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Sent via Email Only (cds@co.kittitas.wa.us; jamey.ayling@co.kittitas.wa.us)

Kittitas County Community Development Services
Attn: Jamey Ayling, Staff Planner
411 N. Ruby St. Suite 2
Ellensburg, WA 98926

RE: Fowler Creek Guest Ranch (CU-23-00003)
Applicant: Fowler Creek Trails, LLC (Owner)

Dear Mr. Ayling and Kittitas County Community Development Services:

1. INTRODUCTION

This office represents Friends of Fowler Creek (FOFC) concerning the above-noted proposal for a “guest ranch.” These comments are submitted on FOFC’s behalf and should be read in conjunction with comments submitted by FOFC members and supporters.¹

¹ See, e.g.:

[https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Beverly%20Kluth%20Fowler%20Creek%20Guest%20Ranch%20%20\(CU%2023-00003\)..pdf](https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Beverly%20Kluth%20Fowler%20Creek%20Guest%20Ranch%20%20(CU%2023-00003)..pdf)

[https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Beverly%20Kluth%20Fwd_%20Fowler%20Creek%20Guest%20Ranch%20%20\(CU%2023-00003\)%20-%20corrections.pdf](https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Beverly%20Kluth%20Fwd_%20Fowler%20Creek%20Guest%20Ranch%20%20(CU%2023-00003)%20-%20corrections.pdf)

https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Brent%20Fitzgerald%20Comments%20for%20the%20potential%20Fowler%20Creek%20Guest%20Ranch%20project%20_%20Project%20ID%20is_%20%20CU-23-00003.pdf

<https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Colville%20Tribe%20Comments%20CU-23-00003%20Fowler%20Creek%20Guest%20Ranch.pdf>

https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Laurie%20Nolan%20No%20to%20Fowler%20Creek%200_Guest%20Ranch_.pdf

As discussed in detail below, the term “application” cannot legitimately be applied to the submissions currently before the County. They lack basic facts and analyses and present instead as vague sales brochures. It is unclear how or why this application was permitted to advance to this stage in the process. FOFC is nonetheless submitting comments as best as can be done when the underlying application is itself elusive.

The bottom line is that, particularly with a barren, albeit prolix, application such as this, issuance of a SEPA threshold determination would be premature. Further, in light of the bare application presented for public comment, the requested Conditional Use Permit (CUP) must be denied. FOFC reserves all rights in this regard. Meanwhile, the following are FOFC counsel’s initial comments on the proposal.

2. INAPPROPRIATE WAIVER OF PRE-APPLICATION CONFERENCE

The Code requires a CUP applicant to request a preapplication conference. KCC 15A.03.020. The Code allows (but does not require) the County to grant a request for waiver from this requirement if one of several grounds are met. In this case, such a waiver was granted on the specific basis that the proposal “is substantially similar to other projects developed by the same applicant.” KCC 15A.03.020.4. A review of the “same” applicant’s other project applications demonstrates that the waiver here was a mistake. The other project applications appear to have been professionally prepared, were for primarily residential PUDs and/or concerned commercial activities, for which appropriate zoning was already in place (*e.g.*, Hyak PUD). Those CUP applications are characterized by much more specific information than this CUP application, in terms of such matters as site plans, water mitigation, and phasing.

Even the CUP application CU-12-00001 for a much smaller facility (Teaway Ridge Motor Trail Club) submitted several years ago by the same principal as here, Pat Deneen, was supported by reports (critical areas, noise) prepared by qualified professionals. Unlike here, it also included a survey based dimensioned site plan. *See* <https://www.co.kittitas.wa.us/cds/land-use/project->

https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Rosemary%20Dunkle%20Comments%20on%20Guest%20Ranch%209_2023.pdf

[https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Wally%20Burchak%20Fowler%20Creek%20Guest%20Ranch%20\(CU%2023-00003\).pdf](https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/Wally%20Burchak%20Fowler%20Creek%20Guest%20Ranch%20(CU%2023-00003).pdf)

<https://www.co.kittitas.wa.us/uploads/cds/land-use/Conditional%20Use%20Permits/CU-23-00003%20Fowler%20Creek%20Guest%20Ranch/WDFW%20comments%20on%20CU-23-00003%20Fowler%20Creek%20Guest%20Ranch%20to%20CDS.pdf>

Note: this list is not exhaustive; these links are just examples of the substantive public comments that the County should consider.

[details.aspx?title=Conditional%20Use%20Permits&project=CU-12-00001+Teanaway+Ridge+Motor+Trail+Club](https://www.pnwednet.org/details.aspx?title=Conditional%20Use%20Permits&project=CU-12-00001+Teanaway+Ridge+Motor+Trail+Club)

A pre-app conference is supposed to be an “informal discussion ... to assist the possible applicant in discovery of appropriate county regulations, standards, application formats and review processes that would be required of a project.” A pre-app conference therefore benefits the public as well as an applicant because it is intended to avoid the submission of, frankly, half-baked applications. The waiver here defeated this purpose, imposing an unfair burden on the interested public who have been asked to provide informed comments on an application that, despite its various pages and exhibits, is singularly uninformative.

3. APPLICATION PROCESSING SHOULD BE DISCONTINUED UNTIL INFORMATION GAPS AND DEFICIENCIES ARE SATISFACTORILY ADDRESSED

As analyzed below and in other public comments, this application is riddled with information gaps, fanciful claims unsupported by qualified professional analysis, and inconsistent assertions. The solution to this is clear: the Applicant should be informed that more information is needed on a host of topics before the application can proceed.

This is no different and even more necessary than it was in the Hidden Point Guest Ranch Application (CU-20-00005) in which CDS required, inter alia, a revised SEPA Checklist and an independent Critical Areas Report including “a wildlife species and habitat plan completed by a qualified professional.” In Hidden Ranch, CDS stated that application processing would not continue until “an updated SEPA Checklist and a Critical Areas Report are received.” This same approach should apply here where the application is even more deficient. The Applicant here should be advised that no SEPA Threshold Determination will be made and no public hearing will be scheduled until necessary information has been submitted and until the public has been given a chance to review the new information and submit additional comments.

Comparison with the CUP application for “The Outpost” (CU-23-00002), in which there is a professionally prepared critical areas report, a professionally prepared traffic impact analysis, and professionally prepared site plan, also demonstrates that this application should not be further processed.

In sum, to comply with its own Code and to be able to consider this application in light of Code CUP requirements, the County must require the Applicant to fill in the blanks now, before the application proceeds any further.

4. IN THE ALTERNATIVE, AN ENVIRONMENTAL IMPACT STATEMENT SHOULD BE REQUIRED NOW

The SEPA regulations state that “Further information may be required if the responsible official determines that the information initially supplied is not reasonably adequate to fulfill the purposes for which it is required.” WAC 197-11-100. Further the SEPA “lead agency may require field investigations or research by the applicant reasonably related to determining a proposal's environmental impacts (WAC 197-11-335).” WAC 197-11-100 (2).

The SEPA regulations do not permit an applicant to use information gaps as a means of obtaining a Determination of Nonsignificance. Where information continues to be “incomplete or unavailable” then the SEPA lead agency utilizes a “worst case analysis.” See WAC 197-11- 080 (3)(b). Here, where well-informed, specific public comments (including by consulted government agencies) have indicated substantial likelihood of adverse environmental impacts and the application has numerous information gaps and is not supported by qualified professional reports, the County should base its threshold determination on a worst case analysis. As such it should issue a Determination of Significance and require preparation of an environmental impact statement (EIS).

5. THE APPLICATION FAILS TO SATISFY KCC 17.60A.015 MANDATORY CRITERIA FOR CUP APPROVAL

KCC 17.60A.015 establishes multiple review criteria for CUP applications. The burden is on the Applicant to demonstrate that all CUP criteria are met. Even then, application approval is not required: if the criteria are met, the Code only states that the application “may” be granted. The use of “may,” not the mandatory “shall,” is legally significant. *Gorman v. Pierce County*, 176 Wn. App. 63, 79, 307 P.3d 795, 803, 2013 Wash. App. LEXIS 1884, *18-19, 2013 WL 4103314 (“Where a statute uses both ‘shall’ and ‘may,’ we presume that the clause using ‘shall’ is mandatory and the clause using ‘may’ is permissive.”).

The mandatory KCC 17.60A.015 CUP criteria are:

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
 1. 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
 2. The applicant shall provide such facilities; or
 3. 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:
 1. 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;
 2. Preserves "rural character" as defined in the Growth Management Act (RCW 36.70A.030(20));²
 3. Requires only rural government services; and
 4. Does not compromise the long term viability of designated resource lands. (Ord. 2019-013, 2019; Ord. 2013-012, 2013; Ord. 2013-001, 2013; Ord. 2012-009, 2012; Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988; Res. 83-10, 1983)

A. The Application Cannot Be Approved Under the Zoning Code

Although it is third in the list, KCC 17.60A.015(3) presents a dispositive threshold question: is the proposal as described in the application permitted at all, whether as a CUP or otherwise, under the terms of the KCC Zoning Code? *See also* KCC 17.60A.015.5, 6. The answer is no.

Integral to the proposal is an event center with a capacity and anticipated use beyond overnight guests:

Barn: The large barn will be used by the guest ranch guests for gatherings and events. The barn can accommodate up to 200 people, and will be perfect for weddings, birthday parties, and other special events. The barn will be decorated in a rustic style and will have a large dance floor.

Exhibit 7, Fowler Creek Guest Ranch Buildings and Recreational Facilities at page 2 (Emphasis added). This use goes well beyond the confines of the KCC 17.08.270 definition:

² FOFC counsel on October 18, 2023 brought to the attention of CDS staff that comment was not possible on the application's extensive reliance on *East Lake Sammamish Trail v. King County*, 193 Wn.2d 129 (2019) as a basis for its claims regarding "rural character" because there was no reported Supreme Court decision corresponding to that citation. Staff advised that it had not reviewed that aspect of the application but would seek clarification from the Applicant. Therefore, if the County permits this application to proceed, FOFC reserve the right to submit supplemental comments once the Applicant has disclosed an accurate caselaw basis for the application claims on this topic.

17.08.270 Guest ranch or guest farm.

"Guest ranch or guest farm" means a business or an organization providing overnight lodging, dining and recreational facilities in a rural setting. The purpose of a guest ranch or guest farm shall relate primarily to vacation, recreation and similar pursuits, and does not include rehabilitation centers, group homes, clinics, nursing homes, churches and church camps, and other similar uses. Events such as auctions, barbecues and similar gatherings which do not provide overnight lodging or which are not conducted on a continuous basis shall not be considered as guest ranches or guest farms. Enhanced agricultural sales are allowed. (Emphasis added).

The clear intent of this definition is to preclude a facility that goes beyond serving the needs of overnight guests. The application states that the facility's entire maximum capacity would be 116³, which leaves the barn's planned 200 person capacity touted by the application to be filled by almost 100 drop-in day visitors. This takes it outside of the KCC 17.08.270 definition.

In addition to precluding an event center that is divorced from overnight lodging and instead is a general event destination, the KCC 17.08.270 definition precludes events "not conducted on a continuous basis." Individual weddings and birthday parties, specifically cited by the application, are not continuous events.⁴

The CUP application also states that the facility will include a store that will sell groceries, snacks, souvenirs, apparel as well as a "selection of recreational retail and rental items:" mountain bikes, road bikes, cruisers, telescopes and binoculars, hiking gear (backpacks, tents, sleeping bags, and hiking poles), camping gear (coolers, stoves, lanterns, and cookware), fishing gear (including rods, reels, lures, and bait) and "a variety of other recreational items available for rent, such as kayaks, canoes, paddleboards, and scooters." Exhibit 7, Fowler Creek Guest Ranch, Buildings and Recreation Facilities at pages 3-4.

Based on this description, the store will not be small. Regardless, there is no authorization in the KCC definition of "guest farm or guest ranch" for a store as part of the facility, which is only allowed, if at all, by CUP. The definition is limited to overnight lodging, dining, and recreation. Further, the Code does not permit stores at all in the Rural Residential 5 zone.

In sum, based on the application description alone, the application should not have been accepted in its current form and should now be summarily denied as inconsistent with the Zoning Code as well as not meeting the KCC criteria.

³ Exhibit 9, Fowler Creek Guest Ranch, Sewage Treatment Plan at page 1, iv, F ("the entire maximum occupancy of the park is determined to be 116 individuals using and occupying the facilities at maximum capacity.")

⁴ Even if there were no lodging component to this application, approval would not be possible under the current plan. The Code allowance for (nonlodging) small event centers drastically limits such events to no more than eight per year. *See, e.g.*, KCC 17.15.050.2 (note 25), KCC 17.15.060.2 (note 45).

B. The Application Does Not Provide Required Critical Areas Information and Cannot Meet the Mandatory Code CUP Criteria

Agency comments already received, while circumspect, highlight the application's shortcomings. These comments should be given particular consideration here where they represent outside qualified professional commentary on an application on which the Applicant has provided none.

For example, WDFW notes the need for a critical areas report, inter alia, defining streams and wetlands, and reviewed by WDFW prior to approval. WDFW also questions the "residential habitats," overnight accommodations for guests, proposed for wetlands and their buffers. WDFW comments on CU-23-00003 Fowler Creek Guest Ranch to CDS, September 26, 2023.

WDFW's questioning comment about the "residential habitats" is particularly apt because, buried in the application materials, there is a reference to the fact that, despite the residential habitats' location, they will produce sewage. Exhibit 9, Fowler Creek Guest Ranch Sewage Treatment Plan at page 2.

The lack of a critical areas report from a qualified professional is doubly fatal to this CUP application. The Comprehensive Plan establishes a particular concern for protection of critical areas, as required under the Growth Management Act. Comprehensive Plan Policy RR-P13 states that "Development shall be located distances from streams, rivers, lakes, wetlands, critical areas determined necessary and as outlined within existing Shorelines Management Program, the Critical Areas Ordinance and other adopted resource ordinances in order to protect ground and surface waters." A coordinate policy, RR-P17, says the County will "Limit development in rural areas through density requirements that protect and maintain existing rural character, natural open space, critical areas, and recreation areas."

The Critical Areas Code, which implements the Comprehensive Plan, states in KCC 17A.01.010 "Purpose and Intent":

... The regulations of this Title are intended to:

1. Prevent degradation of critical areas;
2. Conserve, protect, and; where feasible, restore critical areas and their functions and values;
3. Protect unique, fragile and/or valuable elements of the environment, including ground and surface waters, anadromous fish species, and other fish and wildlife and their habitats;
4. Protect the public health, safety, and general welfare from hazards associated with critical areas;
5. Further the goals and objectives of the Kittitas County Comprehensive Plan and all of its elements;

6. Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A);
7. Allow for reasonable use of all properties in Kittitas County.

To accomplish this, the Code requires “complete information” on critical areas, “[p]rior to the county’s consideration of any proposed alteration or development...” KCC 17A.01.110.1, 2.

The present application is not supported by information from a qualified professional. Its “site plan” is not dimensioned based on an underlying survey. There has been no on the ground wetlands delineation. There is an inchoate proposal, though, for which approval is sought in the CUP application, to place overnight lodgings in the wetlands or buffers. This neither satisfies Code critical area requirements nor mandatory Code CUP criteria.

C. The Domestic Water Plan Is Deficient, Risking Public Health and Safety

The County Health Department letter points out that the well cited as a major water source has not been approved for its proposed purpose. CU-23-00003 Fowler Creek Guest Ranch – Public Health Comments, October 5, 2023.

However, the problems implicit in the application’s water plan are not limited to the issues raised by agency comments. In fact, the application has no water plan in any realistic sense of the term. Instead, it offers a collection of speculative possibilities such as hypothetical “use of cisterns to provide water to the various cabins as allowed by KCC 13.25,” without regard to those speculations’ feasibility or practicality and without any indication that they have been vetted by a qualified professional.⁵ For example, the quoted reference to the use of cisterns does not address KCC 13.25.020 limitations/prohibitions on cistern use.

There is also no explanation of what arrangements there will be for fire flow, a critical safety question not just for the facility itself, but also for surrounding properties that may be put at risk by the facility’s activities, including facilitating fires by transient guests.

The deficiencies in what the application claims is a “Domestic Water Plan” are not cured by its vague, catch-all reference to “Development of other water sources as allowed by the Washington State Department of Health, Washington State Department of Ecology, and the Kittitas County Public Works and Health departments.” This is in effect a proposition for “approval now, specifics later” concerning the proposal’s crucial water supply needs. It falls far short of meeting the Applicant’s burden to satisfy the CUP criteria. *See, e.g.*, KCC 17.60A.015.3, .7.

D. There is No Actual Plan for Sewage

⁵ Exhibit 8, Fowler Creek Guest Ranch, Domestic Water Plan at pages 1-2.

The County Health Department comment letter questions the “flow numbers that were calculated for the project and where those numbers were derived.” CU-23-00003 Fowler Creek Guest Ranch – Public Health Comments, October 5, 2023. The question is particularly important when one considers that the application is based on the assumption that “the combined total wastewater at 100% occupancy would be approximately 6,629 gallons per day” when, per the application, 100% occupancy would be by 116 people. There is no acknowledgement that the ratios themselves used to calculate waste are questionable. There is also no apparent recognition that the commercial dining aspect of barn events would add to water consumption and consequently to waste. That waste would potentially not just be the product of lowkey domestic use.

Equally important, the application’s discussion of sewage is again largely speculation, an IOU for necessary information, deferring specifics as to where and how:

- (v) The proposed Fowler Creek Guest Ranch may be developed over 22 years as discussed in other areas of this application. There will be multiple types of sewage treatment systems including up to ten pumped storage tanks, septic systems, and/or a membrane bioreactor (MBR) plant developed over the development period as follows:
- a. The building for the main ranch house and dining area is constructed and currently occupied. This building has an established septic system that will be reviewed and updated and/or enlarged if required.
 - b. A small community drain field may be constructed to service each of the short-term cabins that will be constructed.
 - c. Initially, an approved underground storage tank will be used for the collection of sewage from the recreational vehicles. This tank would be pumped by a licensed sewage hauler and taken offsite for treatment. Once the flow becomes adequate, a drain field or small MBR plant could be constructed onsite to treat the collective sewage.
 - d. As the proposed Fowler Creek Guest Ranch continues to grow as described in Exhibit 1 - Narrative, an MBR plant may be created by the proposed guest ranch and constructed for all sewage treatment.

Exhibit 9, Fowler Creek Guest Ranch, Sewage Treatment Plan at pages 2-3 (Emphasis added).

As already noted, the burden is on the Applicant to demonstrate the mandatory CUP criteria are met. These criteria require, inter alia, demonstration that the proposed use is not detrimental or injurious to the public health and that it will be adequately serviced by public facilities, or the applicant will provide adequate facilities such as drainage structures, refuse disposal, water and sewers. KCC 17.60A.015.1 and 2. A statement that “we might do this or that... somewhere” does not suffice especially for questions of sewage disposal with the potential for harmful environmental impacts (*i.e.*, on groundwater, on public health).

E. The Proposed Facility Is Undesirable and Detrimental

The comment letters submitted by neighboring property owners and concerned citizens express concern about noise and fire safety, based on experience. Noise is a concern because it will not only be inherent in the lodging use. It will be a product of and compounded by the large event facility and a store with a broad stock.

Further, although not forthrightly analyzed in the application, the facility will also be a jumping off point for ORVs and appears to be implicitly planned with that function in mind. Excessive ORV use is already a noisome factor in the rural residential area where the facility would be located and cannot bear intensification.

Another unfortunate factor in the zone where the facility would be located is fire risk. Yet, the proposal would actually facilitate and encourage fires by transient lodgers with little if any oversight -- and no concrete measures for water supply that may be needed to suppress fires:

Recreational vehicle camping sites: 30 RV camping sites will be located in a wooded area near the entrance to the ranch. Each site will have a gravel or hard surfaced parking site, electrical hookup, sewer hookup, picnic table, and a fire pit. Water may be provided to the site if legally available. The sites will be spaced farther apart to provide privacy for guests and to create a more rural feel.

Exhibit 7, Fowler Creek Guest Ranch, Buildings and Recreation Facilities at page 1 (Emphasis added).

Fires will even be facilitated during burn bans based on the conceit that the use of an outdoor propane flame does not present a fire risk:

Fire pits: There will be several fire pits located throughout the ranch. The fire pits will be a great place to relax and enjoy the scenery. Guests can roast marshmallows and tell stories around the fire. Selected fire pits will have access to propane gas to power the flames during burn bans and periods of high fire danger.

Exhibit 7, Fowler Creek Guest Ranch, Buildings and Recreation Facilities at page 2 (Emphasis added.)

KCC 17.60A.015.1 requires that a CUP applicant demonstrate that:

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.

Even just with regard to the critical factors of fire safety and noise, this application demonstrates the contrary.

F. Road Access

The proposal's arrangements for access (ingress and egress) also fail to satisfy the mandatory KCC 17.60A.015 CUP criteria. The situation is explained repeatedly in public comments already submitted, including recently in the October 18, 2023 letter from Shawn M. Plichta, PE. Engineer Plichta's comments are incorporated here by reference. They raise questions that should have been addressed in a TIA by a professional engineer. Instead, the application offers unprovenanced traffic assertions and does not satisfactorily address the road capacity, geometry, and emergency event risks inherent in the proposal's access arrangements. As in other respects, the application's access/traffic arrangements are not desirable to the public convenience and are detrimental to public peace and safety. KCC 17.60A.015.1. They also do not satisfy KCC 17.60A.015.4, 5, 6.

6. CONCLUSION

This application cannot legally proceed. It includes significant integral uses that the Zoning Code simply does not permit. Further, although some form may be permitted as a conditional use, the iteration proposed here falls well outside the Code definition of a guest ranch allowable as a conditional use. Even if these fundamental flaws did not exist, the application is deficient in information necessary and required by Code to process it and to make a determination that it satisfies all of the Code mandatory CUP criteria.

Based on the foregoing, this application should be rejected now. It should not be permitted to create a further imposition on the concerned public which has already had to respond to it, despite its obvious deficiencies. If the application nonetheless proceeds, FOFC reserves all rights.

Sincerely,

EGLICK & WHITED PLLC

A handwritten signature in black ink, appearing to read 'P. Eglick', written in a cursive style.

Peter J. Eglick