.28.130(f)) to Kittitas County Community Development Services on November 14, 2005.
2. The Board of Adjustment finds that the Community Development Services Department issued a Notice of Application pursuant to KCC 15A.03 on December 14, 2005. The Board of Adjustment finds further that said notice solicited comments from jurisdictional agencies and landowners within 300 feet of the subject properties as required by law.
3. The Board of Adjustment finds that written comments were solicited and the final date to submit written comments was on December 29, 2005 by 5:00pm. Written comments were received from the Washington State Department of Transportation, and the State of Washington Department of Ecology.
4. The Board of Adjustment finds that The Community Development Services Department on December 30, 2005 issued a SEPA Determination of Non-significance (DNS). The Board finds that the notice of said determination was provided to all required parties of record pursuant to 43.21C RCW.
5. The Board of Adjustment finds that an open record hearing was held on January 11, 2006 and

that testimony was taken from those persons present who wished to be heard. The Board of Adjustment also finds that due notice of this public hearing has been given as required by law, and the necessary inquiry has been made into the public interest to be served by this proposed project.

6. The Comprehensive Plan's Land Use Element designates the subject parcel as Rural. Such areas are generally characterized by lands that can support residential development, but also farming, mining and forestry. Consequently, particular precaution must be taken to minimize conflict between new residential developments and natural resource activities. The economy of our rural community has traditionally been based on natural resource activities and Kittitas County encourages and supports their continuation in Rural Lands.
7. The site is located within the Agricultural-3 zone. Pursuant to KCC 17.28 the purpose and intent of the Agriculture-3 zone is to provide for an area where various agricultural activities and low density developments co-exist compatibly.
8. "Sand and gravel excavation," may be permitted with a conditional use permit in the Agricultural-3 zone (specifically KCC 17.28.130(F)) subject to the conditions set forth in Chapter KCC 17.60 (Conditional Uses), provided that noncommercial excavation shall be permitted for on-site use without a conditional use permit. The application for sand and gravel excavation for off-site use and therefore requires a conditional use permit.
9. An administrative site analysis was completed by the staff planner in compliance with Title 17A on December 15, 2005. Critical Areas were found to be on-site and will need to comply with KCC 17 A (Critical Areas Code). The 100-year floodplain and some wetlands are located within and in the proximity of the pond. This project will need to comply with KCC 14.08 (Flood Damage Prevention) and KCC 17A.
10. The subject property is zoned Rural-3. The properties to the North, South, East are zoned Agriculture-3 and West are zoned Agriculture-20
11. The Board of Adjustment finds that the proposed development **has** met the requirements of KCC. 17.60.010 as listed below:
 - a. The Board of Adjustment finds that 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.
 - b. The Board of Adjustment finds that 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 (1) it will be adequately serviced by existing facilities or (2) that the applicant shall provide such facilities and (3) has demonstrated that the proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.
12. The Board of Adjustment finds that additional conditions **are not** necessary to protect the public's interest.

Valencia stated that the Findings of Facts and Conclusions of Law for the Williams Conditional Use Permit (C-2005-08) would be available at the next regularly scheduled Board of Adjustment meeting.

Minutes-1/18/2006 Board of Adjustment

With no further business, the meeting was adjourned at 7:46 p.m. The next regularly scheduled meeting is February 8, 2006.

Susan Barret, Clerk of the Board