

October 9, 2024

RECEIVED
OCT 10 2024

Kittitas County Community Development Services
Kittitas County
411 North Ruby Street, Suite 2
Ellensburg, WA 98926

Kittitas County CDS

Re: Notice of Appeal - File No. RZ-24-00001 (Gibson – SEPA MDNS)

To Whom it May Concern:

This firm represents Ellensburg Cement Products, Inc. (“Ellensburg Cement” or “Appellant”). Please accept this letter as a formal Notice of Appeal of the Kittitas County’s threshold determination and issuance of a Mitigated Determination of Non-Significance under File No. RZ-24-00001, together with the accompanying Notice of SEPA Action. A filing fee of \$1,670.00, accompanies this appeal.

1. The decision being appealed.

Appellant’s appeal Kittitas County’s Mitigated Determination of Non-Significance (“MDNS”) and Notice of SEPA Action issued under the State Environmental Policy Act, chapter 43.21C (“SEPA”), identified by File No. RZ-24-00001 and each dated October 1, 2024. The MDNS is associated with Applicant Kristen Gibson’s (“Gibson” or “Applicant”) application for a site-specific rezone of Tax Parcel No. 280533 (Kittitas County Parcel Map No. 17-20-08010-0006) located off Parke Creek Road. A copy of the MDNS and associated Notice of SEPA Action are attached hereto as Attachment 1 and Attachment 2, respectively.

2. The name and address of the appellant and his interest(s) in the matter.

Appellant is Ellensburg Cement Products, Inc. Appellant’s mailing address is 2121 US-97, Ellensburg, WA 98926. Appellant is represented by the undersigned counsel at Cascadia Law Group PLLC, located at 606 Columbia Street NW, Suite 212, Olympia, Washington 98501. All future correspondence pertaining to this appeal should be directed to the undersigned.

Appellant is interested, in and concerned by, Applicant’s rezone application and the lacking associated environmental review based on the evident intent of the proposal to evade thorough environmental review associated with the gravel mining and rock crushing operations that will be permitted and be directly facilitated by the proposed rezone. Appellant has property interests and

business operations in the immediate vicinity of the proposed rezone and would be impacted by the proposal. Without limitation, Appellant operates an existing rock quarry pursuant to a long-term lease at 930 Prater Road, and less than one mile from the subject property. Appellant's operations also require regular use of Parke Creek Road which would also be utilized by the subject property for the more intensive operations that would be permitted under the rezone. Further, Gibson's existing operations at the Parke Creek Road site already necessitate use of and truck traffic along Prater Road, adjacent to Ellensburg Cement's operations, which at times has led to complaints misdirected to Ellensburg Cement. Increased and intensified activities that would be permitted under the rezone of the subject property would lead to increased truck traffic and other impacts, none of which has been disclosed or evaluated.

Appellant, both independently and through counsel, timely submitted comments on the SEPA review associated with File No. RZ-24-00001.

3. The specific reason(s) why the appellant believes the decision to be wrong.

The County's threshold determination of an MDNS should be reversed and/or withdrawn because the County's review to date is not based upon information reasonably sufficient to evaluate the environmental impact of a proposal and fails to demonstrate that the County adequately considered relevant environmental factors before issuing the MDNS. Even as a non-project action, the SEPA review must disclose and evaluate the probable effects of the proposed rezone, including the short and long-term effects that may be occasioned by the differing land use regulations. To the point, Gibson requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining and excavation operations. The SEPA Checklist,¹ MDNS, and associated environmental review is entirely lacking in this regard and fails to meet *prima facie* SEPA compliance.

Without limitation, the SEPA checklist and application materials did not properly disclose, and the MDNS and County's environmental review did not meaningfully evaluate, the actual impacts of the rezone proposal, including the range of probable impacts, including short-term and long-term effects. The review by the County further constitutes improper deferral of environmental review and impermissible piecemealing under SEPA. Further, the SEPA Checklist and associated review is entirely devoid of any disclosure or analysis

¹ A copy of the SEPA Checklist is attached hereto as Attachment 3.

of the actual potential impacts of the newly permitted uses under the proposed rezone. Notably, this includes, without limitation, the following:

- Neither the SEPA Checklist nor any studies address noise and other impacts associated with blasting and vibration associated with the rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address dust control, emissions, or air quality impacts from rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential traffic impacts and safety associated with increased truck traffic and heavy machinery associated with uses that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential impacts to groundwater, hydraulic connectivity with surface water bodies,² or aquifer impacts.
- While the application materials note a lack of any water rights associated with the property, the SEPA Checklist does not address or evaluate how water supply would be made available to the property for dust control and operational issues, and the impact of the same.

Further, the conditions now included in the MDNS have no bearing on and fail to mitigate the probable impacts associated with the increased gravel and mining operations that would be permitted under the proposed spot rezone, let alone address the types of mitigating conditions imposed on similar operations in the existing zone when processed through the County's conditional use permit process, which the rezone is intended to now avoid.

For further specific reasons as to why the decision was wrong and the MDNS was improperly issued, Appellant directs the County's attention to the SEPA

² While the SEPA Checklist notes that Parke Creek is within 200 feet of the property in the southwest corner, see Checklist at § 3.a.1, it avoids any discussion of any impacts of the new uses authorized under the rezone, merely describing as "non-applicable." *Id.* at § 3.a.2.

comments on file from Appellant, which are further attached to this Notice of Appeal as Attachment 4,³ and fully incorporated herein by this reference.

Appellant further appeals the County's issuance of the Notice of SEPA Action dated October 1, 2024, and accompanying the MDNS, which is confusing, fails to describe the appropriate SEPA process and procedures, and was issued in error. The Notice of SEPA Action purports to provides notice as follows:

NOTICE IS HEREBY given that pursuant to WAC 197-11-355 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 1, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson.

WAC 197-11-355 is inapplicable. WAC 197-11-355, as cited by the County, describes only the "Optional DNS process" which was not followed here. RCW 43.21C.030(2)(c), as cited by the County, concerns detailed statements associated with recommendations or proposals for legislation and other major actions, and is similarly inapplicable.⁴

Appellant reserves the right to supplement the response to this item, and to add to, modify, or delete the bases of errors based on further discovery and investigation.

4. The desired outcome or change to the decision.

Reversal and/or withdrawal of Kittitas County's issued MDNS under File No. RZ-24-00001. This should be followed by further actual disclosure and evaluation of the environmental impacts of the proposal and, if an MDNS is reissued, appropriate additional mitigation conditions.

5. The appeal fee.

The appeal fee of \$1,670.00 accompanies this letter.

Thank you for your attention to this matter.

³ See *also* Email Comments from J. Hutchinson and Ellensburg Cement Products, Inc. to Kittitas County dated August 21, 2024 (on file); see *also* Letter from Cascadia Law Group to Kittitas County dated August 28, 2024 (on file).

⁴ To the extent the County intended to rely on the Notice of Action process in RCW 43.21C.080, the County's notice is deficient, does not properly identify the "action" taken by the governmental agency, and did not follow the statutory requirements.

Sincerely,



Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

JR:ha

Enclosures

Attachment 1 – Kittitas County Mitigated Determination of Non-Significance (MDNS), identified by File No. RZ-24-00001, and dated October 1, 2024

Attachment 2 – Kittitas County Notice of SEPA Action, identified by File No. RZ-24-00001, and dated October 1, 2024

Attachment 3 – SEPA Environmental Checklist prepared by Kristen Gibson dated June 28, 2024

Attachment 4 - Ellensburg Cement Products, Inc. SEPA comment letter dated August 28, 2024

cc: Jamey Ayling (jamey.ayling@co.kittitas.wa.us)
Kittitas County Community Development Services (cds@co.kittitas.wa.us)
Ellensburg Cement Products, Inc. (*via email*)

ATTACHMENT 1



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITITITAS.WA.US

Office (509) 962-7506

State Environmental Policy Act MITIGATED DETERMINATION OF NONSIGNIFICANCE

- Description:** A proposed rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. The rezone will allow the current use of the property to be consistent and compatible with the zoning code of Forest and Range, as well as allow future expansion of existing uses. A rezone application (RZ-24-00001), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.
- Proponent:** Kristin Gibson, Applicant, authorized agent
- Location:** Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.
- Lead Agency:** Kittitas County Community Development Services

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030 (2) (c) and WAC 197-11. This decision was made after review of a SEPA environmental checklist and other information on file with the lead agency, after considering voluntary mitigation measures which the lead agency or the applicant will implement as part of the proposal, and after considering mitigation measures required by existing laws and regulations that will be implemented by the applicant as part of the Kittitas County permit process. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. This information is available to the public on request.

The lead agency has determined that certain mitigation measures are necessary in order to issue a Mitigated Determination of Non-Significance (MDNS) for this proposal. Failure to comply with the mitigation measures identified hereafter will result in the issuance of a Determination of Significance (DS) for this project. The mitigation measures include the following:

Earth

- 1) A fill and grade permit is required pursuant to Kittitas County Code 14.05.050 for any authorized use in the zone proposing grading that exceeds the thresholds for a permit.

Transportation

- 1) The applicant shall adhere to all applicable regulations as set forth in the current Kittitas County Road Standards.
- 2) The Kittitas County Grading Ordinance requires a permit if grading activity in excess of 100 cubic yards occurs pursuant to KCC 14.05. Contact Kittitas County Public Works for information relating to permitting at 509-962-7523.

Water and Waste Disposal

- 1) Adequate proof of water availability to serve proposed projects shall be provided to Kittitas County Water Resources to satisfy all requirements prior to or at the time of building permit submittal.

Building

- 1) All structures will meet Kittitas County Code Title 14

Fire

- 1) All structures must have adequate fire apparatus access.
- 2) All future development must comply with the International Fire Code (IFC) and Appendices

Critical Areas


- 1) A habitat management plan shall be developed in conjunction with Washington State Department of Fish and Wildlife for any further expansion of the site addressing impacts to the shrub steppe and also address plans for restoration once the current mining areas are completed.

Cultural Resources and Historic Preservation

- 1) Should ground disturbing or other activities related to the proposed project 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 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.

This MDNS is issued under WAC 197-11-350 and KCC Title 15. The lead agency will not act on this proposal for 15 days. Any action to set aside, enjoin, review, or otherwise challenge this administrative SEPA action's procedural compliance with the provision of Chapter 197-11 WAC shall be commenced within 10 working days (on or before 5:00 pm, October 15, 2024).

**Responsible
Official:**


Jamey Ayling

Title:

Planning Official

Address:

Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7506

Date:

October 1, 2024

Pursuant to Chapter 15A.07 KCC, this MDNS may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services office at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00 pm, October 15, 2024.

ATTACHMENT 2



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

NOTICE OF SEPA ACTION

To: Applicable Agencies
Parties of Record
Applicant

From: Jamey Ayling, Planning Manager

Date: October 1, 2024

Subject: **RZ-24-00001 Gibson – SEPA MDNS**

NOTICE IS HEREBY given that pursuant to WAC 197-11-355 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 1, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson. The applicants are proposing a rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C and WAC 197-11-355. This decision was made after review of a SEPA environmental checklist, and other information on file with the lead agency. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. The complete application file is available to the public on request or may be viewed at Kittitas County Community Development Services at 411 North Ruby St, Suite 2 Ellensburg, WA 98926, or on the county website. <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> (rezones, View Active Applications, file number RZ-24-00001 Gibson).

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of non-compliance with the provisions of Chapter 43.21C RCW (State Environmental Policy Act) and pursuant to Chapter 15A.07.010 KCC, may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services, 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. **Timely appeals must be received no later than 5:00pm, October 15, 2024.**

Direct questions regarding this proposal to:

Jamey Ayling
411 N. Ruby St. Suite 2
Ellensburg, WA. 98926
509-962-7065
jamey.ayling@co.kittitas.wa.us

ATTACHMENT 3



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals: [\[help\]](#)

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

APPLICATION FEES:

\$600.00 Kittitas County Community Development Services (KCCDS)**

\$950.00* Kittitas County Department of Public Works**

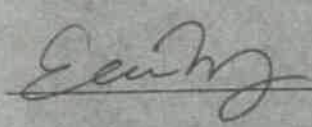

\$260.00 Kittitas County Public Health

\$1,810.00 Total fees due for this application (One check made payable to KCCDS)

*2 hours of review included in Public Works Fee. Additional review hours will be billed at \$243 per hour.

** Note:KCCDS and PW fees are waived if project is a VSP sponsored fish enhancement project.

FOR STAFF USE ONLY

Application Received by (CDS Staff Signature): 	DATE: <u>6/28/24</u>	RECEIPT# <u>0024-01627</u>	
DATE STAMP IN BOX			

A. Background

1. Name of proposed project, if applicable:

Gibson Rezone from AG20 to Forest & Range

2. Name of applicant:

Kristin and Kory Gibson, mother and son

3. Address, e-mail and phone number of applicant and contact person:

Kristin Gibson
c/o Kory Gibson
1221 South Thorp Highway
Ellensburg, WA 98926

KoryGibson@hotmail.com

509-201-1023

4. Date checklist prepared:

June 15, 2024

5. Agency requesting checklist:

Kittitas County Community Development Services Department

6. Proposed timing or schedule (including phasing, if applicable):

Docket applications are due by June 28, 2024.
The docket will be reviewed by staff beginning in July 2024, with adoption by the end of year.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

Unknown. The rezone is to align the property's existing natural characteristics and potential with the allowed uses in the zone. Since there is no irrigation or agricultural soil on site, Agriculture-20 (AG-20) zoning does not fit the existing conditions of the land. Forest and Range is the other potential zoning within the Rural Working designation in the Kittitas County Comprehensive Plan that applies to this area, and is a better fit for the natural conditions on the subject site.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Publicly available information from federal, state, and regional governmental and nongovernmental organizations was used to complete this checklist. Resources include USDA soils information; state fish and wildlife information; noxious weed board information; and Kittitas County COMPAS information including Lidar, existing features mapping, and the aerial photograph of the subject site.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None known. This AG-20 to Forest & Range Rezone application is the only known pending government approval relating to the subject site.

10. List any government approvals or permits that will be needed for your proposal, if known.

The applicant currently seeks only a AG-20 to Forest & Range rezone from Kittitas County for the subject site assigned parcel number 280533.

11. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The subject site is a 42-acre parcel with slopes, sparse scrub type vegetation, and rocky soils. Elevations range from 2000 feet above sea level, to 1940 feet above sea level. No water service currently exists on site, no wells exist, and no water rights are available for agricultural irrigation or animal husbandry. Since agricultural uses would not be supported under the natural conditions, and the necessary rights are not available to change the potential of the subject site, a Forest & Range zoning would better suit the property than the current Agricultural-20 (AG-20) zoning.

For example, the properties to the immediate southwest, and south across Parke Creek Rd, are in a river valley and adjacent to an existing river and irrigation system, providing a ready source for irrigation. In this area, the natural characteristics support agricultural uses. The hill to the north, on which the subject site is located, and the hill to the south on the other side of the river, share the same arid landscape without natural water sources.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The subject property is approximately 3 miles east of town of Kittitas and is accessed via Parke Creek Road.

Map number: 17-20-08010-0006

Parcel number: 280533

Section/Township/Range: S8 T17N R20E

Address: unaddressed, north of 4481, 5125, 5121, and 5123 Parke Creek Road

Driving directions: From the city of Kittitas, head east on Parke Creek Road for 3 miles. Turn left at 5125 Parke Creek Rd, and continue northwest for 1,000 feet.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site:

(circle one): Flat, rolling, hilly, **steep slopes**, mountainous, other _____

b. What is the steepest slope on the site (approximate percent slope)?

COMPAS notes the site as having slopes over 30% slope.

- See COMPAS property report, Exhibit A

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

The USDA web-based GIS mapping software lists the following soils for the subject property:

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
422	Clerf very cobbly loam, 30 to 45 percent slopes	24.6	57.9%
512	Vantage-Clerf complex, 3 to 15 percent slopes	6.8	16.0%
523	Terlan gravelly loam, 0 to 2 percent slopes	2.3	5.4%
532	Selah-Terlan complex, 10 to 15 percent slopes	2.4	5.6%
903	Maric-Zen-Laric complex, 3 to 15 percent slopes	6.4	15.1%
Totals for Area of Interest		42.5	100.0%

- See USDA soil map and table, Exhibit B

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

There is no known history of soil instability in the immediate vicinity.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Not applicable. This non-project action proposes only a zoning change.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not applicable. This non-project action does not propose any filling, excavation, or grading. Based on the soil types, it is unlikely that any future erosion would occur with implementation of best management practices, as required by Kittitas County Code.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Not applicable. This non-project action does not propose any sitework.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not applicable. This non-project action does not propose any sitework.

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None known.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3. Water

a. Surface Water:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

PARKER
Reecer Creek is 170 feet at its nearest point from the southwest corner of the subject property.

- See COMPAS aerial photograph, Exhibit C

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No, this site is not within a 100-year floodplain. FEMA lists this area as "minimal flood hazard" on FEMA's National Flood Hazard Layer (NFHL) Viewer, and cites study 53037C_STUDY1. Firmette 53037C1330D shows this area. The absence of symbology on the map shows the subject site is outside flood-rated areas.
- See Firmette 53037C1330D, Exhibit D

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the

number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable. This is a non-project action. Soils in this area are well-draining, allowing surface water to satisfactorily infiltrate. Additional stormwater intervention is not needed. Generally, stormwater makes its way to the river valley.

2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable. This is a non-project action. This non-project action does not propose any sitework.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

4) Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

4. Plants

a. Check the types of vegetation found on the site:

- ☐ deciduous tree: alder, maple, aspen, other
- ☐ evergreen tree: fir, cedar, pine, other
- ☐ **shrubs**
- ☐ grass
- ☐ pasture
- ☐ crop or grain
- ☐ orchards, vineyards, or other permanent crops.
- ☐ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐ water plants: water lily, eelgrass, milfoil, other

☐ other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

c. List threatened and endangered species known to be on or near the site.

As reported on the Washington Department of Fish & Wildlife "Priority Habitats and Species: Maps" GIS interactive web-based software, there are no known threatened or endangered species on or near the subject site.

- See WDFW Priority Habitats and Species report, Exhibit E

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. List all noxious weeds and invasive species known to be on or near the site.

As mapped on the Washington State Noxious Weed Control Board's "Noxious Weed Data Viewer", no noxious weeds or invasive species are mapped on the subject site.

5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

Birds: hawk, heron, eagle, songbirds, other:

Mammals: **deer**, bear, elk, beaver, other:

Fish: bass, salmon, trout, herring, shellfish, other _____

b. List any threatened and endangered species known to be on or near the site.

As reported on the Washington Department of Fish & Wildlife "Priority Habitats and Species: Maps" GIS interactive web-based software, there are no known threatened or endangered species on or near the subject site.

c. Is the site part of a migration route? If so, explain.

None known. Generally, Washington State is within the Pacific Flyway, a migratory bird pattern along the west coast of the United States.

d. Proposed measures to preserve or enhance wildlife, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. List any invasive animal species known to be on or near the site.

None known. The Washington Invasive Species Council does not list invasive animal species in Central Washington.

- See Washington Invasive Species Council plant map, Exhibit F

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Not applicable. This is a non-project action.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Not applicable. This is a non-project action.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.

1) Describe any known or possible contamination at the site from present or past uses.

None known.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

None known.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Not applicable. This is a non-project action.

4) Describe special emergency services that might be required.

Not applicable. This is a non-project action.

5) Proposed measures to reduce or control environmental health hazards, if any:

Not applicable. This is a non-project action to rezone the subject site. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Existing noise includes those typically associated with large property, low density, rural lifestyles including property maintenance equipment, recreation vehicles, and regional traffic noise.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3) Proposed measures to reduce or control noise impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

The site is currently vacant and is not suited to agricultural uses due its natural condition. Adjacent properties include residential and farming activities lower down in the river valley, to the west and south, and include vacant and residential activities to the east and north.

The proposal does not affect current land uses on nearby or adjacent properties.

The proposed zoning is consistent with the Rural Working land use designation and activities, which prioritizes management of farming, ranching, and rural lifestyles in the AG-20 zone, and prioritizes resource management in the Forest and Range zone.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

The subject site has not been used as working farmland or as working forest lands.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

c. Describe any structures on the site.

A temporary storage container is located on site and is the only structure.

d. Will any structures be demolished? If so, what?

Not applicable. This is a non-project action.

e. What is the current zoning classification of the site?

The subject site is currently zoned AG-20.

f. What is the current comprehensive plan designation of the site?

The current comprehensive plan designation is Rural Working.

g. If applicable, what is the current shoreline master program designation of the site?

Not applicable. No shorelines of the state are located on or near the subject site.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Pursuant to Kittitas County Code 17A.01.010, regulated critical areas present within Kittitas County include: Critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.

None of these occur on the subject site.

i. Approximately how many people would reside or work in the completed project?

Not applicable. This is a non-project action.

j. Approximately how many people would the completed project displace?

Not applicable. This is a non-project action.

k. Proposed measures to avoid or reduce displacement impacts, if any:

Not applicable. This is a non-project action.

L. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not applicable. This is a non-project action.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable. This is a non-project action.

c. Proposed measures to reduce or control housing impacts, if any:

Not applicable. This is a non-project action.

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not applicable. This is a non-project action.

- b. What views in the immediate vicinity would be altered or obstructed?

Not applicable. This is a non-project action.

- c. Proposed measures to reduce or control aesthetic impacts, if any:

Not applicable. This is a non-project action.

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Not applicable. This is a non-project action.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not applicable. This is a non-project action.

- c. What existing off-site sources of light or glare may affect your proposal?

Not applicable. This is a non-project action.

- d. Proposed measures to reduce or control light and glare impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

According to Google maps, there are several state parks within driving distance of the subject site, including the Ginkgo Interpretive Trails to the north off Vantage Highway, the Green Gate WDFW Public Lands Access to the east, the John Wayne Trail to the southeast, and the Olmstead Place Historical State Park to west of the city of Kittitas.

- b. Would the proposed project displace any existing recreational uses? If so, describe.

Not applicable. This is a non-project action.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

According to the National Register of Historic Places, the closest registered sites are the Kittitas Depot in downtown Kittitas, approximately 3 miles west of the subject site, and the Olmstead Place Historical State Park, roughly 6 miles west of the subject site.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

None known at or immediately adjacent to the subject site. The Department of Archeology and Historical Preservation's WISAARD mapping tool does not show the subject site mapped as a historical area. The closest areas are a historic bridge 3 miles southeast and a historic canal 2 miles west.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

For this non-project action, the Department of Archeology and Historical Preservation's WISAARD mapping tool was consulted along with the National Register of Historic Places web-based mapping tool, hosted by the U.S. Department of the Interior's National Park Service.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

The subject site is currently accessed from Parke Creek Road. This regional road that connects into the city of Kittitas, which has an exit off Interstate 90.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

None known. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No such transportation known in the area. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

f. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

No known impact. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

g. Proposed measures to reduce or control transportation impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

b. Proposed measures to reduce or control direct impacts on public services, if any.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

16. Utilities

a. Circle utilities currently available at the site:

electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,
other _____

None currently available.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Kristin Gibson
Name of signee: Kristin Gibson
Position and Agency/Organization: owner
Date Submitted: 6/28/24

D. supplemental sheet for nonproject actions

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Changing the zoning from AG-20 to Forest & Range would not increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise. Both zoning types are within the Rural Working land use designation, and have similar land experiences that include large property, a low density, rural lifestyle.

Proposed measures to avoid or reduce such increases are:

Any future permit actions would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The AG-20 zoning and Forest & Range zoning are both within the Rural Working land use designation. Changing the zoning from AG-20 to Forest & Range would not affect plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3. How would the proposal be likely to deplete energy or natural resources?

Changing the zoning from AG-20 to Forest & Range would not deplete energy or natural resources. Both zoning types are within the Rural Working land use designation.

Proposed measures to protect or conserve energy and natural resources are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

4. How would the proposal be likely to use or affect environmentally sensitive areas or

areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

There are no known environmentally sensitive areas on the subject site. Changing the zoning of the site from AG-20 to Forest & Range will not impact environmentally sensitive areas.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Both AG-20 zoning, the current subject site zoning, and the Forest & Range zoning, the proposed zoning, are allowed within the current Rural Working land use designation in the Kittitas County Comprehensive Plan. There are no current shorelines or shoreline uses on the subject property. Changing the zoning from AG20 to Forest & Range would not affect land and shoreline use, nor would it be inconsistent with the existing plans.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Changing the zoning from AG-20 to Forest & Range would not increase demands on transportation or public services and utilities.

Proposed measures to reduce or respond to such demand(s) are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

It is unlikely the proposal would conflict with local, state, or federal laws or requirements for the protection of the environment since the comprehensive plan land use designation would not change and has already been approved under the applicable local, state, or federal laws and requirements. The only change is to switch the zoning type from AG-20 to Forest & Range to reflect the site-specific characteristics that do not support agricultural uses but do support Forest & Range uses.



Property Report for Parcel#: 280533

Exhibit A

Wednesday, June 5, 2024

Parcel Information

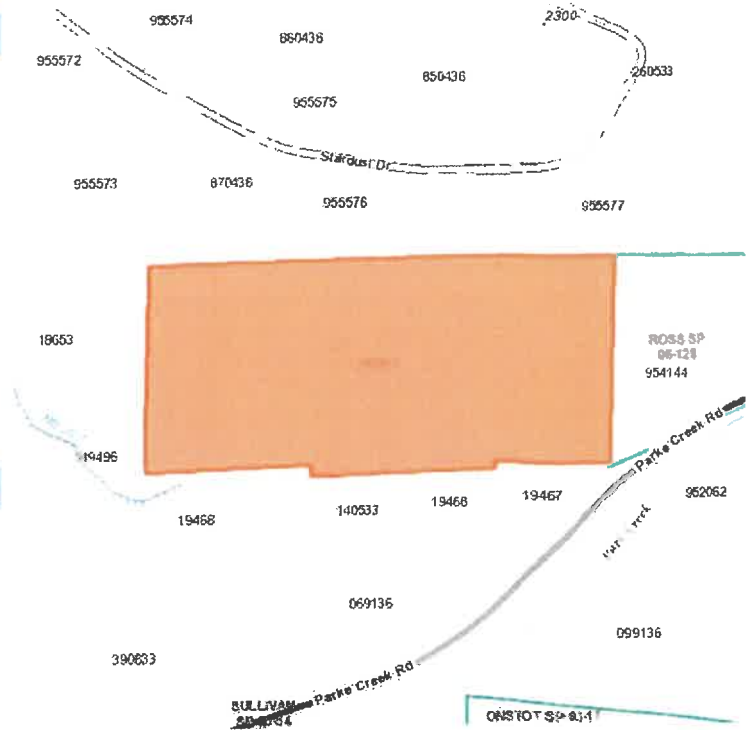
Address: PARKE CREEK RD ELLENSBURG
Tax Parcel ID: [280533](#)
Map Number: 17-20-08010-0006
Recorded Area: 42.41 a
Owner Name: GIBSON, KRISTIN A
Name Cont:
Mailing Address: 1221 THORP HWY S
City/State/Zip: ELLENSBURG WA 98926-8010

Critical Areas Information

Contains > 30% Slope: Yes
PHS Site Name: N/A
Roof Hazard: LOW_HAZARD RATING
Roof Class: CLASS C
Seismic Category: C
Shore Line: N/A
Wetland Code: N/A
DNR Water Type: N/A
FIRM Zone:
FEMA Flood Map: 53037C1330D
Coalmine Shaft: N/A
Airport Zone: N/A
BPA Right of Way: -1
Max Elevation: 2100
ISO: 0.019
PG: 40

Domestic Water Information

Over the Counter Water: Yes, [Suitability Map](#)
Qualifying Water Banks: Big Creek WR, Bourne, New Suncadia (Tillman Creek), KittitasCnty (Amerivest), KittitasCnty(Clennon), Reecer Creek, KittitasCnty(Roth), KittitasCnty(Williams), New Suncadia (Big Creek), New Suncadia (SwaukFirstCreeks), New Suncadia (TeawayRiver), Roan New Suncadia, SC_Aggregate, Swiftwater Ranch, Trailside, Western Water Partners, Yakima Mitigation Services, NGR
Sub Basin Watershed: Wilson-Cherry Creeks



Administrative Information

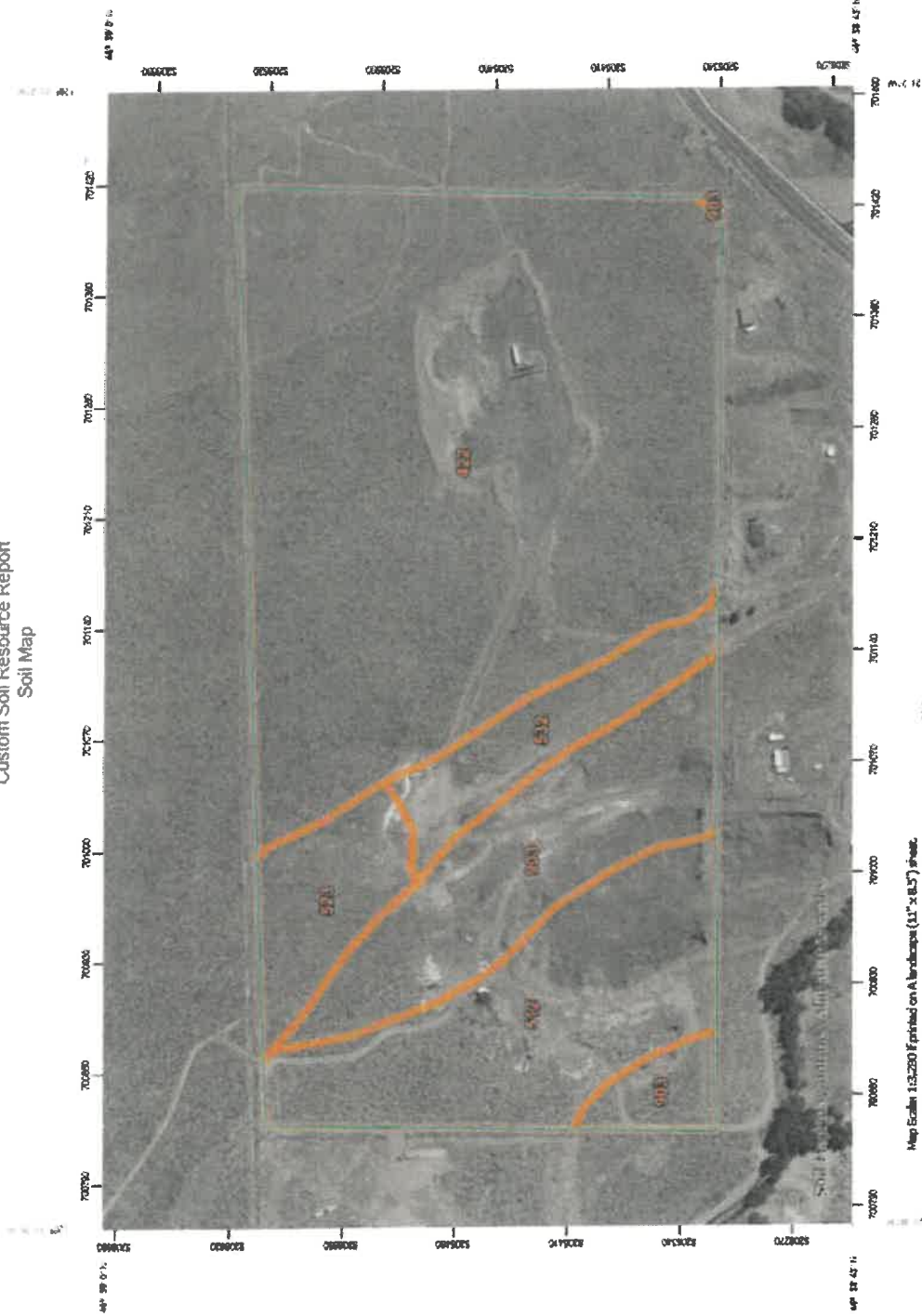
Zone and Allowed Uses: [Agriculture 20](#)
Land Use Category: Rural Working
Commissioner District: 0
Voter Precinct:
Hospital District: HOSPITAL DISTRICT 1
School District: Kittitas School District
Irrigation District: KRD
Weed District:
Fire District: Kittitas Valley Fire and Rescue (Fire District 2)
Cemetery District: N/A
Court District: Lower District Court
PUD Comm District: District 3
Parks and Rec District:
Wildland Urban Interface: [IR 1](#)
Stock Restricted Area: Stock Restricted
COE Gas Service Area: No

Custom Soil Resource Report
Soil Map



Natural
Resources
Conservation
Service

Custom Soil Resource
Report for
Kittitas County
Area, Washington



Map Scale: 1:25,000 (Printed on A landscape (11" x 8.5") sheet)
0 45 90 180 270 feet
0 150 300 450 600 meters
Map projections: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 32N WGS84

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
422	Clerf very cobbly loam, 30 to 45 percent slopes	24.6	57.9%
512	Vantage-Clerf complex, 3 to 15 percent slopes	6.8	16.0%
523	Terlan gravelly loam, 0 to 2 percent slopes	2.3	5.4%
532	Selah-Terlan complex, 10 to 15 percent slopes	2.4	5.6%
903	Maric-Zen-Latic complex, 3 to 15 percent slopes	6.4	15.1%
Totals for Area of Interest		42.5	100.0%



Date: 6/10/2024

1 inch equals 3,029 feet

0 0.2 0.4 0.8 mi

Disclaimer:
 Kittitas County makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data, its use, or its interpretation. Kittitas County does not guarantee the accuracy of the material contained herein and is not responsible for any use, misuse or representations by others regarding this information or its derivatives.



National Flood Hazard Layer FIRMette

120°20'W 46°58'26"N



Legend

SEE THIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT



SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE)
Zone A, V, A99
- With BFE or Depth
Zone AE, AO, AH, IE, AR
- Regulatory Floodway

- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes, Zone X
- Area with Flood Risk due to Levee Zone D

OTHER AREAS OF FLOOD HAZARD

- NO SCREEN
- Area of Minimal Flood Hazard Zone X
- Effective LOMRS
- Area of Undetermined Flood Hazard Zone D

OTHER AREAS

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

GENERAL STRUCTURES

- Cross Sections with 1% Annual Chance
- Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

OTHER FEATURES

- Digital Data Available
- No Digital Data Available
- Unmapped

MAP PANELS

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

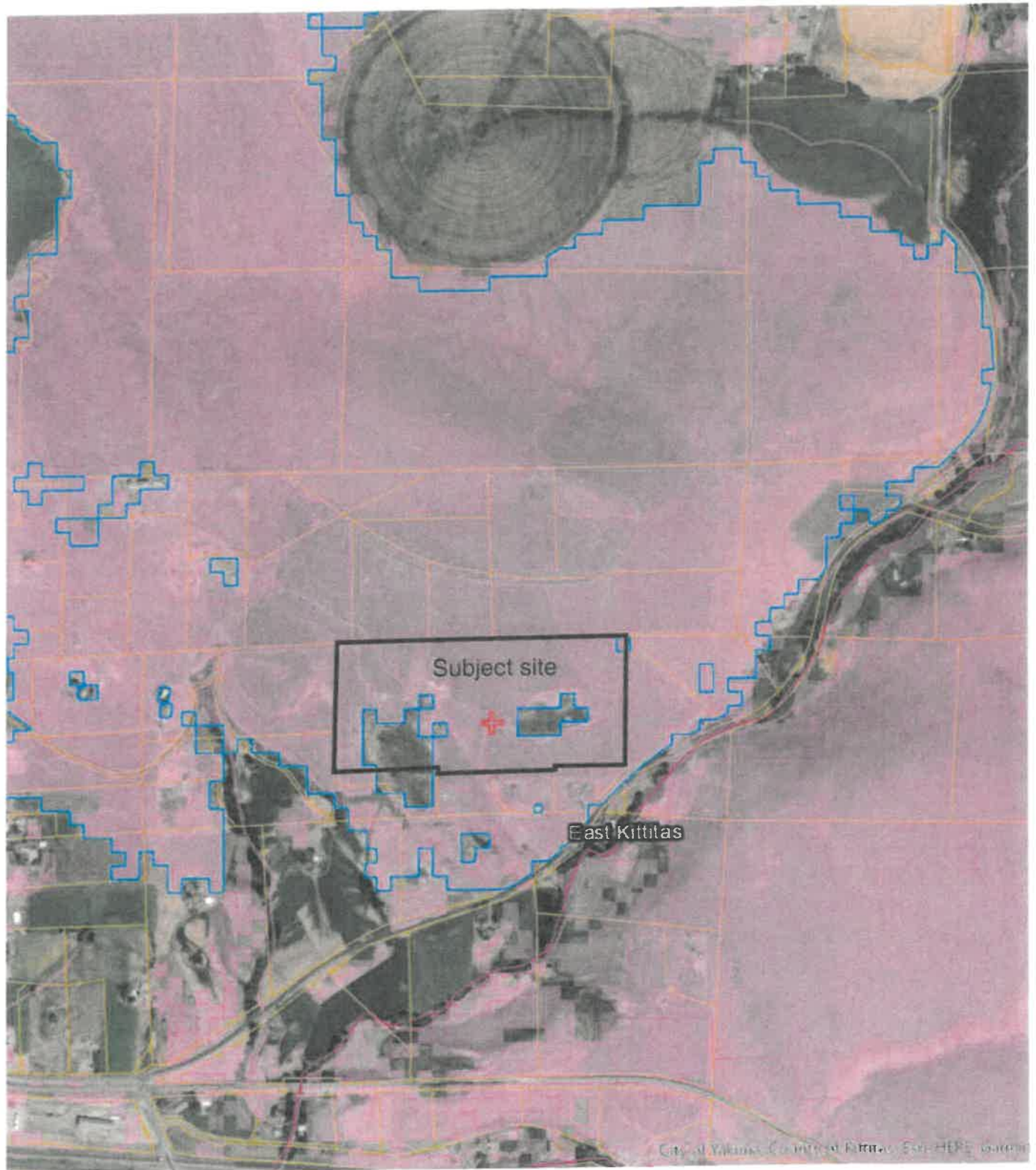
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/5/2024 at 10:14 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Exhibit D



Priority Habitats and Species on the Web



Report Date: 06/06/2024

PHS Species/Habitats Overview:

Occurrence Name	Federal Status	State Status	Sensitivity
Shrubsteppe	N/A	N/A	No

PHS Species/Habitats Details:

Shrubsteppe	
Priority Area	Habitat Feature
Site Name	Kittitas County Shrubsteppe
Accuracy	NA
Notes	General location of Shrubsteppe. Confirm or refute info. WDFW recommends using site-scale info to inform land use decisions. Expect that on-the-ground conditions (boundaries) will vary from the map.
Source Record	920871
Source Name	Keith Folkerts, WDFW
Source Entity	WA Dept. of Fish and Wildlife
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS LISTED OCCURRENCE
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
Geometry Type	Polygons

DISCLAIMER. This report includes information that the Washington Department of Fish and Wildlife (WDFW) maintains in a central computer database. It is not intended to be used with an official agency response as to the impacts of your project on fish and wildlife. This information only documents the location of fish and wildlife resources to the best of our knowledge. It is not a complete inventory and it is important to note that fish and wildlife resources may occur in areas not currently known to WDFW biologists, or in areas for which no surveys have not been conducted. Site specific surveys are frequently necessary to rule out the presence of priority resources. Locations of fish and wildlife resources are subject to variation caused by disturbance, changes in season and weather, and other factors. WDFW does not recommend using reports more than six months old.

Washington State Noxious Weed Data Viewer (BETA)



Legend:

☐ Subject site

Noxious weed sites as labeled

ATTACHMENT 4

August 28, 2024

VIA USPS AND EMAIL (jamey.ayling@co.kittitas.wa.us; cds@co.kittitas.wa.us)

Jayme Ayling
Planning Manager and Responsible Official
Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926

RE: *Gibson Rezone (RZ-24-00001)*
Ellensburg Cement Products, Inc. SEPA Comments

Dear Mr. Ayling:

Please consider this letter as formal comments on behalf of Ellensburg Cement Products, Inc. (Ellensburg Cement) on the State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) issued by Kittitas County under File No. RZ-24-00001 on August 15, 2024.¹ These comments are provided pursuant to chapter 43.21C RCW, WAC 197-11-340, WAC 197-11-500, *et seq.*, and chapter 15.04 of the Kittitas County Code.

Based on the following comments, at this time, the DNS should be withdrawn and additional SEPA analysis should be conducted. A DNS should only issue “[i]f the responsible official determines there will be no probable significant adverse environmental impacts from a proposal.” WAC 197-11-340(1). The County’s DNS should be withdrawn because (a) neither the SEPA Checklist nor the County’s environmental review address, let alone evaluate, the probable impacts of any future development that would be occasioned by the rezone; (b) improperly postpones and defers such environmental analysis until the project stage; and (c) it fails to impose any mitigating conditions on the proposed rezone to address known probable environmental impacts. As such, Ellensburg Cement respectfully requests the County’s SEPA Responsible Official reconsider the DNS pursuant to WAC 197-11-340, and withdraw the determination at this time.

¹ Jeff Hutchinson, President of Ellensburg Cement Products, Inc., previously submitted written comments to the County by email dated August 21, 2024. Those additional comments should be considered as further written comments on the SEPA threshold determination and land use rezone proposal and are incorporated herein by this reference.

BACKGROUND

Founded in 1945, Ellensburg Cement, headquartered and doing business in Kittitas County, is a local and family-owned business specializing in ready-mix concrete and aggregates. Ellensburg Cement is committed to environmental compliance and stewardship in its business operations and has received the *Environmental Merit Award* from the Washington Aggregates and Concrete Association. Ellensburg Concrete has worked with the County on a number of sites, going through robust and detailed conditional use permitting and thorough environmental review associated with its operations.

Ellensburg Cement is interested in and concerned by Kristen Gibson's, of Gibson & Son ("Gibson"), pending rezone application and proposal based on the evident intent of the proposal to evade thorough environmental review associated with the understood proposed gravel mining and rock crushing operations envisioned for the site. Even as a non-project action, the SEPA review must disclose and evaluate the probable effects of the proposed rezone, including the short and long-term effects that may be occasioned by the differing land use regulations. To read the Checklist, one would be left with the impression that no such changes are occurring, and certainly would be left guessing at what those are. Yet, the proposal seeks to change the zoning designation for a singular parcel entirely encompassed within the Agriculture-20 (A-20) zone so that differing rules may apply. The remaining surrounding property would all remain A-20. To the point, Gibson requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining and excavation operations. None of these changes or impacts are disclosed or analyzed.

Without disclosure of these facts and probable impacts by Gibson in the SEPA Checklist, and without any resulting review of these impacts by the County Responsible Official in making its SEPA threshold determination, the existing SEPA review is lacking. To the point, by not disclosing, analyzing, or quantifying the actual impact and probable effects of the rezone, it is impossible for the County to properly evaluate the environmental impacts based on the required SEPA factors and considerations.

The information provided by Gibson is presently not reasonably sufficient to evaluate the environmental impacts of the proposal.² Absent a complete review addressing these impacts, the current SEPA determination cannot be sustained.

SEPA CONSIDERATIONS

When reviewing proposals subject to environmental review, “SEPA demands a ‘thoughtful decision-making process’ where government agencies ‘conscientiously and systematically consider environmental values and consequences.’” *Wild Fish Conservancy v. Wash. Dep’t of Fish & Wildlife*, 198 Wn.2d 846, 873, 502 P.3d 359 (2022). A threshold determination (such as a DNS) “must indicate that the agency has taken a searching, realistic look at the potential hazards and, with reasoned thought and analysis, candidly and methodically addressed those concerns.” *Conservation Northwest v. Okanogan County*, 2016 Wash. App. LEXIS 1410, 88-89, 194 Wn. App. 1034 (June 16, 2016).

Moreover, while postured here as a non-project action in the form of a rezone only, even for such non-project actions, the County “must address the probable impacts of any future project action the proposal would allow.” *Spokane County v. E. Wash. Growth Mgmt. Hearings Bd.*, 176 Wn. App. 555, 579, 309 P.3d 673 (2013); see also WAC 197-11-060(4)(c)-(d). The express purpose of these rules is “to ensure an agency fully discloses and carefully considers a proposal’s environmental impacts before adopting it and ‘at the earliest possible stage.’” *Id.* (quoting *King County v. Wash. State Boundary Review Bd.*, 122 Wn.2d 648, 663-64, 666, 860 P.2d 1024 (1993)); see also WAC 197-11-060(5)(d)(i)-(ii).

Against this backdrop, Ellensburg Cement has concluded that the environmental disclosure and review is presently incomplete and lacking, and provides the following additional SEPA comments for the County’s consideration:

Lack of Disclosure and Analysis of Impacts of Rezone

The SEPA Checklist and associated review is lacking any disclosure or analysis of the probable impacts of the proposed rezone, in contravention of SEPA’s dictates.³ The SEPA rules expressly require consideration of “the range of

² See WAC 197-11-100 (“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.”)

³ For the vast majority of responses in the SEPA Checklist, the applicant merely responds “not applicable.”

probable impacts, including short-term and long-term effects” and that considered impacts “shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.” WAC 197-11-060(4)(c). Further, a proposal’s effects “include direct and indirect impacts caused by a proposal, including “those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions.” WAC 197-11-060(4)(d).

Despite the above, the SEPA Checklist does not disclose these impacts and is devoid of any analysis. For example, Section B.8 of the SEPA Checklist requires disclosure of the “proposal’s affect on current land uses or nearby adjacent properties.” Rather than addressing the actual impacts of the rezone, the Checklist includes a mere conclusory statement that the “proposal does not affect current land uses on nearby or adjacent properties.” See Checklist at § B.8.a. It then goes on to merely summarily state that the “proposed zoning is consistent with the Rural Working land designation and activities, which prioritizes management of farming, ranching, and rural lifestyles in the A-20 zone, and prioritizes resource management in the Forest and Range zone.” *Id.*⁴ Similarly, and even more glaring, in the non-project supplement sheet, the Checklist merely repeats these or similar statements, without analysis, and defers environmental review, asserting that “[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.” This type of non-disclosure and non-analysis expressly contradicts SEPA rules requiring current the

⁴ Further, the SEPA Checklist gives sparse attention to the appropriateness of the proposed rezone under existing land use plans. See, e.g., Checklist at § D.5. No disclosure or analysis is provided with respect to the proposed isolated spot zoning of a singular tract within the much larger A-20 zone, including without limitation, **RR-P6** (“Allow for lands which offer adequate supply of rock and gravel resources located in areas compatible for such uses and conditioned so that operation does not negatively impact rural character.”); **RR-P16** (“Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.”); **RR-P18** (“Buffer standards and regulations should continue to be developed that will be used between incompatible rural uses.”); **RR-P21** (“Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed.”); **RR-G22** (“Provide preservation of agriculture activities where producers can live and work on their own lands separate from Resource Lands.”); and **RR-P45** (“Commercial/Industrial development in Rural Working lands shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.”).

consideration of the probable effects of changed land use occasioned by a rezone, including both its short-term and long-term effects.

Even a cursory review of KCC 17.15.060.1 evinces the potentially not insignificant changes that would be occasioned by the rezone. Understanding Gibson's business operations, this would most notably include allowing for rock crushing as a new permitted use (where currently not allowed), allowing for future and expanded mining and excavation as a permitted use (where current operations must be consistent with any conditional use permit and future expansion or changed operations must undergo a thorough conditional use permit process), and allowing the conditional development of asphalt and concrete plants and retail sales. None of the impacts or effects of these intensive land uses, which would now be permitted for the first time or subject to relaxed standards, is disclosed, analyzed, or meaningfully evaluated. As these represent the most obvious and significant differences between the two zones, the intent though is clear. In short, the environmental review is devoid of relevant analysis and is insufficient.

Further, the SEPA Checklist and associated review appears devoid of any disclosure or analysis of the actual potential impacts of the newly permitted uses under the proposed rezone. Notably, this includes, without limitation, the following:

- Neither the SEPA Checklist nor any studies address noise and other impacts associated with blasting and vibration associated with the rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address dust control, emissions, or air quality impacts from rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential traffic impacts and safety associated with increased truck traffic and heavy machinery associated with uses that would be permitted under the proposed rezone.

- Neither the SEPA Checklist nor any studies address potential impacts to groundwater, hydraulic connectivity with surface water bodies,⁵ or aquifer impacts.
- While the application materials note a lack of any water rights associated with the property, the SEPA Checklist does not address or evaluate how water supply would be made available to the property for dust control and operational issues, and the impact of the same.

The DNS as issued includes no consideration or imposition of any mitigating conditions associated with these issues. As the proposed rezone would allow for new intensive uses as a matter of right, without further review, SEPA requires review of these probable impacts now, and such review cannot be deferred.

IMPROPER DEFERAL OF REQUIRED ENVIRONMENTAL REVIEW

Second, to the extent the SEPA Checklist and the County's review purports to effectively defer review of the environmental impacts of the rezone, such deferral is inappropriate and SEPA analysis must occur now and at the forefront before the rezone can be undertaken. The SEPA Checklist statement that "[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time if the permit action" is insufficient and a transparent attempt to not just defer but to avoid review. Yet, if the County were to in fact approve the proposed rezone, activities currently not permitted (i.e. rock crushing) or permitted only through a conditional use permit process and continued compliance with any applicable CUP (i.e. mining and excavation) would become activities permitted as a matter of right. The County should reject this slight-of-hand, and at a minimum, must evaluate these impacts now, with any probable adverse impacts adequately mitigated. As Washington courts have explained, even for non-project actions (such as rezones):

. . . the agency must address the probable impacts of any future project action the proposal would allow. The purpose of these rules is to ensure an agency fully discloses and carefully considers a proposal's environmental impacts before adopting it and "at the earliest possible stage." An agency may not postpone environmental analysis to a later implementation stage if **[**685]** the proposal

⁵ While the SEPA Checklist notes that Parke Creek is within 200 feet of the property in the southwest corner, see Checklist at § 3.a.1, it avoids any discussion of any impacts of the new uses authorized under the rezone, merely describing as "non-applicable." *Id.* at § 3.a.2.

would affect the environment without subsequent implementing action.

Spokane County v. E. Wash. Growth Mgmt. Hearings Bd., 176 Wn. App. 555, 579, 309 P.3d 673 (2013) (internal citations omitted); see also *Millennium Bulk Terminals-Longview, LLC v. Dep't of Ecology*, 2020 Wash. App. LEXIS 647, *17-18 (Wash. Ct. App. Mar. 17, 2020) (piecemealing of environmental review “is disfavored because the later environmental review often seems merely a formality, as the construction of the later segments of the project has already been mandated by the earlier construction”). The County should not and under the SEPA rules cannot, defer this review.

MITIGATING CONDITIONS REQUIRED FOR ISSUANCE OF ANY DNS

While Ellensburg Cement asserts the current SEPA disclosures and analysis is defective and is not based upon information reasonably sufficient to evaluate the environmental impact of the proposal, it further asserts that even when all impacts are properly disclosed, that any subsequent threshold determination, must, at a minimum, include and impose appropriate necessary mitigating conditions as part of a mitigated determination of nonsignificance (MDNS). The entire purpose of the rezone appears to be to loosen permitting standards for gravel operations and avoid and eliminate the robust conditional use permitting process⁶ that Ellensburg Cement has undergone for each of its relevant operations. These conditions have, in the past included, without limitation, required conditions related to the hours of operation of rock crushing operations, analysis of and limitation on trucks and heavy equipment impacting the adjacent community and County roadways, mitigating dust and noise impacts, and addressing compatibility and mitigating impacts on adjoining land uses, and others.

WITHDRAWAL AND RECONSIDERATION OF THE DNS REQUIRED

A DNS must be based upon “information reasonably sufficient to evaluate the environmental impact of a proposal.” WAC 197-11-335; see also *Moss v. City of Bellingham*, 109 Wn. App. 6, 14, 31 P.3d 703 (2001). To receive a DNS, an applicant must furnish reasonably complete information about the impacts. In

⁶ See Chapter 17.60A KCC (Conditional Uses). The conditional use permitting process requires, without limitation, that the proposed use is not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood, will not create excessive public cost for facilities and services, be adequately served by existing facilities and roads, and may impose specific conditions to ensure compliance. See, e.g., KCC 17.60A.015 and KCC 1760A.020.

this regard, SEPA cases instruct that “the [local jurisdiction] must demonstrate that it had actually considered relevant environmental factors before [issuing the threshold determination]. Moreover, the record must demonstrate that the [local jurisdiction] adequately considered the environmental factors in a manner sufficient to be a prima facie compliance with the procedural dictates of SEPA.” *Boehm v. City of Vancouver*, 111 Wn. App. 711, 718, 47 P.3d 137 (2002). The responsible official “shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents.” WAC 197-11-340(2)(f). Withdrawal of the DNS is appropriate here.

The SEPA rules further require that the lead agency withdraw a DNS where “new information is presented indicating . . . a proposal’s probable significant adverse environmental impact,” WAC 197-11-340(3)(a)(ii), or where the “DNS was procured by misrepresentation or lack of material disclosure.” WAC 197-11-340(3)(a)(iii). Here, Ellensburg Cement has raised new information not clearly disclosed in the SEPA Checklist or evaluated by the County, including the undisclosed actual material differences between the zoning designations. This new information requires withdrawal of the DNS. WAC 197-11-340(3)(a)(ii). Similarly, the lack of material disclosure on these issues, and of the lack of actual consideration of the probable effects of the rezone requires withdrawal of the DNS. WAC 197-11-340(3)(a)(iii). Withdrawal of the DNS will permit the County to ensure proper SEPA review consistent with WAC 197-11-335⁷ and applicable law, and to impose mitigating conditions, as demonstrated to be necessary.

SPOT ZONING AND NEED FOR GENERALLY APPLICABLE RULES

Related to the above, Ellensburg Cement views this proposal as a piecemeal special favor in the form of spot zoning that would benefit only Gibson and does not further the County’s land use goals, policies, or the broader interests. The proposal seeks to rezone one individual parcel entirely encompassed within the A-20 zoning designation. The County should act cautiously and resist efforts at such spot zoning benefiting just one party. While Gibson may or will offer arguments as to its views of the appropriate zoning classification of this parcel, such consideration should be given a broader view. Similarly, if the County in

⁷ Pursuant to WAC 197-11-340(2)(f), in response to comments, the Responsible Official shall reconsider the DNS, including modification or withdrawal, and where the lead agency concludes that there is insufficient information it may require an applicant to submit more information on subjects in the checklist. See WAC 197-11-335(1). This result is dictated here.

Jayme Ayling
Kittitas County Community Development Services
August 28, 2024
Page 9

fact believes it is in the best interests of the County to more broadly permit rock crushing and gravel operations, or streamline the permit process for the same, it should do so holistically and not to the benefit of a singular property and property owner on a case-by-case basis.

CONCLUSION

The SEPA Checklist fails to properly disclose, let alone consider, the probable effects of the rezone. As such, the County's SEPA evaluation and DNS fails to demonstrate SEPA compliance. Given these deficiencies, and in further consideration of the significant impacts occasioned thereby, in accordance with the provisions of WAC 197-11-340(3), Ellensburg Cement respectfully requests the County withdraw the DNS issued on August 15, 2024, to ensure all appropriate impacts are evaluated and mitigated.

We request notice, directed to the undersigned, of any action the County takes relating to this threshold determination and the underlying rezone application.

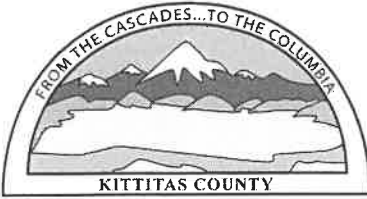
Thank you in advance for your consideration of these comments. Please feel free to contact me if you have any questions or require any additional information. We appreciate the County's careful review of this matter.

Sincerely,



Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

cc: Ellensburg Cement Products, Inc.



KITTITAS COUNTY
COMMUNITY DEVELOPMENT SERVICES

Receipt Number: CD24-02600

411 N. Ruby St., Suite 2
Ellensburg, WA 98926
509-962-7506 / <https://www.co.kittitas.wa.us/cds/> /

Payer/Payee: CASCADIA LAW GROUP PLLC
606 COLUMBIA ST NW STE 212
OLYMPIA WA 98501

Cashier: GAIL WEYAND CDS
Payment Type: CHECK (1602)

Date: 10/10/2024

RZ-24-00002 Rezone

PARKE CREEK RD ELLENSBURG

Fee Description

Fee Amount Amount Paid Fee Balance

Appeal

\$1,670.00 \$1,670.00 \$0.00

RZ-24-00002 TOTALS: \$1,670.00 \$1,670.00 \$0.00

TOTAL PAID: \$1,670.00

October 29, 2024

RECEIVED
OCT 30 2024

Kittitas County CDS

Jamey Ayling
Planning Manager
Kittitas County Community Development Services
Kittitas County
411 North Ruby Street, Suite 2
Ellensburg, WA 98926

Re: Filing Fee – Notice of Appeal
File No. RZ-24-00001 (Gibson – SEPA MDNS)

Dear Jamey:

Please find enclosed a Notice of Appeal (NOA) of Kittitas County's SEPA threshold determination and issuance of a Mitigated Determination of Non-Significance (MDNS) under File No. RZ-24-00001 submitted by Appellants Ellensburg Cement Products, Inc. and Jon and Julie Blackmore. Accompanying the NOA is the associated filing fee in the amount of \$1,670.00 (Check No. 1603). Based on our interpretation of KCC 15A.07.010 and KCC 15.04.210 the \$1,670.00 (Check No. 1603) satisfies the required filing fee associated with this appeal. However, out of an abundance of caution, we are also transmitting a second filing fee in the amount of \$1,670.00 (Check No. 1604) to the extent the County requires two filing fees for this appeal on behalf of Appellants.

If the County agrees and confirms that only one filing fee is required, we would ask that you please issue a reimbursement, or return the second filing fee (Check No. 1604), to our office. If so returned, we have enclosed a self-addressed stamped envelope for your convenience.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

JR:ha

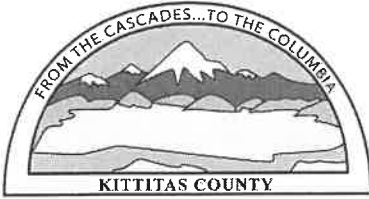
Enclosures

cc: Kittitas County Community Development Services ([cgs@co.kittitas.wa.us](mailto:cds@co.kittitas.wa.us))
Ellensburg Cement Products, Inc. (*via email*)
Jon and Julie Blackmore (*via email*)

Cascadia Law Group PLLC
cascadialaw.com

SEATTLE
1201 Third Avenue
Suite 320
Seattle, WA 98101
(206) 292-6300 voice
(206) 292-6301 fax

OLYMPIA
606 Columbia Street NW
Suite 212
Olympia, WA 98501
(360) 786-5057 voice
(360) 786-1835 fax



KITTITAS COUNTY
COMMUNITY DEVELOPMENT SERVICES

Receipt Number: CD24-02805

411 N. Ruby St., Suite 2
Ellensburg, WA 98926
509-962-7506 / <https://www.co.kittitas.wa.us/cds/> /

Payer/Payee: CASCADIA LAW GROUP PLLC
606 COLUMBIA ST NW STE 212
OLYMPIA WA 98501

Cashier: GAIL WEYAND CDS
Payment Type: CHECK (1603)

Date: 10/30/2024

RZ-24-00002 Rezone

PARKE CREEK RD ELLENSBURG

Fee Description

Fee Amount Amount Paid Fee Balance

Appeal

\$1,670.00 \$1,670.00 \$0.00

RZ-24-00002 TOTALS: **\$1,670.00 \$1,670.00 \$0.00**

TOTAL PAID: **\$1,670.00**

October 29, 2024

RECEIVED
OCT 30 2024

Kittitas County CDS

Kittitas County Community Development Services
Kittitas County
411 North Ruby Street, Suite 2
Ellensburg, WA 98926

Re: Notice of Appeal - File No. RZ-24-00001 (Gibson – SEPA MDNS)

To Whom it May Concern:

Please accept this letter as a formal Notice of Appeal of the Kittitas County's threshold determination and issuance of a Mitigated Determination of Non-Significance under File No. RZ-24-00001, together with the accompanying Notice of SEPA Action. A filing fee of \$1,670.00, accompanies this appeal.

1. The decision being appealed.

The decision being appealed is Kittitas County's Mitigated Determination of Non-Significance ("MDNS") and Notice of SEPA Action issued under the State Environmental Policy Act, chapter 43.21C ("SEPA"), identified by File No. RZ-24-00001 and each dated October 16, 2024.¹ The MDNS is associated with Applicant Kristen Gibson's ("Gibson" or "Applicant") application for a site-specific rezone of Tax Parcel No. 280533 (Kittitas County Parcel Map No. 17-20-08010-0006) located off Parke Creek Road. A copy of the MDNS and associated Notice of SEPA Action are attached hereto as Attachment 1 and Attachment 2, respectively.

2. The name and address of the appellant and his interest(s) in the matter.

Appellants are Ellensburg Cement Products, Inc. ("Ellensburg Cement") and Jon and Julie Blackmore ("Blackmore" collectively, "Appellants").

Ellensburg Cement Products Inc.'s mailing address is 2121 US-97, Ellensburg, WA 98926. Appellant Ellensburg Cement is represented by the undersigned counsel at Cascadia Law Group PLLC, located at 606 Columbia Street NW,

¹ Kittitas County previously issued a MDNS and Notice of SEPA Action related to this proposal on October 1, 2024, which Appellant Ellensburg Cement, Inc. timely appealed by letter and notice of appeal dated October 9, 2024, received by the County on October 10, 2024. On October 16, 2024, Kittitas County withdrew the October 1, 2024 MDNS, and issued a new MDNS and Notice of SEPA Action.

Suite 212, Olympia, Washington 98501. All future correspondence pertaining to this appeal should be directed to the undersigned.

Appellants Jon and Julie Blackmore's mailing address is P.O. Box 1617, Ellensburg, WA 98926. Their email address is jonjulie@fairpoint.net.

Appellants are interested in, and concerned by, Applicant's rezone application and the lacking associated environmental review based on the evident intent of the proposal to evade thorough environmental review associated with the gravel mining and rock crushing operations that will be permitted and be directly facilitated by the proposed rezone.

Ellensburg Cement has property interests and business operations in the immediate vicinity of the proposed rezone and would be impacted by the proposal. Without limitation, Ellensburg Cement operates an existing rock quarry pursuant to a long-term lease at 930 Prater Road, and less than one mile from the subject property. Ellensburg Cement's operations also require regular use of Parke Creek Road which would also be utilized by the subject property for the more intensive operations that would be permitted under the rezone. Further, Gibson's existing operations at the Parke Creek Road site already necessitate use of and truck traffic along Prater Road, adjacent to Ellensburg Cement's operations, which at times has led to complaints misdirected to Ellensburg Cement. Increased and intensified activities that would be permitted under the rezone of the subject property would lead to increased truck traffic and other impacts, none of which has been disclosed or evaluated.

Jon and Julie Blackmore own and reside at property located at 5721 Parke Creek Road in Kittitas County and immediately to the east of the subject rezone property.² The Blackmore's property includes their personal residence, and is further used for the raising and seasonal grazing of horses, cattle, and sheep, with a portion of the of the property under irrigation as pastureland. The Blackmores and their property would be negatively and adversely impacted by the proposed rezone.

Appellants previously submitted comments on the County's review associated with File No. RZ-24-00001.

² The Blackmore property is identified by Kittitas County Parcel Nos. 780633 (17-20-09020-0004), 12401 (17-20-09020-0009) and 954145 (17-20-08055-0002).

3. The specific reason(s) why the appellant believes the decision to be wrong.

The County's threshold determination of an MDNS should be reversed and/or withdrawn because the County's review to date is not based upon information reasonably sufficient to evaluate the environmental impact of a proposal and fails to demonstrate that the County adequately considered relevant environmental factors before issuing the MDNS. Even as a non-project action, the SEPA review must disclose and evaluate the probable effects of the proposed rezone, including the short and long-term effects that may be occasioned by the differing land use regulations. To the point, Gibson requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining and excavation operations. The SEPA Checklist,³ MDNS, and associated environmental review is entirely lacking in this regard and fails to meet *prima facie* SEPA compliance.

Without limitation, the SEPA checklist and application materials did not properly disclose, and the MDNS and County's environmental review did not meaningfully evaluate, the actual impacts of the rezone proposal, including the range of probable impacts, including short-term and long-term effects. The review by the County further constitutes improper deferral of environmental review and impermissible piecemealing under SEPA. Further, the SEPA Checklist and associated review is entirely devoid of any disclosure or analysis of the actual potential impacts of the newly permitted uses under the proposed rezone. Notably, this includes, without limitation, the following:

- Neither the SEPA Checklist nor any studies address noise and other impacts associated with blasting and vibration associated with the rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address dust control, emissions, or air quality impacts from rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential traffic impacts and safety associated with increased truck traffic and heavy machinery associated with uses that would be permitted under the proposed rezone.

³ A copy of the SEPA Checklist is attached hereto as Attachment 3.

- Neither the SEPA Checklist nor any studies address potential impacts to groundwater, hydraulic connectivity with surface water bodies,⁴ or aquifer impacts.
- Neither the SEPA Checklist nor any studies address potential adverse impacts to wildlife and livestock, including without limitation, adverse impacts to the raising of livestock on adjoining and nearby properties.
- While the application materials note a lack of any water rights associated with the property, the SEPA Checklist does not address or evaluate how water supply would be made available to the property for dust control and operational issues, and the impact of the same.
- The SEPA Checklist's response to the majority (over 50 in total) of the required environmental considerations set forth in Part B of the Checklist as "Not applicable" is in error, impermissibly defers environmental review, and evinces a lack of adequate consideration.
- The SEPA Checklist's response to each of the first six items set forth in Part D of the Checklist that measures to avoid or reduce impacts would be reviewed later is in error, impermissibly defers environmental review, and evinces a lack of adequate consideration.

Further, the conditions included in the MDNS have no bearing on and fail to mitigate the probable impacts associated with the increased gravel and mining operations that would be permitted under the proposed spot rezone, let alone address the types of mitigating conditions imposed on similar operations in the existing agricultural zones when processed through the County's conditional use permit process, which the rezone is intended to now avoid.⁵

For further specific reasons as to why the decision was wrong and the MDNS was improperly issued, Appellants direct the County's attention to the written

⁴ While the SEPA Checklist notes that Parke Creek is within 200 feet of the property in the southwest corner, see Checklist at § 3.a.1, it avoids any discussion of any impacts of the new uses authorized under the rezone, merely describing as "non-applicable." *Id.* at § 3.a.2.

⁵ Of note, while the SEPA Checklist describes the subject property as being "vacant," see SEPA Checklist at § B.8.a, the property already includes an existing gravel pit, including associated storage and equipment.

comments on file from Appellants, which are further attached to this Notice of Appeal as Attachment 4 and 5⁶ and fully incorporated herein by this reference.

Appellants further appeal the County's issuance of the Notice of SEPA Action dated October 16, 2024, and accompanying the MDNS, which is confusing, fails to describe the appropriate SEPA process and procedures, and was issued in error. The Notice of SEPA Action purports to provides notice as follows:

NOTICE IS HEREBY given that pursuant to WAC 197-11-350 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 16, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson.

RCW 43.21C.030(2)(c), as cited by the County in both the MDNA and Notice of SEPA Action, concerns detailed statements associated with recommendations or proposals for legislation and other major actions, and is inapplicable.⁷

Appellants reserve the right to supplement the response to this item, and to add to, modify, or delete the bases of errors based on further discovery and investigation.

4. The desired outcome or change to the decision.

Reversal of Kittitas County's issued MDNS under File No. RZ-24-00001 and/or remand to the Responsible Official for further review and evaluation under SEPA. Any remand and further consideration should include and require actual disclosure and evaluation of the environmental impacts of the proposal and, if an MDNS is reissued, appropriate required mitigation conditions.

5. The appeal fee.


The appeal fee of \$1,670.00 accompanies this letter.

Thank you for your attention to this matter.

⁶ See also Email Comments from J. Hutchinson and Ellensburg Cement Products, Inc. to Kittitas County dated August 21, 2024 (on file); Letter from Cascadia Law Group to Kittitas County dated August 28, 2024 (on file); Letter from Cascadia Law Group to Kittitas County dated September 5, 2024 (on file); Letter from Jon and Julie Blackmore dated September 12, 2024 (on file).


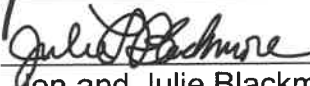
⁷ To the extent the County intended to rely on the Notice of Action process in RCW 43.21C.080, the County's notice is deficient, does not properly identify the "action" taken by the governmental agency, and the County did not follow the statutory requirements.

CASCADIA LAW GROUP PLLC

By 
Joseph A. Rehberger
Cascadia Law Group PLLC
606 Columbia Street NW, Suite 212
Olympia, WA 98501
Telephone: (360) 951-7810
Email: jrehberger@cascadialaw.com

Attorneys for Ellensburg Cement Products, Inc.

JON AND JULIE BLACKMORE

By 
By 
Jon and Julie Blackmore
P.O. Box 1617
Ellensburg, WA 98926
Telephone: (509) 859-3817
Email: jonjulie@fairpoint.net

JR:ha

Enclosures

Attachment 1 – Kittitas County Mitigated Determination of Non-Significance (MDNS), identified by File No. RZ-24-00001, and dated October 16, 2024

Attachment 2 – Kittitas County Notice of SEPA Action, identified by File No. RZ-24-00001, and dated October 16, 2024

Attachment 3 – SEPA Environmental Checklist prepared by Kristen Gibson dated June 28, 2024

Attachment 4 – Ellensburg Cement Products, Inc. SEPA comment letter dated August 28, 2024

Attachment 5 – Jon and Julie Blackmore comment letter dated
September 12, 2024

cc: Jamey Ayling (jamey.ayling@co.kittitas.wa.us)
Kittitas County Community Development Services ([cgs@co.kittitas.wa.us](mailto:cds@co.kittitas.wa.us))
Ellensburg Cement Products, Inc. (*via email*)
Jon and Julie Blackmore (*via email*)

ATTACHMENT 1



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

State Environmental Policy Act MITIGATED DETERMINATION OF NONSIGNIFICANCE

- Description:** A proposed rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. The rezone will allow the current use of the property to be consistent and compatible with the zoning code of Forest and Range, as well as allow future expansion of existing uses. A rezone application (RZ-24-00001), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.
- Proponent:** Kristin Gibson, Applicant, authorized agent
- Location:** Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.
- Lead Agency:** Kittitas County Community Development Services

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030 (2) (c) and WAC 197-11. This decision was made after review of a SEPA environmental checklist and other information on file with the lead agency, after considering voluntary mitigation measures which the lead agency or the applicant will implement as part of the proposal, and after considering mitigation measures required by existing laws and regulations that will be implemented by the applicant as part of the Kittitas County permit process. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. This information is available to the public on request.

The lead agency has determined that certain mitigation measures are necessary in order to issue a Mitigated Determination of Non-Significance (MDNS) for this proposal. Failure to comply with the mitigation measures identified hereafter will result in the issuance of a Determination of Significance (DS) for this project. The mitigation measures include the following:

Earth

- 1) A fill and grade permit is required pursuant to Kittitas County Code 14.05.050 for any authorized use in the zone proposing grading that exceeds the thresholds for a permit.

Transportation

- 1) The applicant shall adhere to all applicable regulations as set forth in the current Kittitas County Road Standards.
- 2) The Kittitas County Grading Ordinance requires a permit if grading activity in excess of 100 cubic yards occurs pursuant to KCC 14.05. Contact Kittitas County Public Works for information relating to permitting at 509-962-7523.

Water and Waste Disposal

- 1) Adequate proof of water availability to serve proposed projects shall be provided to Kittitas County Water Resources to satisfy all requirements prior to or at the time of building permit submittal.

Building

- 1) All structures will meet Kittitas County Code Title 14

Fire

- 1) All structures must have adequate fire apparatus access.
- 2) All future development must comply with the International Fire Code (IFC) and Appendices

Critical Areas


- 1) A habitat management plan shall be developed in conjunction with Washington State Department of Fish and Wildlife for any further expansion of the site addressing impacts to the shrub steppe and also address plans for restoration once the current mining areas are completed.

Cultural Resources and Historic Preservation

- 1) Should ground disturbing or other activities related to the proposed project 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 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.

This MDNS is issued under WAC 197-11-350 and KCC Title 15. The lead agency will not act on this proposal for 15 days. Any action to set aside, enjoin, review, or otherwise challenge this administrative SEPA action's procedural compliance with the provision of Chapter 197-11 WAC shall be commenced within 10 working days (on or before 5:00 pm, October 31, 2024).

**Responsible
Official:**


Jamey Ayling

Title:

Planning Official

Address:

Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7506

Date:

October 16, 2024

Pursuant to Chapter 15A.07 KCC, this MDNS may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services office at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00 pm, October 31, 2024.

ATTACHMENT 2



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

NOTICE OF SEPA ACTION

To: Applicable Agencies
Parties of Record
Applicant

From: Jamey Ayling, Planning Manager

Date: October 16, 2024

Subject: **RZ-24-00001 Gibson – SEPA MDNS**

NOTICE IS HEREBY given that pursuant to WAC 197-11-350 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 16, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson. The applicants are proposing a rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C and WAC 197-11-350. This decision was made after review of a SEPA environmental checklist, and other information on file with the lead agency. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. The complete application file is available to the public on request or may be viewed at Kittitas County Community Development Services at 411 North Ruby St, Suite 2 Ellensburg, WA 98926, or on the county website. <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> (rezones, View Active Applications, file number RZ-24-00001 Gibson).

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of non-compliance with the provisions of Chapter 43.21C RCW (State Environmental Policy Act) and pursuant to Chapter 15A.07.010 KCC, may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services, 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. **Timely appeals must be received no later than 5:00pm, October 31, 2024.**

Direct questions regarding this proposal to:

Jamey Ayling
411 N. Ruby St. Suite 2
Ellensburg, WA. 98926
509-962-7065
jamey.ayling@co.kittitas.wa.us

ATTACHMENT 3



KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. **Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.**

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals: [\[help\]](#)

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the [SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS \(part D\)](#). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

APPLICATION FEES:

\$600.00 Kittitas County Community Development Services (KCCDS)**

\$950.00* Kittitas County Department of Public Works**

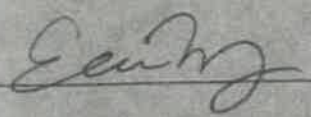
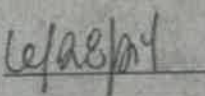
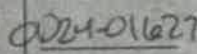
\$260.00 Kittitas County Public Health

\$1,810.00 Total fees due for this application (One check made payable to KCCDS)

*2 hours of review included in Public Works Fee. Additional review hours will be billed at \$243 per hour.

** Note:KCCDS and PW fees are waived if project is a VSP sponsored fish enhancement project.

FOR STAFF USE ONLY

Application Received by (CDS Staff Signature): 	DATE: 	RECEIPT# 	<div><div>RECEIVED</div><div>JUN 28 '2024</div><div>Kittitas County CDS</div><div>DATE STAMP IN BOX</div></div>
---	--	---	---

A. Background

1. Name of proposed project, if applicable:

Gibson Rezone from AG20 to Forest & Range

2. Name of applicant:

Kristin and Kory Gibson, mother and son

3. Address, e-mail and phone number of applicant and contact person:

Kristin Gibson
c/o Kory Gibson
1221 South Thorp Highway
Ellensburg, WA 98926

KoryGibson@hotmail.com

509-201-1023

4. Date checklist prepared:

June 15, 2024

5. Agency requesting checklist:

Kittitas County Community Development Services Department

6. Proposed timing or schedule (including phasing, if applicable):

Docket applications are due by June 28, 2024.

The docket will be reviewed by staff beginning in July 2024, with adoption by the end of year.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

Unknown. The rezone is to align the property's existing natural characteristics and potential with the allowed uses in the zone. Since there is no irrigation or agricultural soil on site, Agriculture-20 (AG-20) zoning does not fit the existing conditions of the land. Forest and Range is the other potential zoning within the Rural Working designation in the Kittitas County Comprehensive Plan that applies to this area, and is a better fit for the natural conditions on the subject site.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Publicly available information from federal, state, and regional governmental and nongovernmental organizations was used to complete this checklist. Resources include USDA soils information; state fish and wildlife information; noxious weed board information; and Kittitas County COMPAS information including Lidar, existing features mapping, and the aerial photograph of the subject site.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None known. This AG-20 to Forest & Range Rezone application is the only known pending government approval relating to the subject site.

10. List any government approvals or permits that will be needed for your proposal, if known.

The applicant currently seeks only a AG-20 to Forest & Range rezone from Kittitas County for the subject site assigned parcel number 280533.

11. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The subject site is a 42-acre parcel with slopes, sparse scrub type vegetation, and rocky soils. Elevations range from 2000 feet above sea level, to 1940 feet above sea level. No water service currently exists on site, no wells exist, and no water rights are available for agricultural irrigation or animal husbandry. Since agricultural uses would not be supported under the natural conditions, and the necessary rights are not available to change the potential of the subject site, a Forest & Range zoning would better suit the property than the current Agricultural-20 (AG-20) zoning.

For example, the properties to the immediate southwest, and south across Parke Creek Rd, are in a river valley and adjacent to an existing river and irrigation system, providing a ready source for irrigation. In this area, the natural characteristics support agricultural uses. The hill to the north, on which the subject site is located, and the hill to the south on the other side of the river, share the same arid landscape without natural water sources.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The subject property is approximately 3 miles east of town of Kittitas and is accessed via Parke Creek Road.

Map number: 17-20-08010-0006

Parcel number: 280533

Section/Township/Range: S8 T17N R20E

Address: unaddressed, north of 4481, 5125, 5121, and 5123 Parke Creek Road

Driving directions: From the city of Kittitas, head east on Parke Creek Road for 3 miles. Turn left at 5125 Parke Creek Rd, and continue northwest for 1,000 feet.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site:

(circle one): Flat, rolling, hilly, **steep slopes**, mountainous, other _____

b. What is the steepest slope on the site (approximate percent slope)?

COMPAS notes the site as having slopes over 30% slope.

- See COMPAS property report, Exhibit A

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

The USDA web-based GIS mapping software lists the following soils for the subject property:

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
422	Clerf very cobbly loam, 30 to 45 percent slopes	24.6	57.9%
512	Vantage-Clerf complex, 3 to 15 percent slopes	6.8	16.0%
523	Terlan gravelly loam, 0 to 2 percent slopes	2.3	5.4%
532	Selah-Terlan complex, 10 to 15 percent slopes	2.4	5.6%
903	Marlic-Zen-Laric complex, 3 to 15 percent slopes	6.4	15.1%
Totals for Area of Interest		42.5	100.0%

- See USDA soil map and table, Exhibit B

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

There is no known history of soil instability in the immediate vicinity.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Not applicable. This non-project action proposes only a zoning change.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not applicable. This non-project action does not propose any filling, excavation, or grading. Based on the soil types, it is unlikely that any future erosion would occur with implementation of best management practices, as required by Kittitas County Code.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Not applicable. This non-project action does not propose any sitework.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not applicable. This non-project action does not propose any sitework.

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None known.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3. Water

a. Surface Water:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

PARKER
Reecer Creek is 170 feet at its nearest point from the southwest corner of the subject property.

- See COMPAS aerial photograph, Exhibit C

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No, this site is not within a 100-year floodplain. FEMA lists this area as "minimal flood hazard" on FEMA's National Flood Hazard Layer (NFHL) Viewer, and cites study 53037C_STUDY1. Firmette 53037C1330D shows this area. The absence of symbology on the map shows the subject site is outside flood-rated areas.
- See Firmette 53037C1330D, Exhibit D

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the

number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable. This is a non-project action. Soils in this area are well-draining, allowing surface water to satisfactorily infiltrate. Additional stormwater intervention is not needed. Generally, stormwater makes its way to the river valley.

2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable. This is a non-project action. This non-project action does not propose any sitework.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

4) Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

4. Plants

a. Check the types of vegetation found on the site:

- ☐ deciduous tree: alder, maple, aspen, other
- ☐ evergreen tree: fir, cedar, pine, other
- ☐ **shrubs**
- ☐ grass
- ☐ pasture
- ☐ crop or grain
- ☐ orchards, vineyards, or other permanent crops.
- ☐ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐ water plants: water lily, eelgrass, milfoil, other

☐ other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

c. List threatened and endangered species known to be on or near the site.

As reported on the Washington Department of Fish & Wildlife "Priority Habitats and Species: Maps" GIS interactive web-based software, there are no known threatened or endangered species on or near the subject site.

- See WDWF Priority Habitats and Species report, Exhibit E

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. List all noxious weeds and invasive species known to be on or near the site.

As mapped on the Washington State Noxious Weed Control Board's "Noxious Weed Data Viewer", no noxious weeds or invasive species are mapped on the subject site.

5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

Birds: hawk, heron, eagle, songbirds, other:

Mammals: **deer**, bear, elk, beaver, other:

Fish: bass, salmon, trout, herring, shellfish, other _____

b. List any threatened and endangered species known to be on or near the site.

As reported on the Washington Department of Fish & Wildlife "Priority Habitats and Species: Maps" GIS interactive web-based software, there are no known threatened or endangered species on or near the subject site.

c. Is the site part of a migration route? If so, explain.

None known. Generally, Washington State is within the Pacific Flyway, a migratory bird pattern along the west coast of the United States.

d. Proposed measures to preserve or enhance wildlife, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. List any invasive animal species known to be on or near the site.

None known. The Washington Invasive Species Council does not list invasive animal species in Central Washington.

- See Washington Invasive Species Council plant map, Exhibit F

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Not applicable. This is a non-project action.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Not applicable. This is a non-project action.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.

1) Describe any known or possible contamination at the site from present or past uses.

None known.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

None known.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Not applicable. This is a non-project action.

4) Describe special emergency services that might be required.

Not applicable. This is a non-project action.

5) Proposed measures to reduce or control environmental health hazards, if any:

Not applicable. This is a non-project action to rezone the subject site. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Existing noise includes those typically associated with large property, low density, rural lifestyles including property maintenance equipment, recreation vehicles, and regional traffic noise.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3) Proposed measures to reduce or control noise impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

The site is currently vacant and is not suited to agricultural uses due its natural condition. Adjacent properties include residential and farming activities lower down in the river valley, to the west and south, and include vacant and residential activities to the east and north.

The proposal does not affect current land uses on nearby or adjacent properties.

The proposed zoning is consistent with the Rural Working land use designation and activities, which prioritizes management of farming, ranching, and rural lifestyles in the AG-20 zone, and prioritizes resource management in the Forest and Range zone.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

The subject site has not been used as working farmland or as working forest lands.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

c. Describe any structures on the site.

A temporary storage container is located on site and is the only structure.

d. Will any structures be demolished? If so, what?

Not applicable. This is a non-project action.

e. What is the current zoning classification of the site?

The subject site is currently zoned AG-20.

f. What is the current comprehensive plan designation of the site?

The current comprehensive plan designation is Rural Working.

g. If applicable, what is the current shoreline master program designation of the site?

Not applicable. No shorelines of the state are located on or near the subject site.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Pursuant to Kittitas County Code 17A.01.010, regulated critical areas present within Kittitas County include: Critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.

None of these occur on the subject site.

i. Approximately how many people would reside or work in the completed project?

Not applicable. This is a non-project action.

j. Approximately how many people would the completed project displace?

Not applicable. This is a non-project action.

k. Proposed measures to avoid or reduce displacement impacts, if any:

Not applicable. This is a non-project action.

L. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not applicable. This is a non-project action.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable. This is a non-project action.

c. Proposed measures to reduce or control housing impacts, if any:

Not applicable. This is a non-project action.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not applicable. This is a non-project action.

b. What views in the immediate vicinity would be altered or obstructed?

Not applicable. This is a non-project action.

c. Proposed measures to reduce or control aesthetic impacts, if any:

Not applicable. This is a non-project action.

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Not applicable. This is a non-project action.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not applicable. This is a non-project action.

c. What existing off-site sources of light or glare may affect your proposal?

Not applicable. This is a non-project action.

d. Proposed measures to reduce or control light and glare impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

According to Google maps, there are several state parks within driving distance of the subject site, including the Ginkgo Interpretive Trails to the north off Vantage Highway, the Green Gate WDFW Public Lands Access to the east, the John Wayne Trail to the southeast, and the Olmstead Place Historical State Park to west of the city of Kittitas.

b. Would the proposed project displace any existing recreational uses? If so, describe.

Not applicable. This is a non-project action.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

According to the National Register of Historic Places, the closest registered sites are the Kittitas Depot in downtown Kittitas, approximately 3 miles west of the subject site, and the Olmstead Place Historical State Park, roughly 6 miles west of the subject site.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

None known at or immediately adjacent to the subject site. The Department of Archeology and Historical Preservation's WISAARD mapping tool does not show the subject site mapped as a historical area. The closest areas are a historic bridge 3 miles southeast and a historic canal 2 miles west.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

For this non-project action, the Department of Archeology and Historical Preservation's WISAARD mapping tool was consulted along with the National Register of Historic Places web-based mapping tool, hosted by the U.S. Department of the Interior's National Park Service.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

The subject site is currently accessed from Parke Creek Road. This regional road that connects into the city of Kittitas, which has an exit off Interstate 90.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

None known. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No such transportation known in the area. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

f. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

No known impact. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

g. Proposed measures to reduce or control transportation impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

15. Public Services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

- b. Proposed measures to reduce or control direct impacts on public services, if any.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

16. Utilities

- a. Circle utilities currently available at the site:

electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,
other _____

None currently available.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: _____

Name of signee _____

Position and Agency/Organization _____

Date Submitted: _____

Kristin Gibson
Kristin Gibson
owner
6/28/24

D. supplemental sheet for nonproject actions

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Changing the zoning from AG-20 to Forest & Range would not increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise. Both zoning types are within the Rural Working land use designation, and have similar land experiences that include large property, a low density, rural lifestyle.

Proposed measures to avoid or reduce such increases are:

Any future permit actions would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The AG-20 zoning and Forest & Range zoning are both within the Rural Working land use designation. Changing the zoning from AG-20 to Forest & Range would not affect plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3. How would the proposal be likely to deplete energy or natural resources?

Changing the zoning from AG-20 to Forest & Range would not deplete energy or natural resources. Both zoning types are within the Rural Working land use designation.

Proposed measures to protect or conserve energy and natural resources are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

4. How would the proposal be likely to use or affect environmentally sensitive areas or

areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

There are no known environmentally sensitive areas on the subject site. Changing the zoning of the site from AG-20 to Forest & Range will not impact environmentally sensitive areas.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Both AG-20 zoning, the current subject site zoning, and the Forest & Range zoning, the proposed zoning, are allowed within the current Rural Working land use designation in the Kittitas County Comprehensive Plan. There are no current shorelines or shoreline uses on the subject property. Changing the zoning from AG20 to Forest & Range would not affect land and shoreline use, nor would it be inconsistent with the existing plans.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

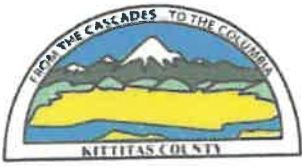
Changing the zoning from AG-20 to Forest & Range would not increase demands on transportation or public services and utilities.

Proposed measures to reduce or respond to such demand(s) are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

It is unlikely the proposal would conflict with local, state, or federal laws or requirements for the protection of the environment since the comprehensive plan land use designation would not change and has already been approved under the applicable local, state, or federal laws and requirements. The only change is to switch the zoning type from AG-20 to Forest & Range to reflect the site-specific characteristics that do not support agricultural uses but do support Forest & Range uses.



Property Report for Parcel#: 280533

Exhibit A

Wednesday, June 5, 2024

Parcel Information

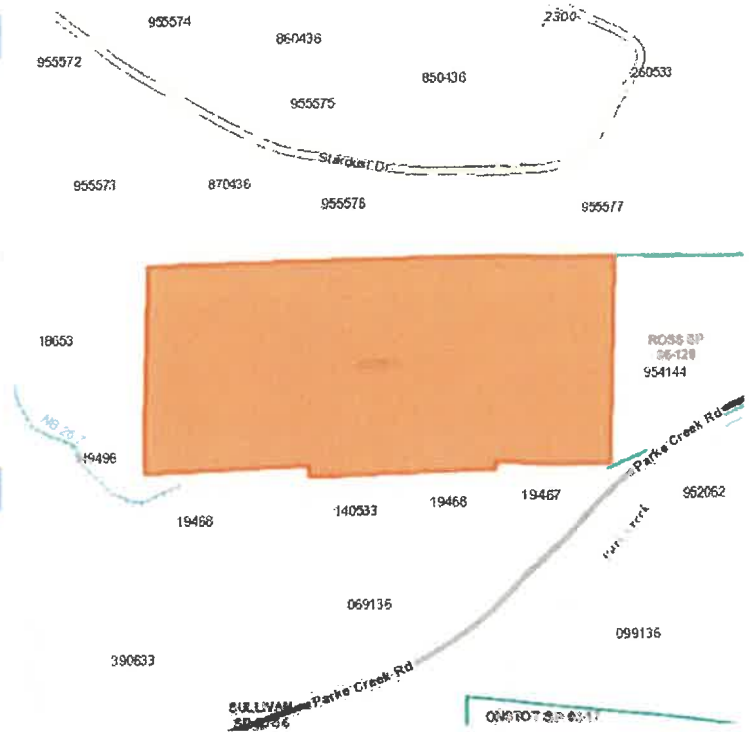
Address: PARKE CREEK RD ELLENSBURG
Tax Parcel ID: [280533](#)
Map Number: 17-20-08010-0006
Recorded Area: 42.41 a
Owner Name: GIBSON, KRISTIN A
Name Cont:
Mailing Address: 1221 THORP HWY S
City/State/Zip: ELLENSBURG WA 98926-8010

Critical Areas Information

Contains > 30% Slope: Yes
PHS Site Name: N/A
Roof Hazard: LOW_HAZARD RATING
Roof Class: CLASS C
Seismic Category: C
Shore Line: N/A
Wetland Code: N/A
DNR Water Type: N/A
FIRM Zone:
FEMA Flood Map: 53037C1330D
Coalmine Shaft: N/A
Airport Zone: N/A
BPA Right of Way: -1
Max Elevation: 2100
ISO: 0.019
PG: 40

Domestic Water Information

Over the Counter Water: Yes, [Suitability Map](#)
Qualifying Water Banks: Big Creek WR, Bourne, New Suncadia (Tillman Creek), KittitasCnty (Amerivest), KittitasCnty(Clennon), Reecer Creek, KittitasCnty(Roth), KittitasCnty(Williams), New Suncadia (Big Creek), New Suncadia (SwaukFirstCreeks), New Suncadia (TeawayRiver), Roan New Suncadia, SC_Aggregate, Swiftwater Ranch, Trailside, Western Water Partners, Yakima Mitigation Services, NGR
Sub Basin Watershed: Wilson-Cherry Creeks



Administrative Information

Zone and Allowed Uses: [Agriculture 20](#)
Land Use Category: Rural Working
Commissioner District: 0
Voter Precinct:
Hospital District: HOSPITAL DISTRICT 1
School District: Kittitas School District
Irrigation District: KRD
Weed District:
Fire District: Kittitas Valley Fire and Rescue (Fire District 2)
Cemetery District: N/A
Court District: Lower District Court
PUD Comm District: District 3
Parks and Rec District:
Wildland Urban Interface: [IR 1](#)
Stock Restricted Area: Stock Restricted
COE Gas Service Area: No

Custom Soil Resource Report Soil Map

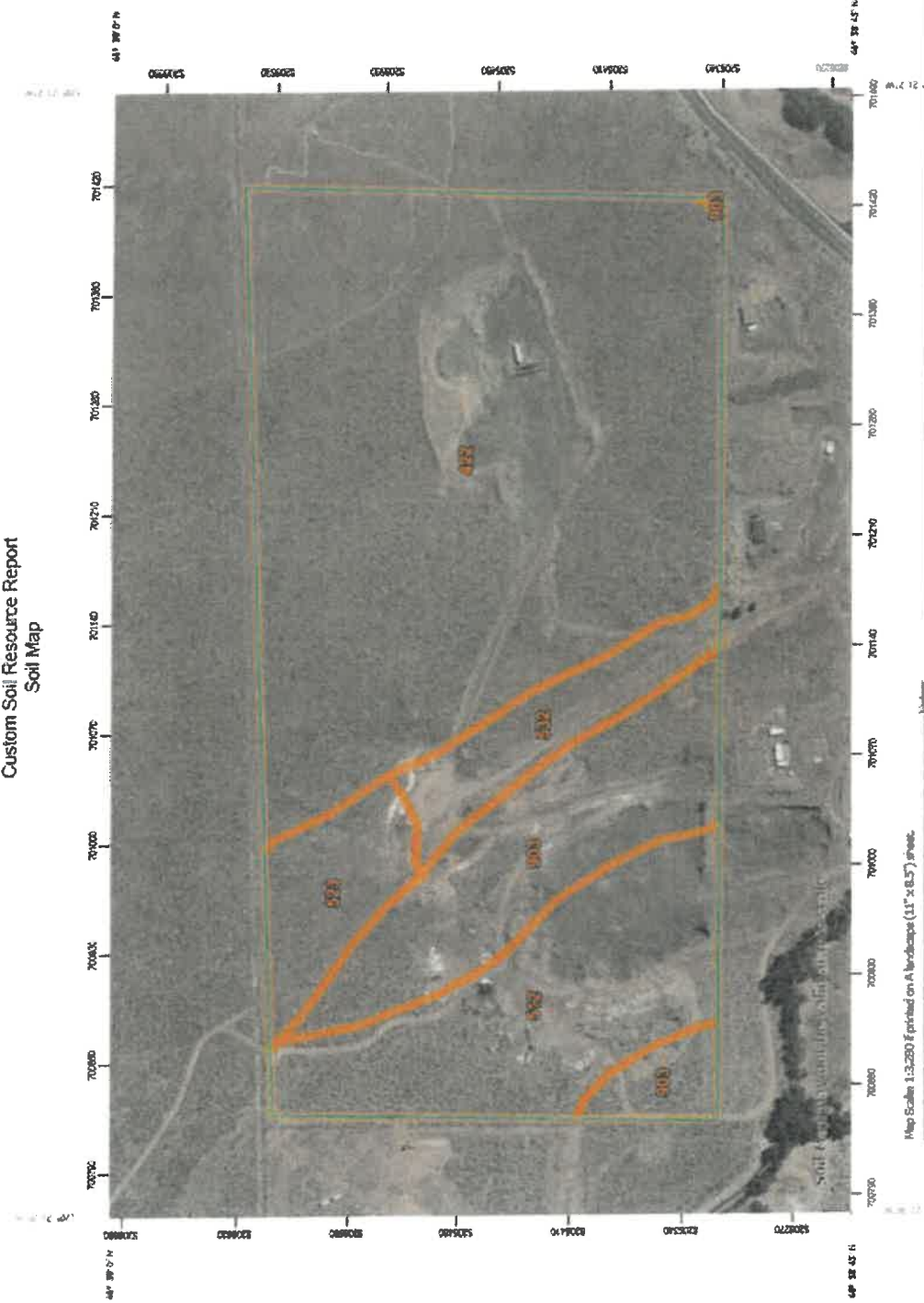


United States
Department of
Agriculture



Natural
Resources
Conservation
Service

Custom Soil Resource Report for Kittitas County Area, Washington



Map Scale 1:3200 if printed on A landscape (11" x 8.5") sheet.
0 45 90 180 270 feet
0 90 180 270 meters
Map projections: Web Mercator Corner coordinates: WGS84 Edge lat: UTM Zone 18N WGS84

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
422	Clay very cobbly loam, 30 to 45 percent slopes	24.6	57.9%
512	Vantage-Clay complex, 3 to 15 percent slopes	6.8	16.0%
523	Terdan gravelly loam, 0 to 2 percent slopes	2.3	5.4%
532	Selah-Terdan complex, 10 to 15 percent slopes	2.4	5.6%
903	Maric-Zen-Laric complex, 3 to 15 percent slopes	6.4	15.1%
Totals for Area of Interest		42.5	100.0%



Date: 6/10/2024

1 inch equals 3,029 feet

0 0.2 0.4 0.8 mi

Disclaimer:
 Kittitas County makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data, its use, or its interpretation. Kittitas County does not guarantee the accuracy of the material contained herein and is not responsible for any use, misuse or representations by others regarding this information or its derivatives.



National Flood Hazard Layer FIRMette

120°20'W 46°58'26"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

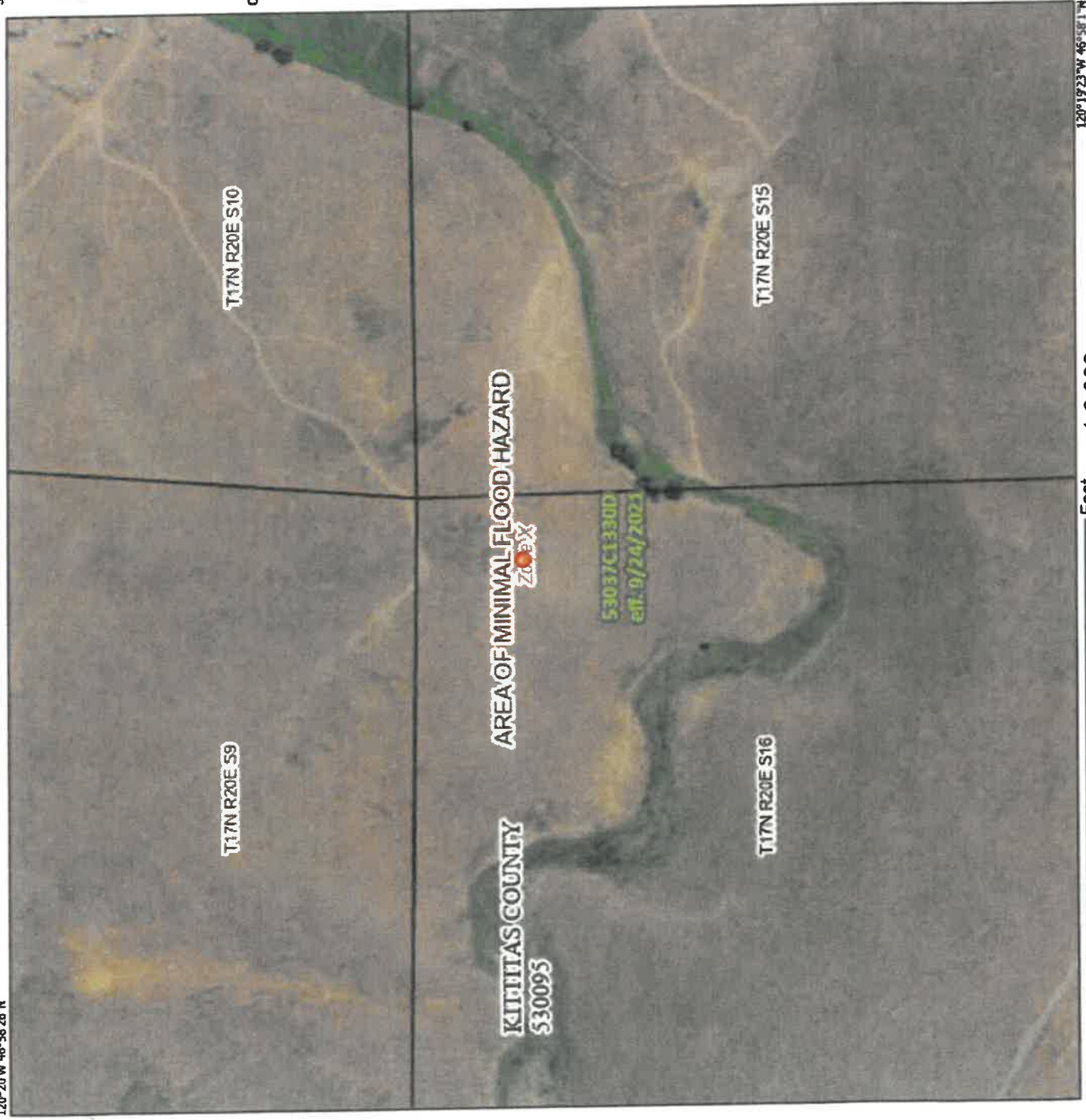


Exhibit D

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/5/2024 at 10:14 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



1:6,000

Feet

2,000

1,500

1,000

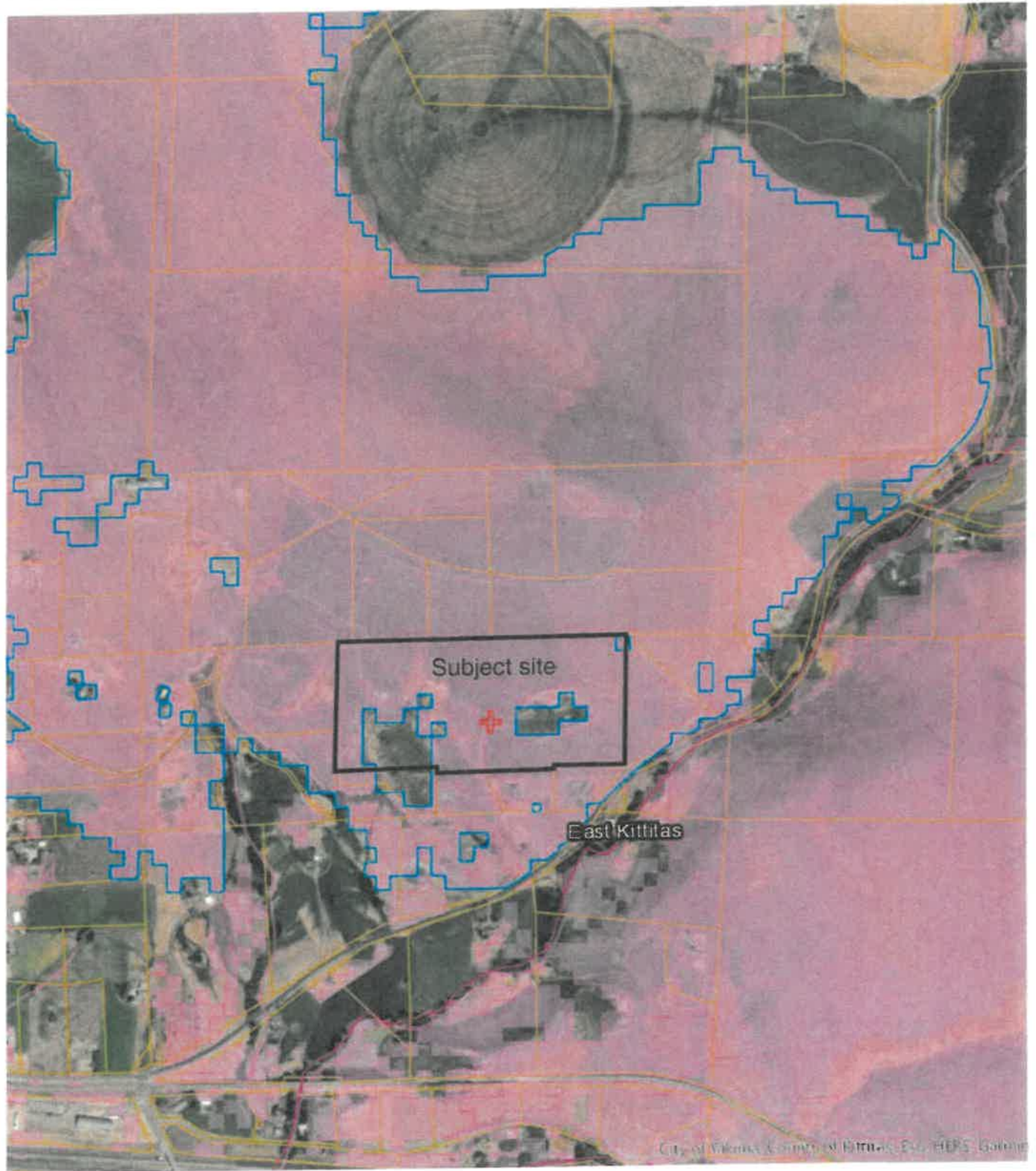
500

0

Basemap Imagery Source: USGS National Map 2023



Priority Habitats and Species on the Web



Report Date: 06/06/2024

PHS Species/Habitats Overview:

Occurrence Name	Federal Status	State Status	Sensitive
Shrubsteppe	N/A	N/A	No



PHS Species/Habitats Details:

Shrubsteppe	
Priority Area	Habitat Feature
Site Name	Kittitas County Shrubsteppe
Accuracy	NA
Notes	General location of Shrubsteppe. Confirm or refute info. WDFW recommends using site-scale info to inform land use decisions. Expect that on-the-ground conditions (boundaries) will vary from the map.
Source Record	920871
Source Name	Keith Folkerts, WDFW
Source Entity	WA Dept. of Fish and Wildlife
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS LISTED OCCURRENCE
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
Geometry Type	Polygons

DISCLAIMER. This report includes information that the Washington Department of Fish and Wildlife (WDFW) maintains in a central computer database. It is not intended to be used with an official agency response as to the impacts of your project on fish and wildlife. This information only documents the location of fish and wildlife resources to the best of our knowledge. It is not a complete inventory and it is important to note that fish and wildlife resources may occur in areas not currently known to WDFW biologists, or in areas for which surveys have not been conducted. Site specific surveys are frequently necessary to rule out the presence of priority resources. Locations of fish and wildlife resources are subject to variation caused by disturbance, changes in season and weather, and other factors. WDFW does not recommend using reports more than six months old.



Legend:

-  Subject site
 Noxious weed sites as labeled

ATTACHMENT 4

August 28, 2024

VIA USPS AND EMAIL (jamey.ayling@co.kittitas.wa.us; cds@co.kittitas.wa.us)



Jayme Ayling
Planning Manager and Responsible Official
Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926

RE: *Gibson Rezone (RZ-24-00001)*
Ellensburg Cement Products, Inc. SEPA Comments

Dear Mr. Ayling:

Please consider this letter as formal comments on behalf of Ellensburg Cement Products, Inc. (Ellensburg Cement) on the State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) issued by Kittitas County under File No. RZ-24-00001 on August 15, 2024.¹ These comments are provided pursuant to chapter 43.21C RCW, WAC 197-11-340, WAC 197-11-500, *et seq.*, and chapter 15.04 of the Kittitas County Code.

Based on the following comments, at this time, the DNS should be withdrawn and additional SEPA analysis should be conducted. A DNS should only issue "[i]f the responsible official determines there will be no probable significant adverse environmental impacts from a proposal." WAC 197-11-340(1). The County's DNS should be withdrawn because (a) neither the SEPA Checklist nor the County's environmental review address, let alone evaluate, the probable impacts of any future development that would be occasioned by the rezone; (b) improperly postpones and defers such environmental analysis until the project stage; and (c) it fails to impose any mitigating conditions on the proposed rezone to address known probable environmental impacts. As such, Ellensburg Cement respectfully requests the County's SEPA Responsible Official reconsider the DNS pursuant to WAC 197-11-340, and withdraw the determination at this time.

¹ Jeff Hutchinson, President of Ellensburg Cement Products, Inc., previously submitted written comments to the County by email dated August 21, 2024. Those additional comments should be considered as further written comments on the SEPA threshold determination and land use rezone proposal and are incorporated herein by this reference.

BACKGROUND

Founded in 1945, Ellensburg Cement, headquartered and doing business in Kittitas County, is a local and family-owned business specializing in ready-mix concrete and aggregates. Ellensburg Cement is committed to environmental compliance and stewardship in its business operations and has received the *Environmental Merit Award* from the Washington Aggregates and Concrete Association. Ellensburg Concrete has worked with the County on a number of sites, going through robust and detailed conditional use permitting and thorough environmental review associated with its operations.

Ellensburg Cement is interested in and concerned by Kristen Gibson's, of Gibson & Son ("Gibson"), pending rezone application and proposal based on the evident intent of the proposal to evade thorough environmental review associated with the understood proposed gravel mining and rock crushing operations envisioned for the site. Even as a non-project action, the SEPA review must disclose and evaluate the probable effects of the proposed rezone, including the short and long-term effects that may be occasioned by the differing land use regulations. To read the Checklist, one would be left with the impression that no such changes are occurring, and certainly would be left guessing at what those are. Yet, the proposal seeks to change the zoning designation for a singular parcel entirely encompassed within the Agriculture-20 (A-20) zone so that differing rules may apply. The remaining surrounding property would all remain A-20. To the point, Gibson requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining and excavation operations. None of these changes or impacts are disclosed or analyzed.

Without disclosure of these facts and probable impacts by Gibson in the SEPA Checklist, and without any resulting review of these impacts by the County Responsible Official in making its SEPA threshold determination, the existing SEPA review is lacking. To the point, by not disclosing, analyzing, or quantifying the actual impact and probable effects of the rezone, it is impossible for the County to properly evaluate the environmental impacts based on the required SEPA factors and considerations.

The information provided by Gibson is presently not reasonably sufficient to evaluate the environmental impacts of the proposal.² Absent a complete review addressing these impacts, the current SEPA determination cannot be sustained.

SEPA CONSIDERATIONS

When reviewing proposals subject to environmental review, "SEPA demands a 'thoughtful decision-making process' where government agencies 'conscientiously and systematically consider environmental values and consequences.'" *Wild Fish Conservancy v. Wash. Dep't of Fish & Wildlife*, 198 Wn.2d 846, 873, 502 P.3d 359 (2022). A threshold determination (such as a DNS) "must indicate that the agency has taken a searching, realistic look at the potential hazards and, with reasoned thought and analysis, candidly and methodically addressed those concerns." *Conservation Northwest v. Okanogan County*, 2016 Wash. App. LEXIS 1410, 88-89, 194 Wn. App. 1034 (June 16, 2016).

Moreover, while postured here as a non-project action in the form of a rezone only, even for such non-project actions, the County "must address the probable impacts of any future project action the proposal would allow." *Spokane County v. E. Wash. Growth Mgmt. Hearings Bd.*, 176 Wn. App. 555, 579, 309 P.3d 673 (2013); see also WAC 197-11-060(4)(c)-(d). The express purpose of these rules is "to ensure an agency fully discloses and carefully considers a proposal's environmental impacts before adopting it and 'at the earliest possible stage.'" *Id.* (quoting *King County v. Wash. State Boundary Review Bd.*, 122 Wn.2d 648, 663-64, 666, 860 P.2d 1024 (1993)); see also WAC 197-11-060(5)(d)(i)-(ii).

Against this backdrop, Ellensburg Cement has concluded that the environmental disclosure and review is presently incomplete and lacking, and provides the following additional SEPA comments for the County's consideration:

Lack of Disclosure and Analysis of Impacts of Rezone

The SEPA Checklist and associated review is lacking any disclosure or analysis of the probable impacts of the proposed rezone, in contravention of SEPA's dictates.³ The SEPA rules expressly require consideration of "the range of

² See WAC 197-11-100 ("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.")

³ For the vast majority of responses in the SEPA Checklist, the applicant merely responds "not applicable."

probable impacts, including short-term and long-term effects” and that considered impacts “shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.” WAC 197-11-060(4)(c). Further, a proposal’s effects “include direct and indirect impacts caused by a proposal, including “those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions.” WAC 197-11-060(4)(d).

Despite the above, the SEPA Checklist does not disclose these impacts and is devoid of any analysis. For example, Section B.8 of the SEPA Checklist requires disclosure of the “proposal’s affect on current land uses or nearby adjacent properties.” Rather than addressing the actual impacts of the rezone, the Checklist includes a mere conclusory statement that the “proposal does not affect current land uses on nearby or adjacent properties.” See Checklist at § B.8.a. It then goes on to merely summarily state that the “proposed zoning is consistent with the Rural Working land designation and activities, which prioritizes management of farming, ranching, and rural lifestyles in the A-20 zone, and prioritizes resource management in the Forest and Range zone.” *Id.*⁴ Similarly, and even more glaring, in the non-project supplement sheet, the Checklist merely repeats these or similar statements, without analysis, and defers environmental review, asserting that “[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.” This type of non-disclosure and non-analysis expressly contradicts SEPA rules requiring current the

⁴ Further, the SEPA Checklist gives sparse attention to the appropriateness of the proposed rezone under existing land use plans. See, e.g., Checklist at § D.5. No disclosure or analysis is provided with respect to the proposed isolated spot zoning of a singular tract within the much larger A-20 zone, including without limitation, **RR-P6** (“Allow for lands which offer adequate supply of rock and gravel resources located in areas compatible for such uses and conditioned so that operation does not negatively impact rural character.”); **RR-P16** (“Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.”); **RR-P18** (“Buffer standards and regulations should continue to be developed that will be used between incompatible rural uses.”); **RR-P21** (“Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed.”); **RR-G22** (“Provide preservation of agriculture activities where producers can live and work on their own lands separate from Resource Lands.”); and **RR-P45** (“Commercial/Industrial development in Rural Working lands shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.”).

consideration of the probable effects of changed land use occasioned by a rezone, including both its short-term and long-term effects.

Even a cursory review of KCC 17.15.060.1 evinces the potentially not insignificant changes that would be occasioned by the rezone. Understanding Gibson's business operations, this would most notably include allowing for rock crushing as a new permitted use (where currently not allowed), allowing for future and expanded mining and excavation as a permitted use (where current operations must be consistent with any conditional use permit and future expansion or changed operations must undergo a thorough conditional use permit process), and allowing the conditional development of asphalt and concrete plants and retail sales. None of the impacts or effects of these intensive land uses, which would now be permitted for the first time or subject to relaxed standards, is disclosed, analyzed, or meaningfully evaluated. As these represent the most obvious and significant differences between the two zones, the intent though is clear. In short, the environmental review is devoid of relevant analysis and is insufficient.

Further, the SEPA Checklist and associated review appears devoid of any disclosure or analysis of the actual potential impacts of the newly permitted uses under the proposed rezone. Notably, this includes, without limitation, the following:

- Neither the SEPA Checklist nor any studies address noise and other impacts associated with blasting and vibration associated with the rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address dust control, emissions, or air quality impacts from rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential traffic impacts and safety associated with increased truck traffic and heavy machinery associated with uses that would be permitted under the proposed rezone.

- Neither the SEPA Checklist nor any studies address potential impacts to groundwater, hydraulic connectivity with surface water bodies,⁵ or aquifer impacts.
- While the application materials note a lack of any water rights associated with the property, the SEPA Checklist does not address or evaluate how water supply would be made available to the property for dust control and operational issues, and the impact of the same.

The DNS as issued includes no consideration or imposition of any mitigating conditions associated with these issues. As the proposed rezone would allow for new intensive uses as a matter of right, without further review, SEPA requires review of these probable impacts now, and such review cannot be deferred.

IMPROPER DEFERAL OF REQUIRED ENVIRONMENTAL REVIEW

Second, to the extent the SEPA Checklist and the County's review purports to effectively defer review of the environmental impacts of the rezone, such deferral is inappropriate and SEPA analysis must occur now and at the forefront before the rezone can be undertaken. The SEPA Checklist statement that "[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time if the permit action" is insufficient and a transparent attempt to not just defer but to avoid review. Yet, if the County were to in fact approve the proposed rezone, activities currently not permitted (i.e. rock crushing) or permitted only through a conditional use permit process and continued compliance with any applicable CUP (i.e. mining and excavation) would become activities permitted as a matter of right. The County should reject this slight-of-hand, and at a minimum, must evaluate these impacts now, with any probable adverse impacts adequately mitigated. As Washington courts have explained, even for non-project actions (such as rezones):

. . . the agency must address the probable impacts of any future project action the proposal would allow. The purpose of these rules is to ensure an agency fully discloses and carefully considers a proposal's environmental impacts before adopting it and "at the earliest possible stage." An agency may not postpone environmental analysis to a later implementation stage if [**685] the proposal

⁵ While the SEPA Checklist notes that Parke Creek is within 200 feet of the property in the southwest corner, see Checklist at § 3.a.1, it avoids any discussion of any impacts of the new uses authorized under the rezone, merely describing as "non-applicable." *Id.* at § 3.a.2.

would affect the environment without subsequent implementing action.

Spokane County v. E. Wash. Growth Mgmt. Hearings Bd., 176 Wn. App. 555, 579, 309 P.3d 673 (2013) (internal citations omitted); *see also Millennium Bulk Terminals-Longview, LLC v. Dep't of Ecology*, 2020 Wash. App. LEXIS 647, *17-18 (Wash. Ct. App. Mar. 17, 2020) (piecemealing of environmental review “is disfavored because the later environmental review often seems merely a formality, as the construction of the later segments of the project has already been mandated by the earlier construction”). The County should not and under the SEPA rules cannot, defer this review.

MITIGATING CONDITIONS REQUIRED FOR ISSUANCE OF ANY DNS

While Ellensburg Cement asserts the current SEPA disclosures and analysis is defective and is not based upon information reasonably sufficient to evaluate the environmental impact of the proposal, it further asserts that even when all impacts are properly disclosed, that any subsequent threshold determination, must, at a minimum, include and impose appropriate necessary mitigating conditions as part of a mitigated determination of nonsignificance (MDNS). The entire purpose of the rezone appears to be to loosen permitting standards for gravel operations and avoid and eliminate the robust conditional use permitting process⁶ that Ellensburg Cement has undergone for each of its relevant operations. These conditions have, in the past included, without limitation, required conditions related to the hours of operation of rock crushing operations, analysis of and limitation on trucks and heavy equipment impacting the adjacent community and County roadways, mitigating dust and noise impacts, and addressing compatibility and mitigating impacts on adjoining land uses, and others.

WITHDRAWAL AND RECONSIDERATION OF THE DNS REQUIRED

A DNS must be based upon “information reasonably sufficient to evaluate the environmental impact of a proposal.” WAC 197-11-335; *see also Moss v. City of Bellingham*, 109 Wn. App. 6, 14, 31 P.3d 703 (2001). To receive a DNS, an applicant must furnish reasonably complete information about the impacts. In

⁶ See Chapter 17.60A KCC (Conditional Uses). The conditional use permitting process requires, without limitation, that the proposed use is not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood, will not create excessive public cost for facilities and services, be adequately served by existing facilities and roads, and may impose specific conditions to ensure compliance. See, e.g., KCC 17.60A.015 and KCC 1760A.020.

this regard, SEPA cases instruct that “the [local jurisdiction] must demonstrate that it had actually considered relevant environmental factors before [issuing the threshold determination]. Moreover, the record must demonstrate that the [local jurisdiction] adequately considered the environmental factors in a manner sufficient to be a prima facie compliance with the procedural dictates of SEPA.” *Boehm v. City of Vancouver*, 111 Wn. App. 711, 718, 47 P.3d 137 (2002). The responsible official “shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents.” WAC 197-11-340(2)(f). Withdrawal of the DNS is appropriate here.

The SEPA rules further require that the lead agency withdraw a DNS where “new information is presented indicating . . . a proposal’s probable significant adverse environmental impact,” WAC 197-11-340(3)(a)(ii), or where the “DNS was procured by misrepresentation or lack of material disclosure.” WAC 197-11-340(3)(a)(iii). Here, Ellensburg Cement has raised new information not clearly disclosed in the SEPA Checklist or evaluated by the County, including the undisclosed actual material differences between the zoning designations. This new information requires withdrawal of the DNS. WAC 197-11-340(3)(a)(ii). Similarly, the lack of material disclosure on these issues, and of the lack of actual consideration of the probable effects of the rezone requires withdrawal of the DNS. WAC 197-11-340(3)(a)(iii). Withdrawal of the DNS will permit the County to ensure proper SEPA review consistent with WAC 197-11-335⁷ and applicable law, and to impose mitigating conditions, as demonstrated to be necessary.

SPOT ZONING AND NEED FOR GENERALLY APPLICABLE RULES

Related to the above, Ellensburg Cement views this proposal as a piecemeal special favor in the form of spot zoning that would benefit only Gibson and does not further the County’s land use goals, policies, or the broader interests. The proposal seeks to rezone one individual parcel entirely encompassed within the A-20 zoning designation. The County should act cautiously and resist efforts at such spot zoning benefiting just one party. While Gibson may or will offer arguments as to its views of the appropriate zoning classification of this parcel, such consideration should be given a broader view. Similarly, if the County in

⁷ Pursuant to WAC 197-11-340(2)(f), in response to comments, the Responsible Official shall reconsider the DNS, including modification or withdrawal, and where the lead agency concludes that there is insufficient information it may require an applicant to submit more information on subjects in the checklist. See WAC 197-11-335(1). This result is dictated here.

Jayne Ayling
Kittitas County Community Development Services
August 28, 2024
Page 9

fact believes it is in the best interests of the County to more broadly permit rock crushing and gravel operations, or streamline the permit process for the same, it should do so holistically and not to the benefit of a singular property and property owner on a case-by-case basis.

CONCLUSION

The SEPA Checklist fails to properly disclose, let alone consider, the probable effects of the rezone. As such, the County's SEPA evaluation and DNS fails to demonstrate SEPA compliance. Given these deficiencies, and in further consideration of the significant impacts occasioned thereby, in accordance with the provisions of WAC 197-11-340(3), Ellensburg Cement respectfully requests the County withdraw the DNS issued on August 15, 2024, to ensure all appropriate impacts are evaluated and mitigated.

We request notice, directed to the undersigned, of any action the County takes relating to this threshold determination and the underlying rezone application.

Thank you in advance for your consideration of these comments. Please feel free to contact me if you have any questions or require any additional information. We appreciate the County's careful review of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jm Rehberger", with a stylized, cursive script.

Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadiaw.com
Office: Olympia

cc: Ellensburg Cement Products, Inc.

ATTACHMENT 5

Jon and Julie Blackmore
P O box 1617
Ellensburg, WA 98926

Kittitas County Community Development Services
411 N Ruby St Ste 2
Ellensburg, WA 98926

September 12, 2024

To Whom It May Concern:

We are writing to express our concerns regarding the proposed Gibson Rezone (RZ-24-00001) from Ag-20 to Forest and Range.

First, the Project Narrative states that the subject property isn't suitable for agricultural uses. While this property obviously couldn't be used for irrigated farming, it can be used to graze animals. We and neighboring property owners can and do use the exact same type of land for seasonal grazing of animals. The subject property has historically been used for grazing, as well. In researching the attributes of Ag-20 and Forest and Range, it is quickly apparent that one of the only differences between the two zones is that mining and rock crushing are permitted uses in Forest and Range but not in Ag-20. Taken together with the current conditional use of rock mining and subsequent processing, it is obvious that this—not any agricultural deficiency—is the reason for the rezone request.

Although both zones are considered Rural Working Land, mining and crushing, especially on a commercial scale, are not inherently compatible with other uses and should be reviewed by Kittitas County. We would submit that mining and crushing operations should never be an allowed use in any zone; they should all be, at minimum, conditional uses and go through the related hearings and processes. At the very least, crushing is not compatible with the surrounding Ag-20 zone in this specific case.

This rezone could negatively impact public health. Noise, dust, and increased truck traffic could affect the quality of life and health of people and livestock nearby.

The proposal does not have merit or value for Kittitas County or this neighborhood. Mining and rock crushing would not be “appropriate for the natural conditions” and would, in fact, be “pursuing significant alteration that would have a greater likelihood of disrupting or impacting the natural environment and surrounding properties, and therefore impacting the rural lifestyle the Comprehensive Plan strives to protect” (Project Narrative, 11C detail).

The rezone is not appropriate. Circumstances haven't changed, there isn't a need for more Forest and Range zoning, and rock crushing is not a reasonable development of the subject property. In

fact, if allowed, this re-zone could cause more property throughout the county to change to Forest and Range zoning to allow for more mining and rock crushing. There are even neighboring property owners that could easily be interested in doing the same thing.

The rezone absolutely could be detrimental to the properties in the area, especially if not properly mitigated. Of course, people living in the area would be affected, but so would livestock and wildlife. In fact, one of our main concerns is the effect of a rock crushing operation on our sheep, cattle, horses, and other animals. When the rock crusher was run before, we could hear it in our house and see the dust at night in the lights over the pit. We are also concerned that there will be less oversight if mining is an allowed use, and that techniques like blasting will be used regularly. The noise and vibrations from such activities can have an adverse effect on people and animals (Erbe, C. *et al.* (2022). The Effects of Noise on Animals. In: Erbe, C., Thomas, J.A. (eds) Exploring Animal Behavior Through Sound: Volume 1. Springer, Cham. https://doi.org/10.1007/978-3-030-97540-1_13). These operations can produce a lot of dust. Of course, this could potentially be mitigated through watering, but if water isn't available for agricultural use, it wouldn't be available for the mining/crushing operation. In addition, it could potentially affect the stability of the steep slope that many neighbors share with the subject property and cause property values to decrease. Also, Parke Creek Road in this area is very narrow and winding, and trucks have a tendency to speed around blind corners in the middle of the road and/or use their compression brakes. It may be difficult to provide a safe access point for trucks exiting the subject property, especially with an increase in traffic, due to the curves in and slope of the road. Increased truck traffic also deteriorates the road more quickly. If the rezone is granted, mitigation would need to be provided for the above items, including, but not limited to:

- Location as far away from homes and livestock as possible
- Limited hours of operation
- Dust control
- Reparation for reduced property values
- Slope stabilization
- Road safety and traffic mitigation

If this rezone is allowed, it sets a disturbing precedent for other land within Kittitas County. Not only does it set a precedent for spot zoning, it also would set a precedent for any landowner with inarable land to merely apply for a rezone to Forest and Range in order to set up operations such as mining and rock crushing without going through the otherwise required review process and public input.

Sincerely,

Jon and Julie Blackmore

November 26, 2024

VIA EMAIL AND U.S. MAIL

Kittitas County Board of County Commissioners
Kittitas County Courthouse
205 W 5th Avenue, Suite 108
Ellensburg, WA 98926
bocc@co.kittitas.wa.us

Jayme Ayling
Planning Manager
Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926
jamey.ayling@co.kittitas.wa.us
cds@co.kittitas.wa.us

RE: *State Environmental Policy Act (SEPA) Appeal*
File No. RZ-24-00001 (Gibson Rezone)
Docket Item No. 2024-13

Dear Commissioners and Planning Manager:

This firm represents Appellant Ellensburg Cement Products, Inc. (Ellensburg Cement) concerning the Notice of Appeal of Kittitas County's State Environmental Policy Act (SEPA) threshold determination and issuance of a Mitigated Determination of Nonsignificance (MDNS) under File No. RZ-24-00001 and Comprehensive Plan Docket No. 2024-13, sometimes referred to as the Gibson Rezone. Ellensburg Cement respectfully requests the Board and Community Development Services (CDS) re-notice and reschedule the SEPA Appeal hearing apparently now scheduled for December 9, 2024, in order to comply with the process and timelines set forth by County Code and to ensure appropriate due process is provided to the parties.

Lack of Required Process and Notice

Ellensburg Cement timely filed an initial Notice of Appeal concerning the original MDNS on October 10, 2024. The County subsequently withdrew the MDNS, and on October 16, 2024, issued a new MDNS. The current County issued MDNS and Notice of SEPA Action provides for an administrative appeal pursuant to the provisions of chapter 15A.07 KCC. Appellants timely filed a subsequent Notice of Appeal dated October 29, 2024, received by the County on October 30, 2024. While the SEPA appeal hearing in this matter appears now to have been scheduled for December 9, 2024, no individualized notice of the same was provided to or received by Ellensburg Cement.

Cascadia Law Group PLLC
cascadialaw.com

SEATTLE
1201 Third Avenue
Suite 320
Seattle, WA 98101
(206) 292-6300 voice
(206) 292-6301 fax

OLYMPIA
606 Columbia Street NW
Suite 212
Olympia, WA 98501
(360) 786-5057 voice
(360) 786-1835 fax

County Code requires, that upon filing of an appeal, the administrator shall "set the time and place for hearing" and "establish a briefing schedule for the parties." KCC 15A.07.010(3). No such briefing schedule was ever provided. Further, CDS "shall forthwith transmit to the reviewing body and the parties all of the records pertaining to the decision being appealed." KCC 15A.07.010(3). No such record has been received. Finally, the Code requires a reasonable period of time for briefing prior to the noticed hearing date, requiring, *inter alia*, that appellant's brief and supporting declarations "shall be due no sooner than 15 days after having received the administrative record and no later than 30 days prior to the hearing date." KCC 15A.07.010(3). Publication of the SEPA Appeal hearing was apparently made in the Daily Record on November 21, 2024 (just ten working days prior to the scheduled December 9 appeal hearing). To date, no such notice of any hearing date has been provided to, or received by, the Appellants. But for their independent review of the published notice, Appellant Ellensburg Cement would have received no notice of the SEPA appeal hearing. As noticed and scheduled, notice was insufficient and the time now permitted is inconsistent with the County's required procedures.

In order to meet the timelines established by County Code, Ellensburg Cement respectfully requests the Board reschedule the December 9, 2024 SEPA appeal hearing in the above-referenced matter, coordinate with CDS to set an appropriate time and place for the hearing, prepare and transmit the record, and establish a briefing schedule consistent with the above County Code imposed required deadlines. The briefing schedule must allow for submission of Appellants' brief no sooner than 15 days after transmission and receipt of the record, and at least 30 days prior to the hearing date.

Thank you for your attention to this matter.

Sincerely,



Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

cc: Chad Bala, Director, Community Development Services
Jessica Miller, Clerk
James Carmody, Meyer Fluegge & Tenney PS, Counsel for Applicant
Ellensburg Cement Products, Inc.
Jon and Julie Blackmore

MEYER, FLUEGGE & TENNEY, P.S.

ROBERT C. TENNEY
MARK D. WATSON*
JEROME R. AIKEN*
JOHN A. MAXWELL, JR.
PETER M. RITCHIE**
JAMES C. CARMODY

ATTORNEYS & COUNSELORS
230 SOUTH SECOND STREET, SUITE 101
P.O. BOX 22680
YAKIMA, WASHINGTON 98907-2680

JACOB A. LARA
ROBERT S. URLOCKER
PARDIES ROOHANI
HARLEY MONTOYA
NICHOLAS FRONTIN

**Also admitted in Oregon*

***Also admitted in Oregon & Virginia*

November 27, 2024

VIA EMAIL ONLY:

Kittitas County Board of County Commissioners
Kittitas County Courthouse
205 W. 5th Avenue, Suite 108
Ellensburg, WA 98926
bocc@co.kittitas.wa.us

Jamey Ayling
Planning Manager and Responsible Official
Kittitas County Community Development Services
411 North Ruby Street, Suite 2
Ellensburg, WA 98926
jamey.ayling@co.kittitas.wa.us / cds@co.kittitas.wa.us

Re: *State Environmental Policy Act (SEPA) Appeal*
File No.: RZ-24-00001 (Gibson Rezone)
Docket Item No.: 2024-13

Dear Commissioners and Planning Manager:

This firm represents Kristin Gibson, the applicant for a non-project rezone of 42.4 acres of property currently zoned Agriculture 20 (Ag 20) to Forest & Range zoning district. (RZ-24-00001) ("Gibson Rezone."). The nonproject rezone is being processed through the 2024 Annual Comprehensive Plan Docket process established in KCC Title 15B.¹ Kittitas County Community Development Services (CDS) has complied with all procedures applicable to annual amendments to the comprehensive plan and development regulations, including environmental review under the State Environmental Policy Act (SEPA).

By letter dated November 26, 2024, Ellensburg Cement Products, Inc. (Ellensburg Cement) has registered objections to the process applied by Kittitas County CDS with respect to its Notice of

¹ Kittitas County has established a specific procedure for annual updates to its comprehensive plan and development regulations in accordance with RCW 36.70A.130(2). The adopted procedures are set forth in KCC Title 15B with processes related to amendments of development regulations set forth in KCC Ch. 15B.04. The application review process for amendments to docketed applications for amendment of development regulations are set forth in KCC 15B.04.040 and KCC 15B.03.040.

Appeal of Kittitas County's SEPA threshold determination and issuance of a Mitigated Determination of Nonsignificance (MDNS) under File No. RZ-24-00001 and Comprehensive Plan Docket No. 2024-13. Ellensburg Cement has asserted that Kittitas County CDS has failed to follow appeal procedures under KCC 15A.07.010(3) with respect to appellate review of the SEPA MDNS for the Gibson Rezone. Those provisions, however, are not applicable to applications docketed under the annual comprehensive plan review processes and procedures.

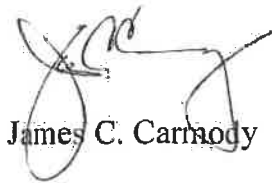
Kittitas County has established specific processes and procedures related to non-project legislative actions including the amendment of the comprehensive plan and development regulations. KCC 15B.01.010 provides:

Non-project legislative actions, including, but not limited to, the adoption and amendment of the comprehensive plan *and development regulations, are exempt from the procedural requirements of Title 15A of this code and Chapter 36.70B RCW.* Such actions often require substantial written and oral testimony as the review of such documents may involve revisions at both the advisory and legislative level, thereby necessitating multiple open record hearings. It is therefore the intent of this chapter to provide a process for the consistent and orderly facilitation for non-project legislative actions in compliance with Chapters 36.70A and 43.21C RCW.

Title 15A applies only to project permit applications. Amendments to county plans, development regulations, and standards are governed by KCC Title 15B. The Board of County Commissions makes final determinations on docketed comprehensive plan and development regulation amendments as well as final SEPA determinations. Kittitas County has followed its adopted processes and procedures applicable to the annual amendments process.

Ellensburg Cement's request and argument is simply based upon an inapplicable ordinance provision. The applicant asks that the Board of County Commissioners proceed with the SEPA appeal on a consolidated basis with the underlying rezone application.

Very truly yours,
MEYER, FLUEGGE & TENNEY, P.S.



James C. Carmody

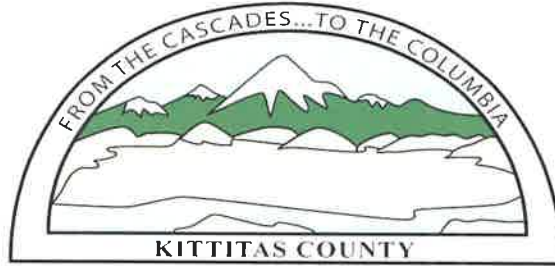
cc: Client

Kittitas County Prosecuting Attorney

GREGORY L. ZEMPEL

Our Mission:

***Seeking Justice; Serving Victims, and
Holding Offenders Accountable***



205 W 5th AVE Suite 213

Ellensburg WA 98926

509-962-7520

prosecutor@co.kittitas.wa.us

Thursday, December 5, 2024

Board of County Commissioners
Kittitas County Courthouse
205 W. 5th Avenue, Suite 108
Ellensburg, WA 98926

RE: SEPA Appeal – Gibson Rezone
File No. RZ-24-00001
Docket Item No. 2024-13

Dear Commissioners,

This matter was scheduled for a SEPA Appeal hearing to be heard by the Board, on December 9, 2024. Ellensburg Cement Products, Inc., requested that the hearing be reset as they did not receive individualized notice of the hearing. The parties agreed on a continuance until December 17, 2024.

Ellensburg Cement Products, Inc., has also raised concerns about process, asserting deficiencies for failure to comply with the process outlined in KCC 15A.07.010(3). KCC 15A.07.010(3) does list certain processes and action items that were not followed for this case, but that is because they do not apply to this action.

Title 15B KCC exempts the procedural requirements in Title 15A KCC. The County established a procedure for annual updates to the Comprehensive Plan and development regulations in accordance with state law (RCW 36.70A130(2)). Title 15A KCC establishes procedures and processes specific to the Project Permit Application Process. Title 15B KCC (amendments to County Plans, Codes, Standards) lists specific procedures and processes related to legislative actions that are not project specific, including the amendment of the County's comprehensive plan and development regulations (i.e. this action).

KCC 15B.01.010 provides:

Non-project legislative actions, including, but not limited to, the adoption and amendment of the comprehensive plan and development regulations, are exempt from the procedural requirements of Title 15A of this code and Chapter 36.70B

RCW. Such actions often require substantial written and oral testimony as the review of such documents may involve revisions at both the advisory and legislative level, thereby necessitating multiple open record hearings. It is therefore the intent of this chapter to provide a process for the consistent and orderly facilitation for non-project legislative actions in compliance with Chapters 36.70A and 43.21C RCW.

Aside from the individualized notice issue, which has been remedied with the agreed continuance, there are no procedural errors on the part of the County as alleged by Ellensburg Cement Products, Inc.

Very Truly Yours,



Stephanie Hartung
Chief Civil Deputy Prosecutor

Cc: Joseph A. Rehberger
Attorney for Appellant

James Carmody, Meyer Fluegge & Tenney PS
Attorney for Applicant

December 9, 2024

VIA EMAIL AND U.S. MAIL



Kittitas County Board of County Commissioners
Kittitas County Courthouse
205 W 5th Avenue, Suite 108
Ellensburg, WA 98926
bocc@co.kittitas.wa.us

Jayme Ayling
Planning Manager
Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926
jamey.ayling@co.kittitas.wa.us
[cgs@co.kittitas.wa.us](mailto:cds@co.kittitas.wa.us)

RE: *State Environmental Policy Act (SEPA) Appeal*
File No. RZ-24-00001 (Gibson Rezone)
Docket Item No. 2024-13

Dear Commissioners and Planning Manager:

This firm represents Appellant Ellensburg Cement Products, Inc. (Ellensburg Cement) concerning the Notice of Appeal of Kittitas County's State Environmental Policy Act (SEPA) threshold determination and issuance of a Mitigated Determination of Nonsignificance (MDNS) under File No. RZ-24-00001 and Comprehensive Plan Docket No. 2024-13 (the "Gibson Rezone"). This letter is submitted in reply to the December 4, 2024 letter from the Prosecuting Attorney's Office (POA), received by email on December 5, 2024. Ellensburg Cement respectfully renews its objection and request that the Board and Community Development Services (CDS) re-notice and reschedule the SEPA Appeal hearing now continued to December 17, 2024, in order to comply with the process and timelines set forth by County Code and to ensure appropriate due process is provided to the parties.

Despite having now provided individualized notice to Ellensburg Cement of a continued hearing date, the County has still yet to take such other actions to address the deficiencies raised and as required by County Code, which include, without limitation:

- "establish[ing] a briefing schedule for the parties" [KCC 15A.07.010(3)];
- "transmit[tal] to the reviewing body and the parties all of the records pertaining to the decision being appealed" [KCC 15A.07.010(3)]; and

Cascadia Law Group PLLC
cascadiawlaw.com

SEATTLE
1201 Third Avenue
Suite 320
Seattle, WA 98101
(206) 292-6300 voice
(206) 292-6301 fax

OLYMPIA
606 Columbia Street NW
Suite 212
Olympia, WA 98501
(360) 786-5057 voice
(360) 786-1835 fax

- establishing an appeal schedule that provides for (a) submission of appellant's brief and supporting declarations "due no sooner than 15 days after having received the administrative record and no later than 30 days prior to the hearing date," and (2) submission of briefing and supporting declarations from the County and Respondents "due 10 working days prior to the hearing date." [KCC 15A.07.010(3)]

To date, no record has been created or transmitted to the parties. It is unknown whether the record has been separately transmitted to the reviewing body (the Board of County Commissioners) as proscribed by the Code. While the November 27, 2024 "Notice of Public Hearing" notes that documents may be viewed through a weblink or at CDS offices during regular business hours, this does not constitute compilation and transmittal of a record to the Board or to the parties. As just one example of the uncertainties raised by the lack of record, in reviewing the noted available documents through the noted CDS website links and click-throughs,¹ the operative October 16, 2024 MDNS being appealed *itself* is not even located within the available documents. Whether there may be other missing documents is unknown and unknowable. To the extent the MDNS under appeal notes that the decision was made after review of the SEPA Checklist and "other information on file with the lead agency," it is similarly unknown and unknowable what "other information on file" with CDS was reviewed and relied on in issuing the MDNS. The Board cannot meaningfully consider this matter without presentation of the record.

Further, to date, no briefing schedule has been established. Nor is there sufficient time prior to the now continued hearing date of December 17, in which to meet the minimum briefing schedule deadlines dictated by County Code following transmittal of the record. In order for the Board to meaningfully consider this appeal, the record must be appropriately prepared and transmitted. A briefing schedule consistent with KCC 15A.07.010(3) should then follow.

The PAO asserts this SEPA appeal is exempt from the procedural requirements of chapter 15A.07 KCC, relying on KCC 15B.01.010. However, KCC 15B.01.010, by its terms, exempts only "[n]on-project legislative actions" from the procedural requirements of Title 15A. This exemption is not applicable here. First, the County's MDNS (on appeal) is not a "legislative" action. Rather, the County's SEPA threshold determination was an administrative action, now on appeal before this Board as a quasi-judicial matter. Second, regardless of its docketing for annual review, a site-specific rezone of the type proposed here is also not a legislative action. See, e.g., *Bassani v. Bd. of Cnty. Comm'rs*, 70 Wn. App. 389, 393, 853 (1993) ("a local legislative body's decision to rezone specific tracts of land under a zoning code is an adjudicatory, quasi-judicial act"); see also *Phoenix Dev. Inc. v. City of Woodinville*, 171 Wn.2d 820, 836 (2011) ("decision to rezone is a quasi-judicial act," and "not legislative").

¹ Documents were viewed at <https://www.co.kittitas.wa.us/cds/land-use/default.aspx> (last visited Dec. 9, 2024), under "Rezoning", "View Active Applications", and then file number "RZ-24-00001 Gibson".

Kittitas County Board of County Commissioners
Kittitas County Community Development Services
December 9, 2024
Page 3

Of further note, and consistent with the above, the MDNS (the decision subject to the appeal) in this matter *itself* specifically notes that appeals are governed by chapter 15A.07 KCC, providing:

Pursuant to Chapter 15A.07 KCC, this MDNS may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services office at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00 pm, October 31, 2024.

MDNS at 3 (emphasis added).

Ellensburg Cement renews its objection and respectfully requests the County follow the appeal process set forth in the County Code. Again, in order for the Board to meaningfully consider this appeal, the record must be appropriately prepared and transmitted. A briefing schedule consistent with KCC 15A.07.010(3) should then follow.

Thank you for your attention to this matter.

Sincerely,



Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

cc: Stephanie Hartung, Chief Civil Deputy Prosecutor (*via email only*)
Chad Bala, Director, Community Development Services (*via email only*)
Jessica Miller, Clerk (*via email only*)
James Carmody, Meyer Fluegge & Tenney PS, Counsel for Applicant (*via email only*)
Jon and Julie Blackmore (*via email only*)



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St. Suite 2 Ellensburg WA 98926

cds@co.kittitas.wa.us

Office 509-962-7506

Building Partnerships - Building Communities

2024 Kittitas County Planning Commission – 2024 Kittitas County Annual Docket Amendments

Notice is hereby given that the Kittitas County Planning Commission will conduct a continued open record public hearing to consider annual amendments to the Kittitas County Comprehensive Plan specifically rezone petition: RZ-24-00001 Gibson. The public hearing will be held:

**Tuesday, December 3, 2024
6:00 p.m. at the Kittitas County Courthouse
205 W. 5th Avenue, Commissioners Auditorium Room 109, Ellensburg**

The public is invited to testify at the hearing. Written comments may be submitted to Community Development Services prior to the hearing or may be provided at the hearing itself. Please visit Kittitas County Community Development Services webpage for a complete list of the proposed amendments:

<https://www.co.kittitas.wa.us/cds/comp-plan/default.aspx>

Mail your comments on this project to the Kittitas County Community Development Services, 411 North Ruby Avenue, Suite 2, Ellensburg, WA 98926 or e-mail comments to cds@co.kittitas.wa.us. Please reference the docket number (found on the webpage) with your correspondence. If you have questions, or need further assistance, please contact Community Development Services at (509) 962-7506 or cds@co.kittitas.wa.us.

Copies of the staff report(s) can be obtained by visiting the website or hard copies may be obtained upon request.



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

Affidavit of Mailing & Publication

PROPOSAL NAME: (RZ-24-00001 & CP-24-000013) Gibson

NOTIFICATION OF: Notice of Application

NOTIFICATION MAIL DATE: November 27, 2024

I certify that the following documentation:

- Notice of Application for Gibson Rezone Application

has been mailed and/or emailed to the attached list of persons and participants, and that proper notification (as attached) has been published in the Legal Newspaper(s) of Record for Kittitas County.

Signature

Shannon D. Johnson
Chief Administrator
County of Kittitas
State of Washington

Subscribed and sworn to before me this 27th day of November 27, 2024



Steph Mifflin
Notary Public for the State of Washington residing
in Ellensburg.

My appointment expires:

12-23-25

Owner	Address2	City	t2_State	Zip
BLACKMOF	PO BOX 16	ELLENSBURG, WA	98926	1927
BLOXHAM,	5000 PARK	ELLENSBURG, WA	98926	7678
CARON, D/	5341 PARK	ELLENSBURG, WA	98926	
D&N DEVEI	PO BOX 92	ELLENSBURG, WA	98926	1924
GIBSON, KI	1221 THOR	ELLENSBURG, WA	98926	8010
HAMILTON,	4451 PARK	ELLENSBURG, WA	98926	7676
HUTCHINS	3648 CLER	ELLENSBURG, WA	98926	7656
PITTMAN, A	1441 W UN	ELLENSBURG, WA	98926	2334
TRUMP, RO	5330 PARK	ELLENSBURG, WA	98926	7678



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

Notice of Public Hearing Gibson CP-24-00013, RZ-24-00001

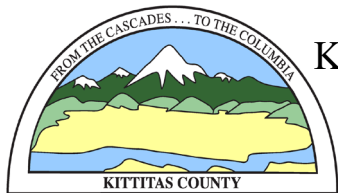
To: Parties of Record
From: Jamey Ayling, Planning Manager
Date: November 27, 2024
Subject: CP-24-000013 Gibson Rezone RZ-24-00001

NOTICE IS HEREBY given that Kittitas County CDS and the Board of County Commissioners will meet at **2:30 p.m. on December 17, 2024**, to conduct a continued public hearing from December 9, 2024 to consider the SEPA Appeal and the Non-project Rezone (CP-24-00013, RZ-24-00001). The proposed amendment is for a rezone from Ag-20 to Forest and Range. The proposed amendment is being considered as part of the Annual Docket and is subject to KCC 15B Amendments to County Plans, Codes and Standards.

All interested parties are encouraged to attend the public hearing.

Anyone with an interest in this matter is urged to attend this noticed hearing where testimony will be taken. Written comments will also be received. Documents may be viewed at <https://www.co.kittitas.wa.us/cds/land-use/default.aspx>, under "Rezones", "View Active Applications", and then file number "RZ-24-00001 Gibson," or at Kittitas County Community Development Services, 411 N. Ruby St. Suite 2, Ellensburg, WA 98926 during regular business hours prior to the hearing. Interested persons are encouraged to verify date and time prior to attending.

Staff Planner: Jamey Ayling



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St. Suite 2 Ellensburg WA 98926
cds@co.kittitas.wa.us
Office 509-962-7506

Building Partnerships - Building Communities

NOTICE OF APPLICATION

Notice of Application: Thursday, August 15, 2024

Application Received: Friday, June 28, 2024

Application Complete: Friday, July 26, 2024

Project Name File Number: Gibson Rezone (RZ-24-00001)

Applicant: Kristin Gibson (Owner)

Agent: Encompass Engineering & Surveying

Location: Tax Parcel number 280533, located north of 5125 Parke Creek Road, in Section 8, Township 17, Range 20 in Kittitas County.

Proposal: a proposed rezone of one parcel equaling 42 acres, currently zoned Agriculture 20 to Forest and Range due to the lack of capacity on the subject site to out agricultural uses. The subject site lacks water sources and suitable soils for agricultural uses. The rezone will allow the current use of the property to be consistent and compatible with the zoning code, a comprehensive plan amendment is not required to complete the rezone. A rezone application and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.

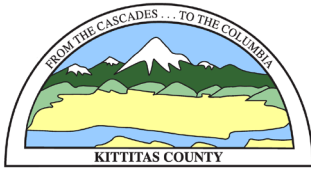
Materials Available for Review: The submitted application and related filed documents may be examined by the public at the Kittitas County Community Development Services (CDS) office at 411 N. Ruby, Suite 2, Ellensburg, Washington, 98926, or on the CDS website at <https://www.co.kittitas.wa.us/cds/land-use/default.aspx>, under "Rezoning" under permit number "RZ-24-00001 Gibson" Phone: (509) 962-7506

Written Comments on this proposal can be submitted to CDS any time prior to **5:00p.m. on Friday, September 13, 2024**. Any person has the right to comment on the application and request a copy of the decision once made. Appeals of the rezone and comprehensive plan amendment decisions must be filed within 60 days of the publication of the final decision (action) with the Eastern Washington Growth Management Hearings Board.

Environmental Review: Notice is hereby given that pursuant to RCW 43.21C and WAC-197-340(2), Kittitas County Community Development Services did on August 15, 2024, make a Determination of Non-Significance (DNS) for the Gibson Site Specific Rezone. (RZ-24-00001) Written comments from the public regarding the threshold determination may be submitted to the Kittitas County Community Development Services at no later than August 30, 2024 at 5:00pm (PDT), after which the lead agency will then: retain, modify, or withdraw the decision pursuant to 43.21C RCW (State Environmental Policy Act) and WAC 197-11-340(2).

Public Hearing: This project is being reviewed through the 2024 Annual Comprehensive Plan Docket Process. Therefore an open record hearing will be scheduled to be held before the Kittitas County Planning Commission at a date to be determined. Public Hearing Notices for the 2024 Annual Comprehensive Plan Docket Process will be issued establishing the date, time and location of these hearings.

Designated Permit Coordinator (staff contact): Jamey Ayling, Planning Manager: (509) 962-7065; email at jamey.ayling@co.kittitas.wa.us



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

Building Partnerships; Building Communities

SEPA DETERMINATION OF NONSIGNIFICANCE

File: Gibson Rezone (RZ-24-00001)

Description: a proposed rezone of one parcel equaling 42 acres, currently zoned Agriculture 20 to Forest and Range due to the lack of capacity on the subject site to out agricultural uses. The subject site lacks water sources and suitable soils for agricultural uses. The rezone will allow the current use of the property to be consistent and compatible with the zoning code, a comprehensive plan amendment is not required to complete the rezone. A rezone application and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.

Proponent: Kristin Gibson
1221 South Thorp Highway
Ellensburg, WA 98926

Encompass Engineering and Surveying
110 South Oakes Ave #250
Cle Elum, WA 98922

Location: Tax Parcel number 280533, located north of 5125 Parke Creek Road, in Section 8, Township 17, Range 20 in Kittitas County.

Lead Agency: Kittitas County Community Development Services

The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request, or can be viewed at the Kittitas County Community Development Services website at: <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> under “Rezones” and project file number “RZ-24-00001 Gibson”.

This DNS is issued under WAC 197-11-340(2). The lead agency will not act on this proposal for 14 days from the date of issuance. You may submit comments on this proposal to cds@co.kittitas.wa.us or the address below before 5:00 PM (PDT) on **August 30, 2024**. After the 14 days, the county will either retain, modify, or withdraw the decision pursuant to WAC 197-11-340(2). Appeal information will be provided with the final decision. For information on the comment process or other issues related to this proposal, please contact Jamey Ayling, Planning Manager, at 509-962-7065 or jamey.ayling@co.kittitas.wa.us

Responsible

Official:

Jamey Ayling

Title: Kittitas County Community Development Services Planning Manager

Address: Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926
(509) 962-7506

Date: August 15, 2024

Notice of Application

Project Name File Number: Gibson Rezone (RZ-24-00001)

Applicant: Kristin Gibson (Owner)

Location: Tax Parcel number 280533, located north of 5125 Parke Creek Road, in Section 8, Township 17, Range 20 in Kittitas County.

Proposal: a proposed rezone of one parcel equaling 42 acres, currently zoned Agriculture 20 to Forest and Range due to the lack of capacity on the subject site to carry out agricultural uses. The subject site lacks water sources and suitable soils for agricultural uses. The rezone will allow the current use of the property to be consistent and compatible with the zoning code, a comprehensive plan amendment is not required to complete the rezone. A rezone application and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.

Materials Available for Review: The submitted application and related filed documents may be examined by the public at the Kittitas County Community Development Services (CDS) office at 411 N. Ruby, Suite 2, Ellensburg, Washington, 98926, or on the CDS website at <https://www.co.kittitas.wa.us/cds/land-use/default.aspx>, under “Rezoning” under permit number “RZ-24-00001 Gibson” Phone: (509) 962-7506

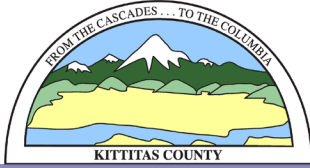
Written Comments on this proposal can be submitted to CDS any time prior to **5:00p.m. on Friday, September 13, 2024**. Any person has the right to comment on the application and request a copy of the decision once made. Appeals of the rezone and comprehensive plan amendment decisions must be filed within 60 days of the publication of the final decision (action) with the Eastern Washington Growth Management Hearings Board.

Environmental Review: Notice is hereby given that pursuant to RCW 43.21C and WAC-197-340(2), Kittitas County Community Development Services did on August 15, 2024, make a Determination of Non-Significance (DNS) for the Gibson Site Specific Rezone. (RZ-24-00001) Written comments from the public regarding the threshold determination may be submitted to the Kittitas County Community Development Services at no later than August 30, 2024 at 5:00pm (PDT), after which the lead agency will then: retain, modify, or withdraw the decision pursuant to 43.21C RCW (State Environmental Policy Act) and WAC 197-11-340(2).

Public Hearing: This project is being reviewed through the 2024 Annual Comprehensive Plan Docket Process. Therefore an open record hearing will be scheduled to be held before the Kittitas County Planning Commission at a date to be determined. Public Hearing Notices for the 2024 Annual Comprehensive Plan Docket Process will be issued establishing the date, time and location of these hearings.

Designated Permit Coordinator (staff contact): Jamey Ayling, Planning Manager: (509) 962-7065; email at jamey.ayling@co.kittitas.wa.us

Notice of Application:	Thursday, August 15, 2024
Application Received:	Friday, June 28, 2024
Application Complete:	Friday, July 26, 2024
Publish Daily Record:	Thursday, August 15, 2024



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

September 16, 2024

Kristin Gibson
C/O Cory Gibson
1221 S Thorp Hwy
Ellensburg WA, 98926

Encompass Engineering & Surveying
110 South Oakes Ave #250
Cle Elum, WA 98922

RE: Gibson Rezone, RZ-24-00001 - Transmittal of Comments

Dear applicants,

The comment period for the Gibson Rezone, RZ-24-00001 ended on Friday, September 13, 2024, at 5:00 pm. Community Development Services received the following comments:

- | | |
|----------------------|--|
| • August 16, 2024 | Kittitas County Public Health |
| • August 19, 2024 | Kittitas PUD |
| • August 21, 2024 | Hutchinson |
| • August 28, 2024 | Colville Tribe |
| • August 28, 2024 | Cascadia Law Ellensburg Cement Products |
| • August 29, 2024 | Kittitas County Public Works |
| • September 4, 2024 | Snoqualmie Tribe |
| • September 4, 2024 | Thomas |
| • September 4, 2024 | Washington State Department of Fish and Wildlife |
| • September 5, 2024 | Cascadia Law Ellensburg Cement Products |
| • September 13, 2024 | Bosman |
| • September 13, 2024 | Blackmore |

If you wish to provide responses to any of the received comments, please do so **by 5:00 pm on September 20, 2024**, so that staff can incorporate and consider any of your responses into the staff report. For additional time to address any of the comments, please contact me directly to extend the response due date. If staff has not heard from you by September 20, 2024, we will proceed with our staff report and decision on the comp plan amendment. If you have questions about any comments from an agency, please contact them directly.

For any questions regarding this matter, please contact me at (509) 962-7065, or by e-mail at jamey.ayling@co.kittitas.wa.us.

Sincerely,

Jamey Ayling
Planning Manager

Enclosed: *Comments listed above*

Jon and Julie Blackmore
P O box 1617
Ellensburg, WA 98926

Kittitas County Community Development Services
411 N Ruby St Ste 2
Ellensburg, WA 98926

September 12, 2024

To Whom It May Concern:

We are writing to express our concerns regarding the proposed Gibson Rezone (RZ-24-00001) from Ag-20 to Forest and Range.

First, the Project Narrative states that the subject property isn't suitable for agricultural uses. While this property obviously couldn't be used for irrigated farming, it can be used to graze animals. We and neighboring property owners can and do use the exact same type of land for seasonal grazing of animals. The subject property has historically been used for grazing, as well. In researching the attributes of Ag-20 and Forest and Range, it is quickly apparent that one of the only differences between the two zones is that mining and rock crushing are permitted uses in Forest and Range but not in Ag-20. Taken together with the current conditional use of rock mining and subsequent processing, it is obvious that this—not any agricultural deficiency—is the reason for the rezone request.

Although both zones are considered Rural Working Land, mining and crushing, especially on a commercial scale, are not inherently compatible with other uses and should be reviewed by Kittitas County. We would submit that mining and crushing operations should never be an allowed use in any zone; they should all be, at minimum, conditional uses and go through the related hearings and processes. At the very least, crushing is not compatible with the surrounding Ag-20 zone in this specific case.

This rezone could negatively impact public health. Noise, dust, and increased truck traffic could affect the quality of life and health of people and livestock nearby.

The proposal does not have merit or value for Kittitas County or this neighborhood. Mining and rock crushing would not be “appropriate for the natural conditions” and would, in fact, be “pursuing significant alteration that would have a greater likelihood of disrupting or impacting the natural environment and surrounding properties, and therefore impacting the rural lifestyle the Comprehensive Plan strives to protect” (Project Narrative, 11C detail).

The rezone is not appropriate. Circumstances haven't changed, there isn't a need for more Forest and Range zoning, and rock crushing is not a reasonable development of the subject property. In

fact, if allowed, this re-zone could cause more property throughout the county to change to Forest and Range zoning to allow for more mining and rock crushing. There are even neighboring property owners that could easily be interested in doing the same thing.

The rezone absolutely could be detrimental to the properties in the area, especially if not properly mitigated. Of course, people living in the area would be affected, but so would livestock and wildlife. In fact, one of our main concerns is the effect of a rock crushing operation on our sheep, cattle, horses, and other animals. When the rock crusher was run before, we could hear it in our house and see the dust at night in the lights over the pit. We are also concerned that there will be less oversight if mining is an allowed use, and that techniques like blasting will be used regularly. The noise and vibrations from such activities can have an adverse effect on people and animals (Erbe, C. *et al.* (2022). The Effects of Noise on Animals. In: Erbe, C., Thomas, J.A. (eds) Exploring Animal Behavior Through Sound: Volume 1. Springer, Cham. https://doi.org/10.1007/978-3-030-97540-1_13). These operations can produce a lot of dust. Of course, this could potentially be mitigated through watering, but if water isn't available for agricultural use, it wouldn't be available for the mining/crushing operation. In addition, it could potentially affect the stability of the steep slope that many neighbors share with the subject property and cause property values to decrease. Also, Parke Creek Road in this area is very narrow and winding, and trucks have a tendency to speed around blind corners in the middle of the road and/or use their compression brakes. It may be difficult to provide a safe access point for trucks exiting the subject property, especially with an increase in traffic, due to the curves in and slope of the road. Increased truck traffic also deteriorates the road more quickly. If the rezone is granted, mitigation would need to be provided for the above items, including, but not limited to:

Location as far away from homes and livestock as possible

Limited hours of operation

Dust control

Reparation for reduced property values

Slope stabilization

Road safety and traffic mitigation

If this rezone is allowed, it sets a disturbing precedent for other land within Kittitas County. Not only does it set a precedent for spot zoning, it also would set a precedent for any landowner with inarable land to merely apply for a rezone to Forest and Range in order to set up operations such as mining and rock crushing without going through the otherwise required review process and public input.

Sincerely,

Jon and Julie Blackmore

D&N DEVELOPMENT, LLC
P.O. BOX 926
ELLENSBURG, WA 98926
509-925-9747

September 13th, 2024

Kittitas County Community Development Services
411 N. Ruby, Suite 2
Ellensburg, WA 98926

RE: Gibson Rezone (RZ-24-00001)

To whom it may concern,

In reviewing the Notice of Application for the above rezone, we have a few concerns in regard to the future use and proximity to our property. Currently, we own 14 vacant lots that directly border the northern property line of the proposed rezone. These 14 vacant lots were purchased as investment properties with the intent of selling them as future home sites or homes.

We are concerned that the intended purpose of this rezone is for future expansion of a gravel pit located lower on the subject property. If the rezone is granted and in fact the gravel pit is expanded, this will adversely affect the value of our lots due to the unsightly views, airborne dust, noise from mining operations such as crushers/ rock screens/dump trucks/back up alarms, etc. Currently, our upper most lot has one of the best 360 degree views of the lower valley and we would like for it to remain that way.

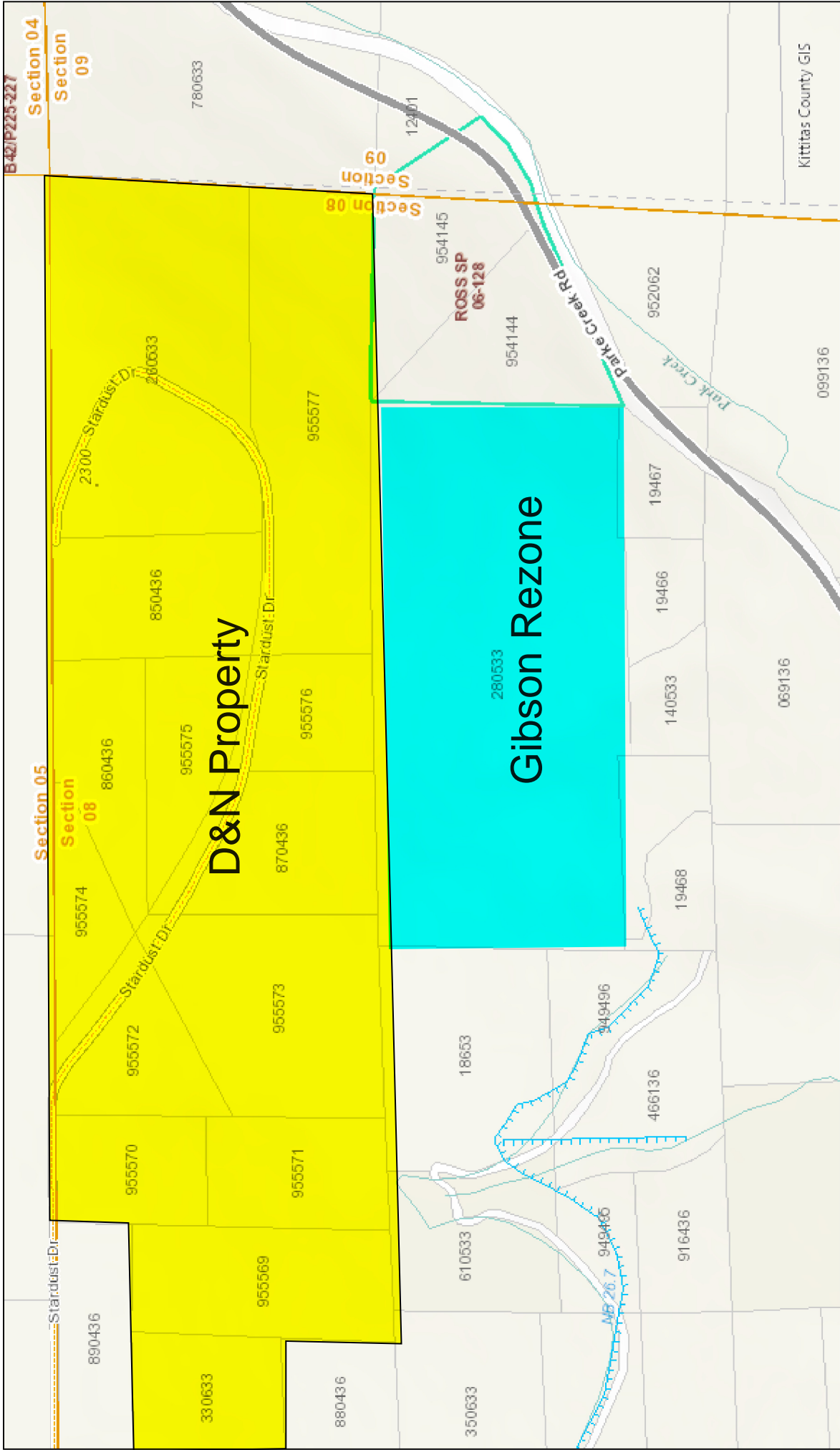
If you have any questions or comments, please feel free to contact me at your earliest convenience.

Sincerely,

A handwritten signature in blue ink, appearing to be a stylized 'Z' or 'J' followed by a long horizontal stroke.

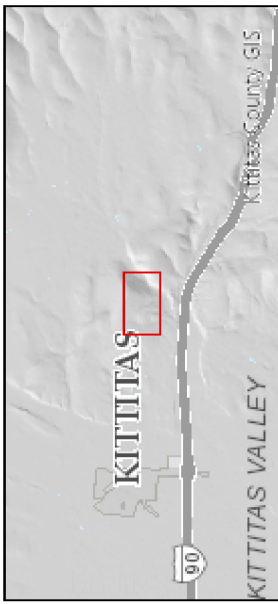
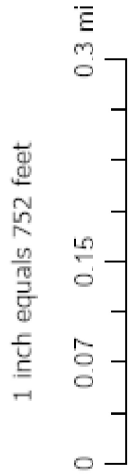
The D&N Development Team

Kittitas County COMPAS Map

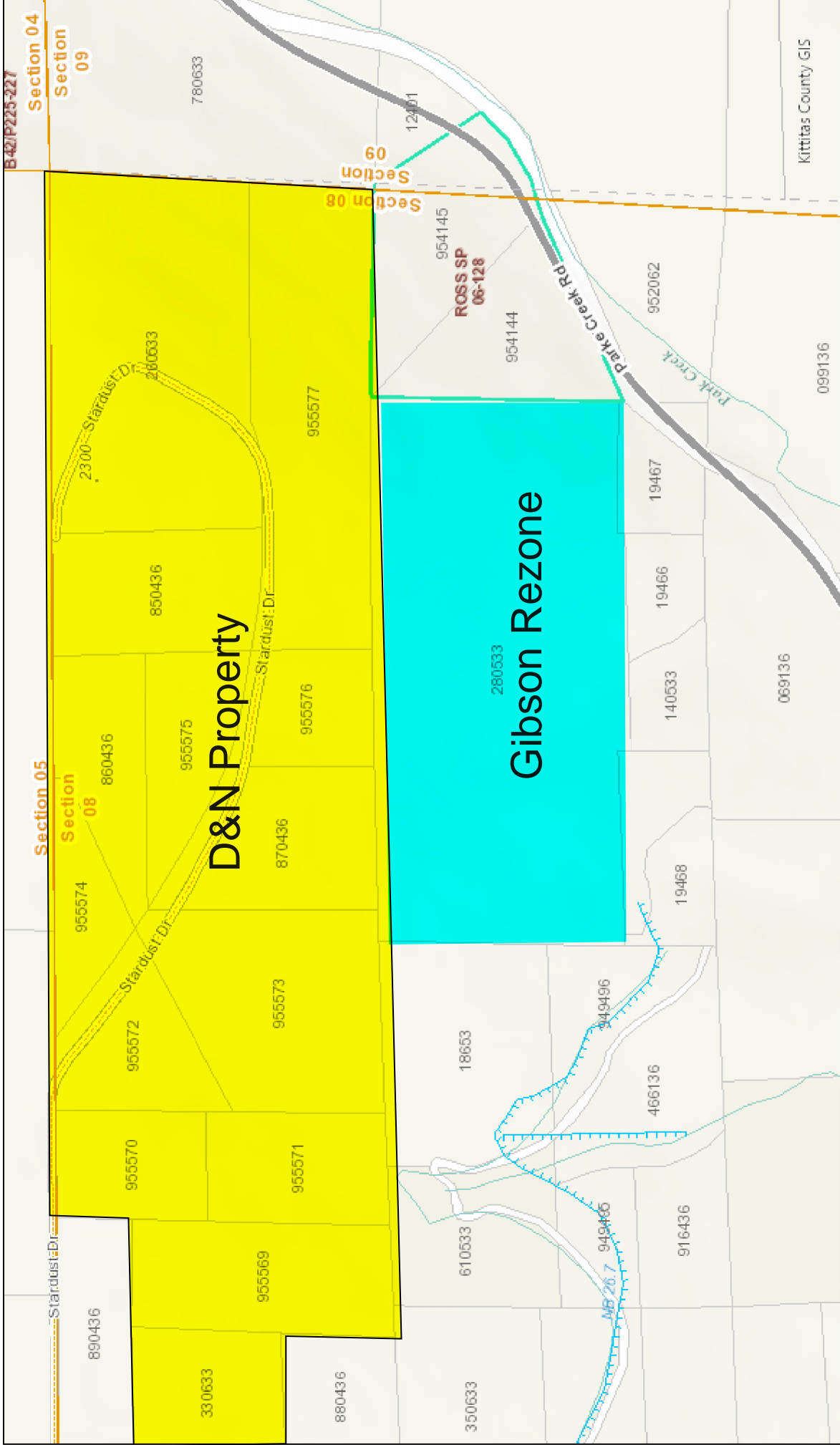


Date: 9/13/2024

Disclaimer:
Kittitas County makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data, its use, or its interpretation. Kittitas County does not guarantee the accuracy of the material contained herein and is not responsible for any use, misuse or representations by others regarding this information or its derivatives.

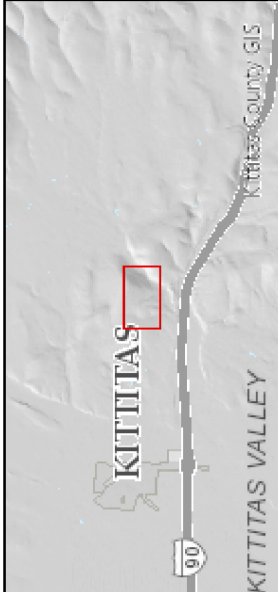
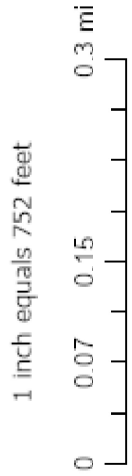


Kittitas County COMPAS Map



Date: 9/13/2024

Disclaimer:
Kittitas County makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data, its use, or its interpretation. Kittitas County does not guarantee the accuracy of the material contained herein and is not responsible for any use, misuse or representations by others regarding this information or its derivatives.



From: [Connor Armi](#)
To: [Jamey Ayling](#)
Cc: [Guy Moura](#); [Hanson, Sydney \(DAHP\)](#)
Subject: Re: RZ-24-00001 Gibson - Notice of Application
Date: Wednesday, August 28, 2024 2:17:00 PM

CAUTION: This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Hello Jamey,

This consult is in reference to RZ-24-00001 Gibson. This undertaking involves no ground disturbing activities.

This undertaking is located within the CCT Traditional Territories. We request any undertakings, particularly those involving ground disturbing activities, to have an IDP in place prior to implementation.

The proposed project lies within the traditional territory of the Moses-Columbia Tribe, 1 of the 12 constituent tribes of the Confederated Tribes of the Colville Reservation (CTCR), which is governed by the Colville Business Council (CBC). The CBC has delegated to the Tribal Historic Preservation Officer (THPO) the responsibility of representing the CTCR with regard to cultural resources management issues throughout the traditional territories of all of the constituent tribes under Resolution 1996-29. This area includes parts of eastern Washington, northeastern Oregon, the Palus territory in Idaho, and south-central British Columbia.

There are known cultural resources of precontact and historic significance nearby and this particular plat is considered Moderately Low to High Risk for an inadvertent discovery according to the DAHP predictive model.

CCT requests that during implementation that there be an inadvertent discovery plan or (IDP) in place to ensure compliance with all Section 106 and relevant cultural resource laws both federally and to the state of Washington.

Thank you for consulting with the Colville Confederated Tribes History and Archaeology Program.

On behalf of Guy Moura, Tribal Historic Preservation Officer.

Sincerely,

Connor Armi | Archaeologist Senior MA, RPA

History/Archaeology Program

Confederated Tribes of the Colville Reservation

PO Box 150 | Nespelem, WA 99155

d: 509-634-2690 | c: 509-631-1131

connor.armi.hsy@colvilletribes.com

On Thu, Aug 15, 2024 at 4:12 PM Jamey Ayling <jamey.ayling@co.kittitas.wa.us> wrote:

CDS is requesting comments on the following SEPA application: **RZ-24-00001 Gibson.**

Links to the file materials can be found below. Kittitas County anticipates issuing a DNS for this project application and is using the optional SEPA process. This may be the only opportunity to comment on the environmental impacts of this project.

The comment period will end **August 30, 2024, at 5pm**. CDS will assume your agency does not wish to provide comment if not received by this date. Please contact me directly with any questions or issues accessing the materials.

Public Access: [RZ-24-00001 Gibson](#)

Internal Access: RZ-24-00001 Gibson

Jamey Ayling

Planning Manager

Kittitas County
411 N Ruby ST, Suite 2
Ellensburg WA 98926

(509) 962-7065

Jamey.Ayling@co.kittitas.wa.us

The information transmitted by this email is intended only for the person or entity to which it is addressed. This email may contain confidential and/or privileged material. If you are not the intended recipient of this message, be aware that any use, review, retransmission, distribution, or reproduction is strictly prohibited. If you received this in error, please contact the sender immediately and delete the material from all devices.
message id: 38eb45916c6dcdbdac24bb8719d004a14

September 5, 2024

VIA USPS AND EMAIL (jamey.ayling@co.kittitas.wa.us; cds@co.kittitas.wa.us)



Jamey Ayling
Planning Manager
Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926

RE: *Gibson Rezone (RZ-24-00001)*
Location: Tax Parcel No. 280533, located S. 8, T. 17 N., R. 20
Ellensburg Cement Products, Inc. Rezone Comments

Dear Mr. Ayling:

Please consider this letter as formal comments on behalf of Ellensburg Cement Products, Inc. (Ellensburg Cement) on the above-referenced proposed rezone for Parcel No. 280533 owned by Kristen Gibson of Gibson & Son ("Gibson" or "Applicant").¹ After reviewing the application materials on file, Ellensburg Cement does not believe that Gibson has met its burden demonstrating the need or appropriateness of the rezone. The proposed rezone would have the effect of permitting intensive gravel operations (mining, excavation, and rock crushing, etc.) as a matter of right with limited further County review, and to allow such operations in near proximity to existing residences and within an area otherwise surrounded by agricultural lands, creating an island (or "spot zone") for these activities. Where such activities are permitted at all in the surrounding area, companies must undergo a thorough County conditional use permit process to ensure compatibility and appropriate conditions are imposed. The proposed rezone seeks to evade that permitting process. As such, the proposed rezone would impart a special benefit to a singular property and property owner, to the potential detriment to the surrounding properties, and in a way that would treat Gibson differently from other similarly-situated gravel operators in the County.

Ellensburg Cement further notes, and the County should be concerned, that neither the application materials nor the public notice provide any indication of these actual consequences of the rezone. As gravel operations are often the

¹ Ellensburg Cement previously submitted written SEPA comments by letter dated August 28, 2024, which comments are further attached as Attachment A, and incorporated herein by this reference.

subject of community complaints and displeasure given the inherent nature of the operations, the County should approach this issue understanding these sensitivities and with confidence that the reviewing public understands the consequences. Based on the current application materials for this particular island parcel, the rezone should be denied.

INTRODUCTION

The evident intent of Gibson's proposal is to evade future County permit and environmental review associated with gravel mining and rock crushing operations envisioned for the site, in a manner currently inconsistent with the surrounding dictates of the Agriculture-20 (A-20) zone, which have been followed by similarly situated applicants. The rezone application seeks to change the zoning designation for a singular parcel entirely encompassed within the A-20 zone and other agricultural lands for miles to the Forest and Range (FR) zone so that differing rules may apply to this island parcel, incongruous with the surrounding area, which is and would all remain A-20. To the point, Applicant requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining, blasting, rock crushing, excavation, and other intensive operations. While it is accurate that both the A-20 and FR zoning designations are contemplated within the *Rural Working* future land use designation, the rezone application seeks to rezone just one singular parcel as FR to permit more intensive operations within the broader A-20 zone in which the property is situated.

The A-20 zone is a zoning designation within the County "wherein farming, ranching and rural lifestyles are dominant characteristics." KCC 17.29.010. The purpose and intent of A-20 zoning classification "is to preserve fertile farmland from encroachment by nonagricultural land uses; and protect the rights and traditions of those engaged in agriculture." *Id.*

In contrast, the purpose and intent of the FR zone "is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged." KCC 17.56.010.

Even a cursory review of KCC 17.15.060.1² evinces the potentially not insignificant changes that would be occasioned by the rezone. While many of the permitted uses are consistent, there are several material differences. Most

² A copy of KCC 17.15.060.1 is attached as Attachment B for reference.

notably, the proposed rezone to FR would allow for rock crushing as a new outright permitted use (where currently not allowed), allowing for future and expanded mining and excavation as an outright permitted use (where current operations must be consistent with any conditional use permit, and future expansion or changed operations must undergo a thorough conditional use permit process. None of the impacts or effects of these intensive land uses, which would now be permitted as a matter of right and for the first time, or subject to relaxed standards and avoidance of CUP review, is made clear from the application materials, nor addressed in any material fashion in the context of the County's rezone criteria in KCC 17.98.020.

When Ellensburg Cement has sought authorization for similar operations, it has been compelled to, and has dutifully complied with, the County's CUP process. This process is robust and resulted in significant review and conditions on the proposed operations.³ If the County believes it is in the best interests of the County and its residents to relax and loosen standards for gravel operations, including blasting and rock crushing, and avoid this more robust review within the A-20 or other similar agricultural zoning designations, it should do so County-wide and in a transparent process, rather than thorough a site-specific rezone providing a benefit to only one property owner, and to the potential detriment of others.

REZONE CONSIDERATIONS AND CRITERIA

Further to the general comments set forth above, Kittitas County Code 17.98.020 sets forth the criteria applications for rezone which must be demonstrated and met. A discussion of each is set forth below:

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

Relying only on the fact that the FR zone is included as a permissible zoning classification within the Rural Working land use designation, the Applicant has not otherwise demonstrated how the site-specific rezone is compatible with the comprehensive plan. In fact, the proposed rezone to FR

³ A copy of the County's CUP process, as set forth in chapter 17.60A KCC, is attached as Attachment C for reference. The conditional use permitting process requires, without limitation, that the proposed use is not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood, will not create excessive public cost for facilities and services, be adequately served by existing facilities and roads, and may and inevitably results in the imposition of specific conditions to ensure compliance. See, e.g., KCC 17.60A.015 and KCC 17.60A.020.

would conflict with several goals and policies under the County's 2021 Comprehensive Plan, including, without limitation the following:

- **RR-P1:** The County shall promote the retention of its overall character by establishing zoning classifications that preserve rural character identified to Kittitas County.
- **RR-P2:** 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 (e.g. ravines) or use of other methods that provide functional separation from the resource land use.
- **RR-P5:** Protecting and preserving resource lands shall be given priority. Proposed development allowed and adjacent to resource lands shall be conditioned to protect resource lands from negative impacts from that development.
- **RR-P6:** Allow for lands which offer adequate supply of rock and gravel resources located in areas compatible for such uses and conditioned so that operation does not negatively impact rural character.
- **RR-P15:** 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.
- **RR-P16:** Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.
- **RR-P18:** Buffer standards and regulations should continue to be developed that will be used between incompatible rural uses.
- **RR-P21:** Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed.
- **RR-G13:** Preserve and protect non-resource forests and agriculture lands which are dominant in Kittitas County.
- **RR-G22:** Provide preservation of agriculture activities where producers can live and work on their own lands separate from Resource Lands.
- **RR-P45:** Commercial/Industrial development in Rural Working lands shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.

As the Comprehensive Plan notes, uses within the *Rural Working* lands designation "generally encourage farming, ranching and storage of agriculture products, and some commercial and industrial uses compatible with the rural environment and supporting agriculture and/or forest activities. Areas in this

designation often have low population densities with larger parcel sizes compared to Rural Residential areas. Agriculture and forestry activities are generally less in scope than in the Resource lands.” While a site-specific rezone of properties adjacent to Resource lands, or adjacent to existing FR zoned lands could be supported, applying the FR zone to a singular parcel entirely encompassed by A-20 zoned property, with the clear intent of permitting and pursuing newly permitted gravel mining, extraction, rock crushing and related intensive operations directly conflicts with the Comprehensive Plan goals and policies.

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

The Applicant has not demonstrated how the site-specific rezone bears a substantial relation to the public health, safety or welfare. The Applicant addresses this criteria by merely stating that any “future permits would be reviewed for impacts and/or mitigation measures under applicable regulations in effect at the time of the permit action.” Yet, what Applicant does not state, but which is self-evident, is that the proposed rezone would now permit as a matter of right more intensive gravel operations, including rock crushing, mining and extraction, without the attendant restrictions or conditional use process currently in effect. Loosening, or entirely avoiding County review, cannot be said to bear a substantial relation to the public health, safety or welfare on issues that are often the source of neighbor and community complaints, and certainly not on the basis of a site-specific rezone with no change in designation of the surrounding community.

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

The Applicant has not demonstrated how the site-specific rezone has merit and value for Kittitas County or a sub-area of the county. Rather, the proposed site-specific rezone does not address any County-wide nor subarea change in zoning designations. Rather, it seeks to obtain a special benefit for one particular parcel within a much broader subarea all zoned agricultural, to allow for more intensive industrial and gravel operations.

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.

The Applicant has not demonstrated how the site-specific rezone is supported by either (a) changed circumstances; (b) because of a need for additional property in the proposed zone; or (c) because the proposed zone is appropriate for reasonable development of the subject property. The Applicant states only that the subject site does not have water rights and the soils are not suitable for farming or grazing. First, while the property may not benefit from its own water rights, it is uncertain (and unaddressed) whether the property has the right and ability to receive contract irrigation water delivery from an applicable irrigation district, and it appears to fall within the boundaries of Kittitas Reclamation District (KRD), which has mainlines and laterals near the property. The soil conditions at the property are not noted as being distinct or materially different than the surrounding properties, all zoned A-20, nor that no reasonable use could be made of the property. In fact, Gibson is already able to use the property, subject to conditions in a conditional use permit, for certain operations. Allowing more intensive and arguably incompatible uses, without conditions, does not appear to be necessary for reasonable development of the subject property. Gibson's property is not distinct from other properties throughout the County, and the County can expect successive rezone applications if this is the direction the County elects to go in.

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

The Applicant has not demonstrated how the site-specific rezone is suitable for development in general conformance with zoning standards for the proposed zone. Without stating what those are, the Applicant responds by merely noting that the FR zoning "offer several permitted uses that are more compatible with the subject site than the AG-20 zoning." Yet, the Applicant does not demonstrate how this particular property is "suitable" for such development. To the contrary, it is entirely surrounded by and encompassed within the A-20 zone, which either does not permit or restricts and conditions the intensive uses being sought, and with several residential properties within a one-mile radius of the property. Again, if the County finds properties such as this to be "suitable" for more intensive gravel operations, and without conditional use permit review, Ellensburg Cement likely has similarly-situated land holdings which would be similarly eligible for such relaxed permitting standards.

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

The Applicant has not demonstrated how the site-specific rezone will not be materially detrimental to the use of properties in the immediate vicinity of the subject property. Without any explanation, the Applicant states confusingly that trying to develop the property under the current A-20 zone would be “more impactful” to the surrounding properties. This statement is nowhere explained, and on its face, defies credulity.

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

The Applicant has not demonstrated how the proposed changes in use that would be permitted under the site-specific rezone will not adversely impact irrigation water deliveries to other properties. In response, the Applicant merely conclusorily states, without substantiation, that the proposed zone change to FR “will not adversely impact irrigation water deliveries to other properties because the [FR] permitted uses better fit the natural conditions of the site.” This response is confusing, makes no attempt to address the applicable criteria, and is entirely non-responsive.

The effect of the proposed rezone is that activities currently not permitted (i.e. rock crushing) or permitted only through a conditional use permit process and continued compliance with any applicable CUP (i.e. mining and excavation) would become activities permitted as a matter of right. The entire purpose of the rezone appears to be to loosen permitting standards for gravel operations and avoid and eliminate the robust conditional use permitting process that Ellensburg Cement has undergone for each of its relevant operations. These conditions have, in the past included, without limitation, required conditions related to the hours of operation of rock crushing operations, analysis of and limitation on trucks and heavy equipment impacting the adjacent community and County roadways, mitigating dust and noise impacts, and addressing compatibility and mitigating impacts on adjoining land uses, and others. As currently constituted, the proposed rezone appears to constitute impermissible “spot zoning” in seeking to reclassify a singular property within the broader zoning designation for the primary benefit of the property owner without any appreciable benefit to the interest of the public. *See, e.g., Anderson v. Island County*, 81 Wn.2d 312, 501 P.2d 594 (1972). If the County in fact believes it is in the best interests of the County to more broadly permit rock crushing and gravel operations, or streamline the permit process for the same, it should do

so holistically and not to the benefit of a singular property and property owner on a case-by-case basis.

CONCLUSION

Based on the foregoing, the County should have serious concerns regarding this rezone proposal. Among those concerns is whether the public and surrounding community understand the impacts of this proposal. While on its face, a change in zoning classification from A-20 to FR may seem innocuous or of little effect, the underlying intent and obvious allowances and relaxed permitting standards that would result requires careful consideration. Even if such relaxed standards are deemed in the best interests of the County, application of such lessened restrictions should be addressed holistically and not in the nature of spot zoning. If the County is inclined to approve this rezone, Ellensburg Cement and others owning property within the A-20 and other agriculturally designated zoning districts, will likely be evaluating their properties, and be bringing similar rezone requests and would expect to be treated similarly based on such precedent.

Pursuant to this letter, we request notice, directed to the undersigned, of any action the County takes relating to this rezone application, including, without limitation, a copy of any decision issued.

Thank you in advance for your consideration of these comments. Please feel free to contact me if you have any questions or require any additional information. We appreciate the County's continued careful review of this matter.

Sincerely,



Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

Enclosures

cc: Ellensburg Cement Products, Inc.

ATTACHMENT A

August 28, 2024

VIA USPS AND EMAIL (jamey.ayling@co.kittitas.wa.us; cds@co.kittitas.wa.us)



Jayme Ayling
Planning Manager and Responsible Official
Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926

RE: *Gibson Rezone (RZ-24-00001)*
Ellensburg Cement Products, Inc. SEPA Comments

Dear Mr. Ayling:

Please consider this letter as formal comments on behalf of Ellensburg Cement Products, Inc. (Ellensburg Cement) on the State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) issued by Kittitas County under File No. RZ-24-00001 on August 15, 2024.¹ These comments are provided pursuant to chapter 43.21C RCW, WAC 197-11-340, WAC 197-11-500, *et seq.*, and chapter 15.04 of the Kittitas County Code.

Based on the following comments, at this time, the DNS should be withdrawn and additional SEPA analysis should be conducted. A DNS should only issue “[i]f the responsible official determines there will be no probable significant adverse environmental impacts from a proposal.” WAC 197-11-340(1). The County’s DNS should be withdrawn because (a) neither the SEPA Checklist nor the County’s environmental review address, let alone evaluate, the probable impacts of any future development that would be occasioned by the rezone; (b) improperly postpones and defers such environmental analysis until the project stage; and (c) it fails to impose any mitigating conditions on the proposed rezone to address known probable environmental impacts. As such, Ellensburg Cement respectfully requests the County’s SEPA Responsible Official reconsider the DNS pursuant to WAC 197-11-340, and withdraw the determination at this time.

¹ Jeff Hutchinson, President of Ellensburg Cement Products, Inc., previously submitted written comments to the County by email dated August 21, 2024. Those additional comments should be considered as further written comments on the SEPA threshold determination and land use rezone proposal and are incorporated herein by this reference.

BACKGROUND

Founded in 1945, Ellensburg Cement, headquartered and doing business in Kittitas County, is a local and family-owned business specializing in ready-mix concrete and aggregates. Ellensburg Cement is committed to environmental compliance and stewardship in its business operations and has received the *Environmental Merit Award* from the Washington Aggregates and Concrete Association. Ellensburg Concrete has worked with the County on a number of sites, going through robust and detailed conditional use permitting and thorough environmental review associated with its operations.

Ellensburg Cement is interested in and concerned by Kristen Gibson's, of Gibson & Son ("Gibson"), pending rezone application and proposal based on the evident intent of the proposal to evade thorough environmental review associated with the understood proposed gravel mining and rock crushing operations envisioned for the site. Even as a non-project action, the SEPA review must disclose and evaluate the probable effects of the proposed rezone, including the short and long-term effects that may be occasioned by the differing land use regulations. To read the Checklist, one would be left with the impression that no such changes are occurring, and certainly would be left guessing at what those are. Yet, the proposal seeks to change the zoning designation for a singular parcel entirely encompassed within the Agriculture-20 (A-20) zone so that differing rules may apply. The remaining surrounding property would all remain A-20. To the point, Gibson requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining and excavation operations. None of these changes or impacts are disclosed or analyzed.

Without disclosure of these facts and probable impacts by Gibson in the SEPA Checklist, and without any resulting review of these impacts by the County Responsible Official in making its SEPA threshold determination, the existing SEPA review is lacking. To the point, by not disclosing, analyzing, or quantifying the actual impact and probable effects of the rezone, it is impossible for the County to properly evaluate the environmental impacts based on the required SEPA factors and considerations.

The information provided by Gibson is presently not reasonably sufficient to evaluate the environmental impacts of the proposal.² Absent a complete review addressing these impacts, the current SEPA determination cannot be sustained.

SEPA CONSIDERATIONS

When reviewing proposals subject to environmental review, “SEPA demands a ‘thoughtful decision-making process’ where government agencies ‘conscientiously and systematically consider environmental values and consequences.’” *Wild Fish Conservancy v. Wash. Dep’t of Fish & Wildlife*, 198 Wn.2d 846, 873, 502 P.3d 359 (2022). A threshold determination (such as a DNS) “must indicate that the agency has taken a searching, realistic look at the potential hazards and, with reasoned thought and analysis, candidly and methodically addressed those concerns.” *Conservation Northwest v. Okanogan County*, 2016 Wash. App. LEXIS 1410, 88-89, 194 Wn. App. 1034 (June 16, 2016).

Moreover, while postured here as a non-project action in the form of a rezone only, even for such non-project actions, the County “must address the probable impacts of any future project action the proposal would allow.” *Spokane County v. E. Wash. Growth Mgmt. Hearings Bd.*, 176 Wn. App. 555, 579, 309 P.3d 673 (2013); see also WAC 197-11-060(4)(c)-(d). The express purpose of these rules is “to ensure an agency fully discloses and carefully considers a proposal’s environmental impacts before adopting it and ‘at the earliest possible stage.’” *Id.* (quoting *King County v. Wash. State Boundary Review Bd.*, 122 Wn.2d 648, 663-64, 666, 860 P.2d 1024 (1993)); see also WAC 197-11-060(5)(d)(i)-(ii).

Against this backdrop, Ellensburg Cement has concluded that the environmental disclosure and review is presently incomplete and lacking, and provides the following additional SEPA comments for the County’s consideration:

Lack of Disclosure and Analysis of Impacts of Rezone

The SEPA Checklist and associated review is lacking any disclosure or analysis of the probable impacts of the proposed rezone, in contravention of SEPA’s dictates.³ The SEPA rules expressly require consideration of “the range of

² See WAC 197-11-100 (“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.”)

³ For the vast majority of responses in the SEPA Checklist, the applicant merely responds “not applicable.”

probable impacts, including short-term and long-term effects” and that considered impacts “shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.” WAC 197-11-060(4)(c). Further, a proposal’s effects “include direct and indirect impacts caused by a proposal, including “those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions.” WAC 197-11-060(4)(d).

Despite the above, the SEPA Checklist does not disclose these impacts and is devoid of any analysis. For example, Section B.8 of the SEPA Checklist requires disclosure of the “proposal’s affect on current land uses or nearby adjacent properties.” Rather than addressing the actual impacts of the rezone, the Checklist includes a mere conclusory statement that the “proposal does not affect current land uses on nearby or adjacent properties.” See Checklist at § B.8.a. It then goes on to merely summarily state that the “proposed zoning is consistent with the Rural Working land designation and activities, which prioritizes management of farming, ranching, and rural lifestyles in the A-20 zone, and prioritizes resource management in the Forest and Range zone.” *Id.*⁴ Similarly, and even more glaring, in the non-project supplement sheet, the Checklist merely repeats these or similar statements, without analysis, and defers environmental review, asserting that “[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.” This type of non-disclosure and non-analysis expressly contradicts SEPA rules requiring current the

⁴ Further, the SEPA Checklist gives sparse attention to the appropriateness of the proposed rezone under existing land use plans. See, e.g., Checklist at § D.5. No disclosure or analysis is provided with respect to the proposed isolated spot zoning of a singular tract within the much larger A-20 zone, including without limitation, **RR-P6** (“Allow for lands which offer adequate supply of rock and gravel resources located in areas compatible for such uses and conditioned so that operation does not negatively impact rural character.”); **RR-P16** (“Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.”); **RR-P18** (“Buffer standards and regulations should continue to be developed that will be used between incompatible rural uses.”); **RR-P21** (“Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed.”); **RR-G22** (“Provide preservation of agriculture activities where producers can live and work on their own lands separate from Resource Lands.”); and **RR-P45** (“Commercial/Industrial development in Rural Working lands shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.”).

consideration of the probable effects of changed land use occasioned by a rezone, including both its short-term and long-term effects.

Even a cursory review of KCC 17.15.060.1 evinces the potentially not insignificant changes that would be occasioned by the rezone. Understanding Gibson's business operations, this would most notably include allowing for rock crushing as a new permitted use (where currently not allowed), allowing for future and expanded mining and excavation as a permitted use (where current operations must be consistent with any conditional use permit and future expansion or changed operations must undergo a thorough conditional use permit process), and allowing the conditional development of asphalt and concrete plants and retail sales. None of the impacts or effects of these intensive land uses, which would now be permitted for the first time or subject to relaxed standards, is disclosed, analyzed, or meaningfully evaluated. As these represent the most obvious and significant differences between the two zones, the intent though is clear. In short, the environmental review is devoid of relevant analysis and is insufficient.

Further, the SEPA Checklist and associated review appears devoid of any disclosure or analysis of the actual potential impacts of the newly permitted uses under the proposed rezone. Notably, this includes, without limitation, the following:

- Neither the SEPA Checklist nor any studies address noise and other impacts associated with blasting and vibration associated with the rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address dust control, emissions, or air quality impacts from rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential traffic impacts and safety associated with increased truck traffic and heavy machinery associated with uses that would be permitted under the proposed rezone.

- Neither the SEPA Checklist nor any studies address potential impacts to groundwater, hydraulic connectivity with surface water bodies,⁵ or aquifer impacts.
- While the application materials note a lack of any water rights associated with the property, the SEPA Checklist does not address or evaluate how water supply would be made available to the property for dust control and operational issues, and the impact of the same.

The DNS as issued includes no consideration or imposition of any mitigating conditions associated with these issues. As the proposed rezone would allow for new intensive uses as a matter of right, without further review, SEPA requires review of these probable impacts now, and such review cannot be deferred.

IMPROPER DEFERAL OF REQUIRED ENVIRONMENTAL REVIEW

Second, to the extent the SEPA Checklist and the County's review purports to effectively defer review of the environmental impacts of the rezone, such deferral is inappropriate and SEPA analysis must occur now and at the forefront before the rezone can be undertaken. The SEPA Checklist statement that "[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time if the permit action" is insufficient and a transparent attempt to not just defer but to avoid review. Yet, if the County were to in fact approve the proposed rezone, activities currently not permitted (i.e. rock crushing) or permitted only through a conditional use permit process and continued compliance with any applicable CUP (i.e. mining and excavation) would become activities permitted as a matter of right. The County should reject this slight-of-hand, and at a minimum, must evaluate these impacts now, with any probable adverse impacts adequately mitigated. As Washington courts have explained, even for non-project actions (such as rezones):

. . . the agency must address the probable impacts of any future project action the proposal would allow. The purpose of these rules is to ensure an agency fully discloses and carefully considers a proposal's environmental impacts before adopting it and "at the earliest possible stage." An agency may not postpone environmental analysis to a later implementation stage if [**685] the proposal

⁵ While the SEPA Checklist notes that Parke Creek is within 200 feet of the property in the southwest corner, see Checklist at § 3.a.1, it avoids any discussion of any impacts of the new uses authorized under the rezone, merely describing as "non-applicable." *Id.* at § 3.a.2.

would affect the environment without subsequent implementing action.

Spokane County v. E. Wash. Growth Mgmt. Hearings Bd., 176 Wn. App. 555, 579, 309 P.3d 673 (2013) (internal citations omitted); *see also Millennium Bulk Terminals-Longview, LLC v. Dep't of Ecology*, 2020 Wash. App. LEXIS 647, *17-18 (Wash. Ct. App. Mar. 17, 2020) (piecemealing of environmental review “is disfavored because the later environmental review often seems merely a formality, as the construction of the later segments of the project has already been mandated by the earlier construction”). The County should not and under the SEPA rules cannot, defer this review.

MITIGATING CONDITIONS REQUIRED FOR ISSUANCE OF ANY DNS

While Ellensburg Cement asserts the current SEPA disclosures and analysis is defective and is not based upon information reasonably sufficient to evaluate the environmental impact of the proposal, it further asserts that even when all impacts are properly disclosed, that any subsequent threshold determination, must, at a minimum, include and impose appropriate necessary mitigating conditions as part of a mitigated determination of nonsignificance (MDNS). The entire purpose of the rezone appears to be to loosen permitting standards for gravel operations and avoid and eliminate the robust conditional use permitting process⁶ that Ellensburg Cement has undergone for each of its relevant operations. These conditions have, in the past included, without limitation, required conditions related to the hours of operation of rock crushing operations, analysis of and limitation on trucks and heavy equipment impacting the adjacent community and County roadways, mitigating dust and noise impacts, and addressing compatibility and mitigating impacts on adjoining land uses, and others.

WITHDRAWAL AND RECONSIDERATION OF THE DNS REQUIRED

A DNS must be based upon “information reasonably sufficient to evaluate the environmental impact of a proposal.” WAC 197-11-335; *see also Moss v. City of Bellingham*, 109 Wn. App. 6, 14, 31 P.3d 703 (2001). To receive a DNS, an applicant must furnish reasonably complete information about the impacts. In

⁶ See Chapter 17.60A KCC (Conditional Uses). The conditional use permitting process requires, without limitation, that the proposed use is not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood, will not create excessive public cost for facilities and services, be adequately served by existing facilities and roads, and may impose specific conditions to ensure compliance. *See, e.g.*, KCC 17.60A.015 and KCC 1760A.020.

this regard, SEPA cases instruct that “the [local jurisdiction] must demonstrate that it had actually considered relevant environmental factors before [issuing the threshold determination]. Moreover, the record must demonstrate that the [local jurisdiction] adequately considered the environmental factors in a manner sufficient to be a prima facie compliance with the procedural dictates of SEPA.” *Boehm v. City of Vancouver*, 111 Wn. App. 711, 718, 47 P.3d 137 (2002). The responsible official “shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents.” WAC 197-11-340(2)(f). Withdrawal of the DNS is appropriate here.

The SEPA rules further require that the lead agency withdraw a DNS where “new information is presented indicating . . . a proposal’s probable significant adverse environmental impact,” WAC 197-11-340(3)(a)(ii), or where the “DNS was procured by misrepresentation or lack of material disclosure.” WAC 197-11-340(3)(a)(iii). Here, Ellensburg Cement has raised new information not clearly disclosed in the SEPA Checklist or evaluated by the County, including the undisclosed actual material differences between the zoning designations. This new information requires withdrawal of the DNS. WAC 197-11-340(3)(a)(ii). Similarly, the lack of material disclosure on these issues, and of the lack of actual consideration of the probable effects of the rezone requires withdrawal of the DNS. WAC 197-11-340(3)(a)(iii). Withdrawal of the DNS will permit the County to ensure proper SEPA review consistent with WAC 197-11-335⁷ and applicable law, and to impose mitigating conditions, as demonstrated to be necessary.

SPOT ZONING AND NEED FOR GENERALLY APPLICABLE RULES

Related to the above, Ellensburg Cement views this proposal as a piecemeal special favor in the form of spot zoning that would benefit only Gibson and does not further the County’s land use goals, policies, or the broader interests. The proposal seeks to rezone one individual parcel entirely encompassed within the A-20 zoning designation. The County should act cautiously and resist efforts at such spot zoning benefiting just one party. While Gibson may or will offer arguments as to its views of the appropriate zoning classification of this parcel, such consideration should be given a broader view. Similarly, if the County in

⁷ Pursuant to WAC 197-11-340(2)(f), in response to comments, the Responsible Official shall reconsider the DNS, including modification or withdrawal, and where the lead agency concludes that there is insufficient information it may require an applicant to submit more information on subjects in the checklist. See WAC 197-11-335(1). This result is dictated here.

fact believes it is in the best interests of the County to more broadly permit rock crushing and gravel operations, or streamline the permit process for the same, it should do so holistically and not to the benefit of a singular property and property owner on a case-by-case basis.

CONCLUSION

The SEPA Checklist fails to properly disclose, let alone consider, the probable effects of the rezone. As such, the County's SEPA evaluation and DNS fails to demonstrate SEPA compliance. Given these deficiencies, and in further consideration of the significant impacts occasioned thereby, in accordance with the provisions of WAC 197-11-340(3), Ellensburg Cement respectfully requests the County withdraw the DNS issued on August 15, 2024, to ensure all appropriate impacts are evaluated and mitigated.

We request notice, directed to the undersigned, of any action the County takes relating to this threshold determination and the underlying rezone application.

Thank you in advance for your consideration of these comments. Please feel free to contact me if you have any questions or require any additional information. We appreciate the County's careful review of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jm R', is written over a horizontal line.

Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

cc: Ellensburg Cement Products, Inc.

ATTACHMENT B

17.15.060 Allowed uses in rural non-LAMIRD lands**17.15.060.1 Rural Non-LAMIRD Use Table**

P Permitted
PA Permitted
Administrative
CU Conditional Use
ACU Admin. Conditional
Use

Rural Non-LAMIRD

* See KCC
Chapter [17.08](#) Definitions

	Rural Residential		Rural Working		Rural Recreation			Rural Residential & Rural Recreation
	Ag 5⁴⁹	Rural 5⁴⁹	Ag 20⁴⁹	Forest & Range	Master Planned	General Commercial	Rural Recreation	PUD
A. Agriculture								
Agricultural Enhanced Uses*			p⁵⁵	p⁵⁵		p⁵⁵		
Agricultural direct marketing activities*	p⁶²	p⁶²	p⁶²	p⁶²				
Agricultural seasonal harvest festivities*	p⁶³	p⁶³	p⁶³	p⁶³				
Agricultural expanded seasonal harvest festivities*	C	C	C	C				
Animal boarding*	P	P	P	P		CU	CU	
Agriculture processing*	CU 23		CU 23	CU **		P		
Agriculture production*	p²⁴	P	P	p²⁴	p²⁴	p²⁴	p²⁴	p²⁴
Farm Stand,*	p²² / AC⁵¹	p²² / AC⁵¹	p²² / AC⁵¹	p²² / AC⁵¹	p²² / AC⁵¹	P	p²² / AC⁵¹	p²² / AC⁵¹
Agriculture Sales,*	CU		CU			P		
Dairy	CU	CU	CU	CU	CU	CU	CU	
Feedlot*			CU	CU **				
Grazing*	P	P	P	P	P	P	P	P
Marijuana processing*								
Marijuana production*								
Marijuana, retail sales*								
Nurseries	P	P	P	CU **		P	CU⁶¹	
Riding academies	CU		CU	CU	CU		CU	
Small-scale event facility*	AC⁴⁵ / CU	AC⁴⁵ / CU	AC⁴⁵ / CU	AC⁴⁵ / CU				
U-Pick/U-Cut Operations*	P / AC⁵¹	CU	P / AC⁵¹	P / AC⁵¹			CU	
Farm Visit	CU	CU	AC⁵¹	AC⁵¹	CU	Cu	CU	p⁵²
Commercial Activities associated with agriculture*	AC		AC					
	Ag 5⁵¹	Rural 5⁵¹	Ag 20⁵¹	Forest & Range	Master Planned	General Commercial	Rural Recreation	PUD
B. Civic Uses / Community Services								
Cemetery	p²¹	p²¹	p²¹	CU **	p²¹	p²¹	p²¹	p²¹
Clubhouses, fraternities and lodges*	AC⁴⁴	AC⁴⁴	AC³	AC³⁵	AC		AC	
Cultural and education facilities					P		P	
Libraries			CU³			CU		
Meeting facilities					P			
Museums and galleries						CU		
Religious institutions	CU		CU	CU	CU	CU	CU	
Schools, public or private*	p²⁵		p²⁵	CU			CU	
Interpretive Center*			AC	AC			AC	
	Ag 5⁵¹	Rural 5⁵¹	Ag 20⁵¹	Forest & Range	Master Planned	General Commercial	Rural Recreation	PUD
C. Commercial								
Auction sales of non-agriculture products						CU		
Bank						CU		

Bed and breakfast*	AC	AC	AC	AC **			AC	
Clinic*								
Day care facilities*								
Funeral home/mortuary								
Hospital*								
Hospital, animal or veterinary*			CU			CU		
Hotel/motel					CU 6			
Office*						P 17		
Restaurant				CU 36	P	CU	CU	
Retail sales,* general				CU 36	P	CU 18	CU 18	
Retail sales,* lumber and building materials								
Retail sales,* vehicles								
Services					P 20	CU 50		
Shooting range*			CU 31	CU ** 31			CU 31	
Tavern				CU 36	P	CU		
Temporary sales office					P			
Vehicle/equipment service and repair*	P 16		P 16	CU 36	P 42	P 42		
	Ag 51	Rural 51	Ag 2051	Forest & Range 11	Master Planned	General Commercial	Rural Recreation	PUD
D. Industrial								
Airport*	CU		CU	CU	CU	CU	CU	
Asphalt/Concrete plants				CU 37				
Explosives, storage or manufacture								
Forest product processing* (portable)	P	P	CU	CU 35				
Forest product processing* (permanent)			CU	CU **				
Freighting and trucking yard or terminal*								
Hazardous waste storage*								
Hazardous waste treatment*								
Impound/towing yard*								
Junkyard*								
Manufacturing*								
Mini-Warehouse				CU 59		CU 14		
Refuse disposal/recycle*			CU 19	CU 58				
Research laboratories								
Wastewater treatment								
Warehousing and distribution	PA 47	PA 47	PA 47 / CU 46	PA 47				
Wholesale business								
	Ag 51	Rural 51	Ag 2051	Forest & Range 11	Master Planned	General Commercial	Rural Recreation	PUD
E. Recreation								
Campground*	CU 12	CU 12	CU 12	CU 12 P 54 **	CU 13	CU 12	CU 12	CU
Golf course*	CU	CU	CU	CU **	CU		CU	
Guest ranch or guest farm*	CU	CU	CU	CU **			CU	
Parks and playgrounds*	P	P	P 2	P	P	P	P	P
Recreation, indoor*					P	CU	CU	P
Recreation , outdoor*	AC	AC	CU	CU	AC	AC	AC	P
Recreational vehicle park*	CU	CU			CU		CU	CU

Recreational vehicle/equipment service and repair*				CU 60				
Recreational vehicle storage				CU 26			CU 26	p 26
Stadiums								
Trails	PA	PA	PA	PA	PA	PA	PA	PA
	Ag 51	Rural 51	Ag 201	Forest & Range 41	Master Planned	General Commercial	Rural Recreation	PUD
F. Residential								
Accessory dwelling unit*	PA 27	PA 27	PA 27	PA 27 **			PA 27	PA 27
Accessory living quarters*	p 28	p 28	p 28	p 28 **	p 28		p 28	p 28
Adult family home*	p 41	p 41	p 41	p 41	p 41	p 41	p 41	p 41
Boarding house			CU 29	CU 29 **				
Convalescent home			CU	CU **				
Dwelling, single-family*	p 33	p 40	P	p 34	p 1	PA 2	P	P
Dwelling, two-family*	P		p 3	p 34	p 1		CU	P
Dwelling, multiple-family*					p 1			P
Farm labor shelter*	CU 4		CU 4	CU 4 **				
Group home*	CU	CU					CU	
Group Care Facility*	CU 56	CU	CU 56	CU			CU	
Home occupation*	P/CU 5	P/CU 5	P/CU 5	P/CU 5 **	P/CU 5		P/CU 5	P/CU 5
Manufactured home*	P	P	P	P **	P	PA 2	P	P
Manufactured home park								
Mobile home	p 38	p 38		p 34				
Special care dwelling*	p 30	p 30	p 30	p 30			CU 30	p 30
Temporary trailer	p 7	p 7	p 7	p 7 **	p 7	p 7	p 7	p 7
	Ag 51	Rural 51	Ag 201	Forest & Range 41	Master Planned	General Commercial	Rural Recreation	PUD
G. Resource								
Forestry*	P	P	P	p 34				
Forest product sales*				P				
Mining and excavation*	CU	CU 39	CU	p 34				
Rock crushing*		CU 39		p 34				
	Ag 51	Rural 51	Ag 201	Forest & Range 41	Master Planned	General Commercial	Rural Recreation	PUD
H. Utilities and Public Facilities								
Electric vehicle infrastructure*	p 32	p 32	p 32	p 32	p 32	p 32	p 32	p 26
Public facilities*	PA 53 27	PA 53 27	PA 53 27	PA 53 27	PA 53 27	PA 53 27	PA 53 27	PA 53 27
Solar Power Production Facilities								
Utilities	p 2 /ACU 2 /CU 2	p 2 /ACU 2 /CU 2	p 10 /ACU 10 /CU 10	p 2 /ACU 2 /CU 2	p 11 /ACU 11 /CU 11	p 2 /ACU 2 /CU 2	p 2 /ACU 2 /CU 2	p 2 /ACU 2 /CU 2
Watershed management activities*	PA	PA	PA	PA	PA	PA	PA	

** Publisher's Note: Footnote 37 was erroneously referenced in this section by [Ordinance 2013-001](#)

17.15.060.2 Footnotes Associated with Rural Non-LAMIRD Use Table.

1. Provided use is integrated into and supports the on-site recreational nature of the master planned resort and short-term visitor accommodation units constitute greater than fifty percent (50%) of the total resort accommodation units.
2. No new residence shall be permitted except that related to the business or enterprises allowed in this zone such as janitor or night watchman. Any such residence shall meet the requirements of the residential zone.
3. Not permitted in the Agriculture Study Overlay Zone. Clubhouses, fraternities and lodges limited to facilities that serve traditional rural or resource activities (such as granges).
4. Provided:
 - a. The shelters are used to house farm laborers on a temporary or seasonal basis only, regardless of change of ownership, if it remains in farm labor-needed status;
 - b. The shelters must conform with all applicable building and health regulations;
 - c. The number of shelters shall not exceed four (4) per twenty (20) contiguous acres of land area;
 - d. The shelters are owned and maintained by the owner or operator of an agricultural operation which clearly demonstrates the need for farm laborers;
 - e. Should the parent agricultural operation cease or convert to non-agriculture use, then the farm labor shelters shall conform with all applicable buildings and health regulations.
5. No sign advertising a home occupation shall exceed sixteen (16) square feet in size. Home occupations with no outdoor activities or noise are permitted; home occupations with outdoor activities or noise are a conditional use. In-home daycares with six (6) or fewer individuals receiving care in a twenty-four (24) hour period are permitted; in-home daycares with seven to twelve (7-12) individuals receiving care in a twenty-four (24) hour period require a Conditional Use Permit.
6. Provided short-term visitor accommodation units constitute greater than fifty percent (50%) of the total resort accommodation units.
7. When used for temporary occupancy for a period not-to-exceed one (1) year related to permanent home construction or seasonal/temporary employment.

8. Public transportation deadhead stations permitted; passenger terminals are a Conditional Use.
9. Utilities are defined and regulated by KCC Chapter [17.61](#), Utilities.
10. Utilities are defined and regulated by KCC Chapter [17.61](#), Utilities. Not permitted in the Agriculture Study Overlay Zone.
11. Utilities are defined and regulated by KCC Chapter [17.61](#), Utilities. Limited to the capital facilities, utilities, and services necessary to maintain and operate the master planned resort.
12. In considering proposals for location of campgrounds, the Board shall consider at a minimum the following criteria:
 - a. Campgrounds should be located at sufficient distance from existing rural residential/residential development so as to avoid possible conflicts and disturbances;
 - b. Traffic volumes generated by such a development should not create a nuisance or impose on the privacy of nearby residences or interfere with normal traffic flow;
 - c. Landscaping or appropriate screening should be required and maintained where necessary for buffering;
 - d. Adequate and convenient vehicular access, circulation and parking should be provided;
 - e. Public health and safety of campers and those reasonably impacted by the campground (i.e. health, water, sanitation).
13. Campgrounds and Recreational vehicle sites with power and water are permitted; campgrounds and recreational vehicle sites without power and water require a conditional use permit.
14. The following standards shall apply to the approval and construction of mini-warehouses:
 - a. A mini-warehouse proposal (application) must include plans for aesthetic improvements and/or sight screening;
 - b. All buildings with storage units facing property boundaries shall have a minimum setback of thirty-five (35) feet;
 - c. No commercial or manufacturing activities will be permitted within any building or storage unit;
 - d. Lease documents shall spell out all conditions and restrictions of the use;
 - e. Signs, other than on-site direction aids, shall number not more than two (2) and shall not exceed forty (40) square feet each in area.
15. Permitted when conducted wholly within an enclosed building (excluding off-street parking and loading areas).
16. Limited to farm implement repair and maintenance.
17. Limited to offices directly related to tourism and recreation.
18. Retail sales are limited to groceries and sales directly related to tourism and recreation. Structural footprint containing all of these activities may not exceed 4,000 square feet.
19. Limited to composting facilities.
20. Limited to those services typically found on other destination resort properties and designed to serve the convenience needs of the users and employees of the master planned resort. Shall be designed to discourage use from non-resort users by locating such services well within the site rather than on its perimeter.
21. No new cemeteries. Existing cemeteries may expand or enlarge within established cemetery boundaries as of the date of amendment adoption, and in compliance with applicable standards and regulations.
22. When located no more than forty-five (45) feet from the centerline of the public street or highway and selling goods produced on site.
23. Hay processing, and small-scale processing of agricultural products produced on the premises are permitted without a conditional use permit.
24. Excluding swine and mink, provided a minimum of one (1) acre is available. When located in the Liberty Historic Overlay Zone, this use is subject to the provisions of KCC Chapter [17.59](#).
25. Existing schools are permitted; new schools require a conditional use permit. Not permitted in the Agriculture Study Overlay Zone.
26. Recreational vehicle storage may be enclosed or outdoor storage of recreational vehicles or both. Permitted where the use is only serving a residential PUD or in the Rural Recreation and Forest and Range zoning districts and subject to the following standards and conditions:
 - a. All stored vehicles must be licensed if required by law, and operational. This land use does not include vehicle sales.
 - b. Unless it is limited to serving a residential PUD and otherwise permitted or authorized, recreational vehicles shall not be stored outside when the site is contiguous to a residential zoning district.
 - c. No commercial or manufacturing activities are permitted except when recreational vehicle/equipment service and repair has been permitted subject to the requirements of KCC 17.15.060.2 [Footnote 60](#).
 - d. In the Forest and Range zoning district, and when not limited to serving a recreational planned unit development, the site shall either be:
 - i. Contiguous to a State Highway, or
 - ii. Contiguous to a designated urban arterial or rural collector road located near a highway intersection or freeway interchange.
 - iii. It is not necessary for the site to have direct access to such arterial, collector or highway to meet this requirement.
 - e. Recreational vehicle storage shall be designed to be compatible with the surrounding rural character, subject to the following standards:
 - i. Storage areas shall be enclosed with a minimum five-foot-high, security fence. The applicant may be required to provide additional plans for aesthetic improvements and/or site-screening.
 - ii. Additional setbacks, physical barriers or site-screening may be required on sites that border resource lands in the Commercial Agriculture or Commercial Forest zoning districts.
 - iii. Findings shall be made that the proposal does not require urban governmental services such as municipal sewer or water service and does not compromise the long-term viability of designated resource lands.
 - iv. Measures shall be taken to protect ground and surface water.
- Electric Vehicle Infrastructure subject to provisions of KCC Chapter [17.66](#).
27. Subject to the following requirements:
 - a. The parcel must be at least 3 acres in size;
 - b. Only one ADU shall be allowed per lot;
 - c. The ADU shall not exceed 1,500 square feet;
 - d. All setback requirements for the zone in which the ADU is located shall apply;
 - e. The ADU shall meet the applicable health department standards for potable water and sewage disposal, including providing adequate water supplies under [RCW 19.27.097](#);
 - f. No mobile homes or recreational vehicles shall be allowed as an ADU;
 - g. The ADU shall provide additional off-street parking;
 - h. An ADU is not permitted on the same lot where a special care dwelling or an Accessory Living Quarters exists;
 - i. The ADU must share the same driveway as the primary dwelling;
 - j. ADUs shall be subject to obtaining an administrative permit.
28. Subject to the following requirements:
 - a. Accessory Living Quarters shall be located within an owner-occupied primary residence;
 - b. Accessory Living Quarters are limited in size to no greater than fifty percent (50%) of the habitable area of the primary residence;
 - c. The Accessory Living Quarters are subject to applicable health district standards for water and sewage disposal;
 - d. Only one (1) Accessory Living Quarters shall be allowed per lot;
 - e. Accessory Living Quarters are to provide additional off-street parking;
 - f. Accessory Living Quarters are not allowed where an Accessory Dwelling Unit or Special Care Dwelling exists.
29. Maximum of four (4) boarders and two (2) bedrooms dedicated to the use.
30. Subject to the following requirements:
 - a. The Special Care Dwelling must meet all setback requirements for the zone in which it is located;
 - b. The Special Care Dwelling must meet all applicable health department requirements for potable water and sewage disposal;
 - c. Placement is subject to obtaining a building permit for the manufactured home;
 - d. Owner must record a notice to title prior to the issuance of building permit which indicates the restrictions and removal requirements;
 - e. The Special Care Dwelling unit cannot be used as a rental unit;
 - f. The Special Care Dwelling unit must be removed when the need for care ceases;
 - g. A Special Care Dwelling is not permitted on the same lot where an Accessory Dwelling Unit or Accessory Living Quarter exists.
 - h. Park model trailers shall obtain the same building permit as for placement of a manufactured home.
 - i. Park model trailers shall be inspected and approved by Washington State Department of Labor and Industries.
31. Structures and facilities associated with the operation of shooting ranges are permitted and subject to all associated Kittitas County building codes and regulations. Shooting Ranges may be operated in conjunction with other permitted or conditional uses for the specified zone. Shooting Ranges are subject to periodic inspection and certification as deemed necessary by the Kittitas County Sheriff's Department. In considering proposals for the location of Shooting Ranges a detailed site plan shall be required; the Board's review of said site plan and the proposal as a whole shall include, but not be limited, to the following criteria:
 - a. The general health, safety, and welfare of surrounding property owners, their livestock, their agricultural products, and their property.
 - b. Adherence to the practices and recommendations of the "NRA Range Sourcebook."
 - c. Adherence to the practices and recommendations of the "EPA Best Management Practices for Lead at Outdoor Shooting Ranges."
 - d. Proposed shooting ranges in areas designated as agricultural land of long-term commercial significance shall comply with [RCW 36.70A.177\(3\)](#) as currently existing or hereafter amended, and shall be limited to lands with poor soils or those unsuitable for agriculture.
32. Subject to the provisions of KCC Chapter [17.66](#), Electric Vehicle Infrastructure.
33. Single family homes located in Twin Pines Trailer Park, Central Mobile Home Park, or Swiftwater shall be subject to the provisions of KCC Chapter [17.24](#), Historic Trailer Court Zone.
34. When located in the Liberty Historic Overlay Zone, this use is subject to the provisions of KCC Chapter [17.59](#).
35. Limited to facilities that serve traditional rural or resource activities (such as granges). Allowed as a permitted use in the Liberty Historic Overlay Zone, subject to the provisions of KCC Chapter [17.59](#).
36. Allowed only as a conditional use in the Liberty Historic Overlay Zone, subject to the provisions of KCC Chapter [17.59](#).

37. Prohibited in the Liberty Historic Overlay Zone. Temporary asphalt plants only.
38. As of September 1, 1998, mobile homes are no longer allowed to be transported and placed within Kittitas County. Those units presently located in Kittitas County that are to be relocated within Kittitas County must have a fire/life inspection approved by the Washington State Department of Labor and Industries. Mobile homes located in Twin Pines Trailer Park, Central Mobile Home Park, or Swiftwater shall be subject to the provisions of KCC Chapter [17.24](#), Historic Trailer Court Zone.
39. Permitted when located within an established mining district; conditional use permit required when located outside established mining district.
40. Single family homes located in Twin Pines Trailer Park, Central Mobile Home Park, or Swiftwater shall be subject to the provisions of KCC Chapter [17.24](#), Historic Trailer Court Zone.
41. Pursuant to [RCW 70.128.140](#).
42. Permitted when conducted wholly within an enclosed building (excluding off-street parking and loading areas).
43. Includes truck stop operations. Minor repair work permitted.
44. Limited to facilities that serve traditional rural or resource activities (such as granges).
45. Use shall not exceed 10,000 square feet and no more than eight (8) events shall occur within a calendar year.
46. Existing facilities are permitted; new facilities require a conditional use permit. Limited to agricultural products.
47. Limited to seasonal, non-structural hay storage.
48. Services limited to resource based industries
49. All lots greater than one-half (1/2) acre will not have more than fifty percent (50%) of the lot covered by impervious surface.
50. An administrative conditional use permit is required when enhanced agricultural sales or sales of goods produced offsite are provided and/or when the farm stand is located more than forty-five (45) feet from the centerline of the public street or highway.
51. When enhanced agricultural sales are provided.
52. When approved as part of the PUD development plan.
53. Pursuant to KCC Chapter [17.62](#), Public Facilities Permits.
54. Limited to primitive campgrounds as defined by KCC [17.08.155A](#).
55. Agricultural Enhanced Uses which include eating and drinking establishments and/or event facilities for seminars or other social gatherings are limited to 4,000 square feet of total indoor floor area.
56. Only allowed as a conditional use when primary use of land is agriculture.
57. Pursuant to KCC [17.61C.050](#) and [17.61C.060](#).
58. (Removed per [Ord. 2022-017](#), 2022)
59. The following standards shall apply to the approval and construction of mini warehouses in the Forest and Range zone:
 - a. The site shall either be contiguous to a State Highway or contiguous to a designated urban arterial or rural collector road located near a highway intersection or freeway interchange. It is not necessary for the site to have direct access to such arterial, collector or highway to meet this requirement;
 - b. Findings shall be made that the use does not require urban government services such as municipal sewer or water service and does not compromise the long-term viability of designated resource lands;
 - c. Additional setbacks, physical barriers or site-screening may be required on sites that border resource lands in the Commercial Agriculture or Commercial Forest zoning districts;
 - d. Measures shall be taken to protect ground and surface water;
 - e. A mini-warehouse proposal (application) must include plans for aesthetic improvements and/or sight screening;
 - f. All buildings with storage units facing property boundaries shall have a minimum setback of thirty-five (35) feet;
 - g. No commercial or manufacturing activities will be permitted within any building or storage unit except for RV storage when authorized under KCC 17.15.060.2, [Footnote 60](#);
 - h. Lease documents shall spell out all conditions and restriction of the use;
 - i. Signs, other than on-site direction aids, shall number not more than two (2) and shall not exceed forty (40) square feet each in area.
60. Recreational vehicle/equipment service and repair is permitted by conditional use permit in the Forest and Range zoning district. The site shall either be:
 - a. Contiguous to a State Highway, or
 - b. Contiguous to a designated urban arterial or rural collector road located near a highway intersection or freeway interchange.
 - c. It is not necessary for the site to have direct access to such arterial, collector or highway to meet this requirement.
 Vehicles under repair shall either be kept inside buildings or visually screened from surrounding areas. No on-street vehicle parking shall be allowed associated with the use. All vehicles, including recreational vehicles and customer and employee automobiles shall be stored or parked on-site at all times. Maintenance and repair activities shall not take place in RV storage enclosures or spaces, except limited maintenance and minor repairs may be performed on RV's that are already being stored at the site in order to avoid having to move them, when such maintenance and repair activities can be completed in two hours or less and only in the enclosures or spaces in which the RV's are already being kept. This use shall be designed to be compatible with the surrounding rural character, subject to the following standards:
 - a. Findings shall be made that the use does not require urban governmental services such as municipal sewer or water service and does not compromise the long-term viability of designated resource lands.
 - b. Additional setbacks, physical barriers or site-screening may be required on sites that border resource lands in the Commercial Agriculture or Commercial Forest zoning districts.
 - c. Measures shall be taken to protect ground and surface water.
61. Nurseries limited to the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting. Sale of bulk landscape materials such as rock, bark, mulch and topsoil shall not be permitted in this zone. Pre-packaged landscape materials are excluded from this restriction.
62. Agricultural direct marketing activities shall comply with all of the following standards:
 - a. The subject property shall be actively farmed by the property owner.
 - b. Retail structures shall not total more than three thousand (3,000) square feet.
 - c. The parcel, or adjacent parcel, shall include the residence of the owner or operator of the farm.
 - d. Carnival rides, helicopter rides, inflatable features and other typical amusement park games, facilities and structures are not permitted.
 - e. The use shall be operated in accordance with all applicable federal, state, and local ordinances.
 - f. New structures or existing structures converted for public use shall meet current building and fire codes.
 - g. Adequate sanitary facilities shall be provided in accordance with Kittitas County Public Health Department requirements.
 - h. Adequate ingress/egress shall be provided to and from the site in accordance with Kittitas County Public Works requirements.
 - i. Sufficient land area is provided to accommodate the proposed use and related parking, and the use and any appurtenant structures shall be so arranged on the land as to minimize any adverse effects on surrounding properties. The use shall not create particular hazards to adjacent properties.
63. Agricultural seasonal harvest festivities shall comply with all of the following standards:
 - a. The site shall conform to the requirements for "agricultural direct marketing activities" except as provide for herein.
 - b. Hours of operation shall occur between 8:00 a.m. and 6:00 p.m.
 - c. Seasonal harvest festivities are prohibited on vacant property, unless the vacant land adjoins property occupied by the owner/operator of the festivities.
 - d. Seasonal harvest festivities shall be limited to Friday, Saturday, Sunday, and Monday, from the second weekend of June through the December 31.
 - e. Inflatable amusement devices, such as moonwalks, slides, or other inflatable games for children, shall be limited to a maximum of five (5) per seasonal harvest festivities event.

([Ord. 2023-010](#), 2023; [Ord. 2022-017](#), 2022; [Ord. 2021-015](#), 2021; [Ord. 2019-013](#), 2019; [Ord. 2018-021](#), 2018; [Ord. 2018-018](#), 2018; [Ord. 2018-001](#), 2018; [Ord. 2016-023](#), 2016; [Ord. 2015-010](#), 2015; [Ord. 2014-015](#), 2014; [Ord. 2014-005](#), 2014; [Ord. 2014-004](#), 2014; [Ord. 2013-012](#), 2013; [Ord. 2013-008](#), 2013; [Ord. 2013-001](#), 2013)

ATTACHMENT C

Chapter 17.60A

CONDITIONAL USES*

Sections

[17.60A.010](#) Review authority.
[17.60A.015](#) Review criteria.
[17.60A.020](#) Conditions.
[17.60A.030](#) Application and accompanying data.
[17.60A.040](#) Repealed.
[17.60A.050](#) Repealed.
[17.60A.060](#) Hearings – Appeal.
[17.60A.070](#) Repealed.
[17.60A.080](#) Transfer of Ownership.
[17.60A.090](#) Expiration.
[17.60A.095](#) Modification.
[17.60A.100](#) Revocation or limitation.

* Prior history: Ords. 71–5, 2.

17.60A.010 Review authority.

KCC [17.15.030](#) explains how to interpret the Zoning Use Tables. Uses identified with an "AC" (Administrative Conditional Use) on the use tabled in KCC Chapter [17.15](#) shall be reviewed administratively by the Director while uses identified with a "CU" (Conditional Use) shall require a public hearing and review by the Board. ([Ord. 2013-012](#), 2013)

17.60A.015 Review criteria.

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\(20\)](#));
 - C. Requires only rural government services; and
 - D. 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)

17.60A.020 Conditions.

In permitting such uses the Director or Board may impose in addition to the regulations specified herein, such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood or the county as a whole. These conditions may include, but are not limited to, the following:

1. Increasing the required lot size, setback or yard dimensions;
2. Limiting the height of buildings or structures;
3. Controlling the number and location of vehicular access points (subject to approval by the reviewing authority with jurisdiction to issue approach or access permits);
4. Requiring the dedication of additional rights-of-way for future public street improvements;
5. Requiring the designation of public use easements;
6. Increasing or decreasing the number of required off-street parking and/or loading spaces as well as designating the location, screening, drainage, surfacing or other improvement of a parking area;
7. Limiting the number, size, height, shape, location and lighting of signs;
8. Requiring or limiting view-obscuring fencing, landscaping or other facilities to protect adjacent or nearby properties;
9. Designating sites for and/or the size of open space or recreational areas;
10. Requiring site reclamation upon discontinuance of use and/or expiration or revocation of the project permit;
11. Limiting hours and size of operation;
12. Controlling the siting of the use and/or structures on the property;
13. Requiring mitigation measures to effectively reduce the potential for land use conflicts with agricultural and resource lands, such as: landscape buffers, special setbacks, screening, and/or site design using physical features such as rock outcrops, ravines, and roads.
14. Demonstrating that the requirements of [Chapter 13.35, Kittitas County Code](#), Adequate Water Supply Determination, can be met. ([Ord. 2014-005](#), 2014; [Ord. 2013-012](#), 2013; [Ord. 2012-009](#), 2012; Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988)

17.60A.030 Application and accompanying data.

Written application for the approval of the uses referred to in this chapter shall be filed in the Community Development Services department upon forms prescribed for that purpose. The application shall be accompanied by a site plan showing the dimensions and arrangement of the

proposed development or changes in an existing conditional use. The administrator, Hearing Examiner and/or Board may require other drawings, topographic surveys, photographs, or other material essential to an understanding of the proposed use and its relationship to the surrounding properties. ([Ord. 2013-001](#), 2013; [Ord. 2012-009](#), 2012; Ord. 2007-22, 2007; Ord. 96-19 (part), 1996; Res. 83-10, 1983)

17.60A.040 Fees.

Repealed by [Ord. 2017-001](#). ([Ord. 2017-001](#), 2017; [Ord. 2013-001](#), 2013; Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988; Res. 83-10, 1983)

17.60A.050 Affected area of use.

Repealed by Ord. 96-19. (Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988; Res. 83-10, 1983)

17.60A.060 Hearings – Appeal.

Any such hearings shall be held pursuant to Title 15A of this code, Project permit application process. (Ord. 2007-22, 2007)

17.60A.070 Appeal.

Repealed by Ord. 9619. (Ord. 2007-22, 2007; Ord. 88-4 § 11 (part), 1988; Res. 83-10, 1983)

17.60A.080 Transfer of ownership

The granting of a conditional use permit and the conditions set forth run with the land; compliance with the conditions of the conditional use permit is the responsibility of the current owner of the property, the applicant and successors. ([Ord. 2013-001](#), 2013; Ord. 2007-22, 2007)

17.60A.090 Expiration

A conditional use permit shall become void five (5) years after approval or such other time period as established if the use is not completely developed. Said extension shall not exceed a total of ten (10) years and said phases and timelines shall be clearly spelled out in the application. ([Ord. 2013-001](#), 2013; [Ord. 2012-009](#), 2012; Ord. 2007-22, 2007)

17.60A.095 Modification

Any change, enlargement or alteration in such use shall require a new review and new conditions may be imposed where finding requires. ([Ord. 2013-012](#), 2013; [Ord. 2013-001](#), 2013)

17.60A.100 Revocation or limitation.

The Board may hold a hearing to revoke or additionally limit a conditional use permit granted pursuant to the provisions of this Chapter. Ten (10) days prior to the hearing, notice shall be delivered in writing to the applicant and/or owner of the property for which such conditional use permit was granted. Notice shall be deemed delivered three (3) days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the County.

A conditional use permit may be revoked or limited by the Board if any one (1) of the following findings can be made:

1. That circumstances have changed so that 1 or more of the Conditions of [17.60A.020](#) are no longer met;
2. That the conditional use permit was obtained by misrepresentation or fraud;
3. That one or more of the conditions of the conditional use permit have not been met;
4. That the use for which the conditional use permit was granted had ceased or was suspended for twelve or more consecutive calendar months;
5. That the actual or permitted use is in violation of any statute, ordinance, law, or regulation; or
6. That the use permitted by the conditional use permit is detrimental to the public health, safety or welfare or constitutes a nuisance.

The Board's decision shall be subject to judicial appeal under the provisions of KCC Chapter [15A.08](#).

The Board's decision shall not be effective for twenty-one (21) days after being entered. The Superior Court in reviewing the Board's decision to revoke a CUP may grant a stay during the pendency of any appeal upon a finding that such a stay is necessary to avoid manifest injustice or upon stipulation by the County. ([Ord. 2013-001](#), 2013; Ord. 2009-22, 2009)

August 28, 2024

VIA USPS AND EMAIL (jamey.ayling@co.kittitas.wa.us; cds@co.kittitas.wa.us)



Jayme Ayling
Planning Manager and Responsible Official
Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926

RE: *Gibson Rezone (RZ-24-00001)*
Ellensburg Cement Products, Inc. SEPA Comments

Dear Mr. Ayling:

Please consider this letter as formal comments on behalf of Ellensburg Cement Products, Inc. (Ellensburg Cement) on the State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) issued by Kittitas County under File No. RZ-24-00001 on August 15, 2024.¹ These comments are provided pursuant to chapter 43.21C RCW, WAC 197-11-340, WAC 197-11-500, *et seq.*, and chapter 15.04 of the Kittitas County Code.

Based on the following comments, at this time, the DNS should be withdrawn and additional SEPA analysis should be conducted. A DNS should only issue “[i]f the responsible official determines there will be no probable significant adverse environmental impacts from a proposal.” WAC 197-11-340(1). The County’s DNS should be withdrawn because (a) neither the SEPA Checklist nor the County’s environmental review address, let alone evaluate, the probable impacts of any future development that would be occasioned by the rezone; (b) improperly postpones and defers such environmental analysis until the project stage; and (c) it fails to impose any mitigating conditions on the proposed rezone to address known probable environmental impacts. As such, Ellensburg Cement respectfully requests the County’s SEPA Responsible Official reconsider the DNS pursuant to WAC 197-11-340, and withdraw the determination at this time.

¹ Jeff Hutchinson, President of Ellensburg Cement Products, Inc., previously submitted written comments to the County by email dated August 21, 2024. Those additional comments should be considered as further written comments on the SEPA threshold determination and land use rezone proposal and are incorporated herein by this reference.

BACKGROUND

Founded in 1945, Ellensburg Cement, headquartered and doing business in Kittitas County, is a local and family-owned business specializing in ready-mix concrete and aggregates. Ellensburg Cement is committed to environmental compliance and stewardship in its business operations and has received the *Environmental Merit Award* from the Washington Aggregates and Concrete Association. Ellensburg Concrete has worked with the County on a number of sites, going through robust and detailed conditional use permitting and thorough environmental review associated with its operations.

Ellensburg Cement is interested in and concerned by Kristen Gibson's, of Gibson & Son ("Gibson"), pending rezone application and proposal based on the evident intent of the proposal to evade thorough environmental review associated with the understood proposed gravel mining and rock crushing operations envisioned for the site. Even as a non-project action, the SEPA review must disclose and evaluate the probable effects of the proposed rezone, including the short and long-term effects that may be occasioned by the differing land use regulations. To read the Checklist, one would be left with the impression that no such changes are occurring, and certainly would be left guessing at what those are. Yet, the proposal seeks to change the zoning designation for a singular parcel entirely encompassed within the Agriculture-20 (A-20) zone so that differing rules may apply. The remaining surrounding property would all remain A-20. To the point, Gibson requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining and excavation operations. None of these changes or impacts are disclosed or analyzed.

Without disclosure of these facts and probable impacts by Gibson in the SEPA Checklist, and without any resulting review of these impacts by the County Responsible Official in making its SEPA threshold determination, the existing SEPA review is lacking. To the point, by not disclosing, analyzing, or quantifying the actual impact and probable effects of the rezone, it is impossible for the County to properly evaluate the environmental impacts based on the required SEPA factors and considerations.

The information provided by Gibson is presently not reasonably sufficient to evaluate the environmental impacts of the proposal.² Absent a complete review addressing these impacts, the current SEPA determination cannot be sustained.

SEPA CONSIDERATIONS

When reviewing proposals subject to environmental review, “SEPA demands a ‘thoughtful decision-making process’ where government agencies ‘conscientiously and systematically consider environmental values and consequences.’” *Wild Fish Conservancy v. Wash. Dep’t of Fish & Wildlife*, 198 Wn.2d 846, 873, 502 P.3d 359 (2022). A threshold determination (such as a DNS) “must indicate that the agency has taken a searching, realistic look at the potential hazards and, with reasoned thought and analysis, candidly and methodically addressed those concerns.” *Conservation Northwest v. Okanogan County*, 2016 Wash. App. LEXIS 1410, 88-89, 194 Wn. App. 1034 (June 16, 2016).

Moreover, while postured here as a non-project action in the form of a rezone only, even for such non-project actions, the County “must address the probable impacts of any future project action the proposal would allow.” *Spokane County v. E. Wash. Growth Mgmt. Hearings Bd.*, 176 Wn. App. 555, 579, 309 P.3d 673 (2013); see also WAC 197-11-060(4)(c)-(d). The express purpose of these rules is “to ensure an agency fully discloses and carefully considers a proposal’s environmental impacts before adopting it and ‘at the earliest possible stage.’” *Id.* (quoting *King County v. Wash. State Boundary Review Bd.*, 122 Wn.2d 648, 663-64, 666, 860 P.2d 1024 (1993)); see also WAC 197-11-060(5)(d)(i)-(ii).

Against this backdrop, Ellensburg Cement has concluded that the environmental disclosure and review is presently incomplete and lacking, and provides the following additional SEPA comments for the County’s consideration:

Lack of Disclosure and Analysis of Impacts of Rezone

The SEPA Checklist and associated review is lacking any disclosure or analysis of the probable impacts of the proposed rezone, in contravention of SEPA’s dictates.³ The SEPA rules expressly require consideration of “the range of

² See WAC 197-11-100 (“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.”)

³ For the vast majority of responses in the SEPA Checklist, the applicant merely responds “not applicable.”

probable impacts, including short-term and long-term effects” and that considered impacts “shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.” WAC 197-11-060(4)(c). Further, a proposal’s effects “include direct and indirect impacts caused by a proposal, including “those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions.” WAC 197-11-060(4)(d).

Despite the above, the SEPA Checklist does not disclose these impacts and is devoid of any analysis. For example, Section B.8 of the SEPA Checklist requires disclosure of the “proposal’s affect on current land uses or nearby adjacent properties.” Rather than addressing the actual impacts of the rezone, the Checklist includes a mere conclusory statement that the “proposal does not affect current land uses on nearby or adjacent properties.” See Checklist at § B.8.a. It then goes on to merely summarily state that the “proposed zoning is consistent with the Rural Working land designation and activities, which prioritizes management of farming, ranching, and rural lifestyles in the A-20 zone, and prioritizes resource management in the Forest and Range zone.” *Id.*⁴ Similarly, and even more glaring, in the non-project supplement sheet, the Checklist merely repeats these or similar statements, without analysis, and defers environmental review, asserting that “[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.” This type of non-disclosure and non-analysis expressly contradicts SEPA rules requiring current the

⁴ Further, the SEPA Checklist gives sparse attention to the appropriateness of the proposed rezone under existing land use plans. See, e.g., Checklist at § D.5. No disclosure or analysis is provided with respect to the proposed isolated spot zoning of a singular tract within the much larger A-20 zone, including without limitation, **RR-P6** (“Allow for lands which offer adequate supply of rock and gravel resources located in areas compatible for such uses and conditioned so that operation does not negatively impact rural character.”); **RR-P16** (“Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.”); **RR-P18** (“Buffer standards and regulations should continue to be developed that will be used between incompatible rural uses.”); **RR-P21** (“Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed.”); **RR-G22** (“Provide preservation of agriculture activities where producers can live and work on their own lands separate from Resource Lands.”); and **RR-P45** (“Commercial/Industrial development in Rural Working lands shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.”).

consideration of the probable effects of changed land use occasioned by a rezone, including both its short-term and long-term effects.

Even a cursory review of KCC 17.15.060.1 evinces the potentially not insignificant changes that would be occasioned by the rezone. Understanding Gibson's business operations, this would most notably include allowing for rock crushing as a new permitted use (where currently not allowed), allowing for future and expanded mining and excavation as a permitted use (where current operations must be consistent with any conditional use permit and future expansion or changed operations must undergo a thorough conditional use permit process), and allowing the conditional development of asphalt and concrete plants and retail sales. None of the impacts or effects of these intensive land uses, which would now be permitted for the first time or subject to relaxed standards, is disclosed, analyzed, or meaningfully evaluated. As these represent the most obvious and significant differences between the two zones, the intent though is clear. In short, the environmental review is devoid of relevant analysis and is insufficient.

Further, the SEPA Checklist and associated review appears devoid of any disclosure or analysis of the actual potential impacts of the newly permitted uses under the proposed rezone. Notably, this includes, without limitation, the following:

- Neither the SEPA Checklist nor any studies address noise and other impacts associated with blasting and vibration associated with the rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address dust control, emissions, or air quality impacts from rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential traffic impacts and safety associated with increased truck traffic and heavy machinery associated with uses that would be permitted under the proposed rezone.

- Neither the SEPA Checklist nor any studies address potential impacts to groundwater, hydraulic connectivity with surface water bodies,⁵ or aquifer impacts.
- While the application materials note a lack of any water rights associated with the property, the SEPA Checklist does not address or evaluate how water supply would be made available to the property for dust control and operational issues, and the impact of the same.

The DNS as issued includes no consideration or imposition of any mitigating conditions associated with these issues. As the proposed rezone would allow for new intensive uses as a matter of right, without further review, SEPA requires review of these probable impacts now, and such review cannot be deferred.

IMPROPER DEFERAL OF REQUIRED ENVIRONMENTAL REVIEW

Second, to the extent the SEPA Checklist and the County's review purports to effectively defer review of the environmental impacts of the rezone, such deferral is inappropriate and SEPA analysis must occur now and at the forefront before the rezone can be undertaken. The SEPA Checklist statement that "[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time if the permit action" is insufficient and a transparent attempt to not just defer but to avoid review. Yet, if the County were to in fact approve the proposed rezone, activities currently not permitted (i.e. rock crushing) or permitted only through a conditional use permit process and continued compliance with any applicable CUP (i.e. mining and excavation) would become activities permitted as a matter of right. The County should reject this slight-of-hand, and at a minimum, must evaluate these impacts now, with any probable adverse impacts adequately mitigated. As Washington courts have explained, even for non-project actions (such as rezones):

. . . the agency must address the probable impacts of any future project action the proposal would allow. The purpose of these rules is to ensure an agency fully discloses and carefully considers a proposal's environmental impacts before adopting it and "at the earliest possible stage." An agency may not postpone environmental analysis to a later implementation stage if [**685] the proposal

⁵ While the SEPA Checklist notes that Parke Creek is within 200 feet of the property in the southwest corner, see Checklist at § 3.a.1, it avoids any discussion of any impacts of the new uses authorized under the rezone, merely describing as "non-applicable." *Id.* at § 3.a.2.

would affect the environment without subsequent implementing action.

Spokane County v. E. Wash. Growth Mgmt. Hearings Bd., 176 Wn. App. 555, 579, 309 P.3d 673 (2013) (internal citations omitted); *see also Millennium Bulk Terminals-Longview, LLC v. Dep't of Ecology*, 2020 Wash. App. LEXIS 647, *17-18 (Wash. Ct. App. Mar. 17, 2020) (piecemealing of environmental review “is disfavored because the later environmental review often seems merely a formality, as the construction of the later segments of the project has already been mandated by the earlier construction”). The County should not and under the SEPA rules cannot, defer this review.

MITIGATING CONDITIONS REQUIRED FOR ISSUANCE OF ANY DNS

While Ellensburg Cement asserts the current SEPA disclosures and analysis is defective and is not based upon information reasonably sufficient to evaluate the environmental impact of the proposal, it further asserts that even when all impacts are properly disclosed, that any subsequent threshold determination, must, at a minimum, include and impose appropriate necessary mitigating conditions as part of a mitigated determination of nonsignificance (MDNS). The entire purpose of the rezone appears to be to loosen permitting standards for gravel operations and avoid and eliminate the robust conditional use permitting process⁶ that Ellensburg Cement has undergone for each of its relevant operations. These conditions have, in the past included, without limitation, required conditions related to the hours of operation of rock crushing operations, analysis of and limitation on trucks and heavy equipment impacting the adjacent community and County roadways, mitigating dust and noise impacts, and addressing compatibility and mitigating impacts on adjoining land uses, and others.

WITHDRAWAL AND RECONSIDERATION OF THE DNS REQUIRED

A DNS must be based upon “information reasonably sufficient to evaluate the environmental impact of a proposal.” WAC 197-11-335; *see also Moss v. City of Bellingham*, 109 Wn. App. 6, 14, 31 P.3d 703 (2001). To receive a DNS, an applicant must furnish reasonably complete information about the impacts. In

⁶ See Chapter 17.60A KCC (Conditional Uses). The conditional use permitting process requires, without limitation, that the proposed use is not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood, will not create excessive public cost for facilities and services, be adequately served by existing facilities and roads, and may impose specific conditions to ensure compliance. *See, e.g.*, KCC 17.60A.015 and KCC 1760A.020.

this regard, SEPA cases instruct that “the [local jurisdiction] must demonstrate that it had actually considered relevant environmental factors before [issuing the threshold determination]. Moreover, the record must demonstrate that the [local jurisdiction] adequately considered the environmental factors in a manner sufficient to be a prima facie compliance with the procedural dictates of SEPA.” *Boehm v. City of Vancouver*, 111 Wn. App. 711, 718, 47 P.3d 137 (2002). The responsible official “shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents.” WAC 197-11-340(2)(f). Withdrawal of the DNS is appropriate here.

The SEPA rules further require that the lead agency withdraw a DNS where “new information is presented indicating . . . a proposal’s probable significant adverse environmental impact,” WAC 197-11-340(3)(a)(ii), or where the “DNS was procured by misrepresentation or lack of material disclosure.” WAC 197-11-340(3)(a)(iii). Here, Ellensburg Cement has raised new information not clearly disclosed in the SEPA Checklist or evaluated by the County, including the undisclosed actual material differences between the zoning designations. This new information requires withdrawal of the DNS. WAC 197-11-340(3)(a)(ii). Similarly, the lack of material disclosure on these issues, and of the lack of actual consideration of the probable effects of the rezone requires withdrawal of the DNS. WAC 197-11-340(3)(a)(iii). Withdrawal of the DNS will permit the County to ensure proper SEPA review consistent with WAC 197-11-335⁷ and applicable law, and to impose mitigating conditions, as demonstrated to be necessary.

SPOT ZONING AND NEED FOR GENERALLY APPLICABLE RULES

Related to the above, Ellensburg Cement views this proposal as a piecemeal special favor in the form of spot zoning that would benefit only Gibson and does not further the County’s land use goals, policies, or the broader interests. The proposal seeks to rezone one individual parcel entirely encompassed within the A-20 zoning designation. The County should act cautiously and resist efforts at such spot zoning benefiting just one party. While Gibson may or will offer arguments as to its views of the appropriate zoning classification of this parcel, such consideration should be given a broader view. Similarly, if the County in

⁷ Pursuant to WAC 197-11-340(2)(f), in response to comments, the Responsible Official shall reconsider the DNS, including modification or withdrawal, and where the lead agency concludes that there is insufficient information it may require an applicant to submit more information on subjects in the checklist. See WAC 197-11-335(1). This result is dictated here.

fact believes it is in the best interests of the County to more broadly permit rock crushing and gravel operations, or streamline the permit process for the same, it should do so holistically and not to the benefit of a singular property and property owner on a case-by-case basis.

CONCLUSION

The SEPA Checklist fails to properly disclose, let alone consider, the probable effects of the rezone. As such, the County's SEPA evaluation and DNS fails to demonstrate SEPA compliance. Given these deficiencies, and in further consideration of the significant impacts occasioned thereby, in accordance with the provisions of WAC 197-11-340(3), Ellensburg Cement respectfully requests the County withdraw the DNS issued on August 15, 2024, to ensure all appropriate impacts are evaluated and mitigated.

We request notice, directed to the undersigned, of any action the County takes relating to this threshold determination and the underlying rezone application.

Thank you in advance for your consideration of these comments. Please feel free to contact me if you have any questions or require any additional information. We appreciate the County's careful review of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jm R', is written over a horizontal line.

Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

cc: Ellensburg Cement Products, Inc.

From: [Jeff Hutchinson](#)
To: [Jamey Ayling](#)
Subject: Gibson Rezone (RZ-24-00001)
Date: Wednesday, August 21, 2024 8:45:11 AM
Attachments: [image001.png](#)

CAUTION: This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Jamey, please confirm receipt of this email so I know that my comments have been received and entered into the public record. Thank You

Jamey Ayling, Cory Wright, Laura Osiadacz, Brett Wachsmith,

I am concerned that this rezone is being processed through the 2024 Annual Comprehensive Plan Docket Process as opposed to the normal SEPA review process which is much more comprehensive and allows for a more robust public comment period. That is the process we have always been required to adhere to when attempting to rezone our properties. It seems unfair that Kristin Gibson (Owner) can circumvent those normal channels by utilizing what appears to be a loophole in the rezoning process.

I am not necessarily opposed to the rezoning of this property. However, I feel it is important for the public to know that the actual reason for this rezone is to allow the Gibson family to operate their rock crushing operation at that site (which is not allowed under the current Ag-20 zoning). The neighbors of this particular property should be made aware of this fact because rock crushing can have negative ramifications that if not properly mitigated will impact the peaceful enjoyment of their homes and properties. Also, without proper mitigation there is the potential for dust storms and visibility problems. Dust mitigation requires water and according to the legal notice "the subject site lacks water sources" so not sure how that will be accomplished. In addition, if not mitigated properly, it may drive down the property values in the area and the ability to resell said properties having a rock crushing operation at that location. There will also be a huge increase in truck and equipment traffic in that area and throughout the City of Kittitas.

Under a normal SEPA review process the neighboring property owners would have the opportunity to protest the rezoning and request such concessions as:

- ❓❓❓ Limits to the hours of operation for the rock crushing operation.
- ❓❓❓ Limits to when, where and during what hours trucks and heavy equipment could be on the County roads surrounding the rezone site.
- ❓❓❓ Requiring that dust mitigation measures be put into place (again, this would be difficult considering that requires water and this application states that part of the reason for the rezone is a "lack of water sources").

Please note, if this is going to be a loophole that you allow this applicant to exploit, we have 1,000's of acres we would like to rezone using this same process. I don't think this is a precedence that you want to set with regards to bypassing the proper

channels for the rezoning of property in this County.

I know that a letter was sent out to the neighboring property owners and saw the notice in the newspaper stating that written comments could be submitted but neither stated the true reason for the rezone request (or at least a statement of what would be allowed under the new zoning). If you decide to allow this application to continue being processed through this loophole, I feel it is important that revised letters and legal notices go out stating the true nature of the rezone request. Otherwise, the average citizen wouldn't have a clue how this rezone would negatively impact their lives and property values moving forward.

Thank you,

Jeff Hutchinson

Ellensburg Cement Products, Inc

509 859 3597

jeff@ellensburgcement.com

www.ellensburgcement.com



From: [Ken Edwards](#)
To: [Jamey Ayling](#)
Subject: RE: RZ-24-00001 Gibson - Notice of Application
Date: Friday, August 16, 2024 7:33:51 AM
Attachments: [image001.png](#)

CAUTION: This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Jamey,

Kittitas PUD does not have any comments for this project.

Thanks,

Ken Edwards
Engineering Manager
PUD #1 of Kittitas County
1400 Vantage Highway
Ellensburg, WA 98926
Phone: 509-260-2300 Ext 818
Ken.Edwards@KittitasPUD.com



From: Jamey Ayling <jamey.ayling@co.kittitas.wa.us>
Sent: Thursday, August 15, 2024 4:13 PM
To: Dan Young <dan.young@co.kittitas.wa.us>; Marvin Douvier (SH) <marvin.douvier.sh@co.kittitas.wa.us>; Kim Dawson <kim.dawson@co.kittitas.wa.us>; adminstaff@kittcom.org; storch@kittcom.org; Julie Kjorsvik <julie.kjorsvik@co.kittitas.wa.us>; Laura Kukes <laura.kukes@co.kittitas.wa.us>; Public Health Inspectors <PublicHealthInspectors@co.kittitas.wa.us>; Lisa Lawrence <lisa.lawrence@co.kittitas.wa.us>; Patti Stacey <patti.stacey@co.kittitas.wa.us>; Kelee Hodges <kelee.hodges.pw@co.kittitas.wa.us>; Candie Leader <candie.leader@co.kittitas.wa.us>; Tate Mahre <tate.mahre@co.kittitas.wa.us>; Jackie Sharp <jackie.sharp@co.kittitas.wa.us>; Samantha Cox <samantha.cox@co.kittitas.wa.us>; Josh Fredrickson <josh.fredrickson@co.kittitas.wa.us>; Cameron Curtis <cameron.curtis@co.kittitas.wa.us>; Jeremy Larson <jeremy.larson@co.kittitas.wa.us>; Steph Mifflin <steph.mifflin@co.kittitas.wa.us>; Haley Mercer <haley.mercer@co.kittitas.wa.us>; Christy Garcia <christine.garcia@co.kittitas.wa.us>; Ken Edwards <Ken.Edwards@kittitaspud.com>; DAHP SEPA <sepa@dahp.wa.gov>; enviroreview@yakama.com; Corrine Camuso <Corrine_Camuso@Yakama.com>; Jessica Lally <Jessica_Lally@Yakama.com>; noah_oliver@yakama.com; Casey Barney <Casey_Barney@Yakama.com>; kozj@yakamafish-nsn.gov; Guy Moura <guy.moura@colvilletribes.com>; sam.rushing@colvilletribes.com; Connor Armi

<connor.armi.hsy@colvilletribes.com>; darnell.sam.adm@colvilletribes.com;
john.sirois.adm@colvilletribes.com; milton.davis.adm@colvilletribes.com;
steve@snoqualmietribe.us; dahp@snoqualmietribe.us; Adam Osbekoff
<adam@snoqualmietribe.us>; Mau, Russell E (DOH) <Russell.Mau@DOH.WA.GOV>;
tebu461@ecy.wa.gov; lowh461@ECY.WA.GOV; FormerOrchards@ecy.wa.gov;
wendy.neet@ecy.wa.gov; ECY RE CRO SEPA Coordinator <crosepa@ecy.wa.gov>;
rand461@ecy.wa.gov; Downes, Scott G (DFW) <Scott.Downes@dfw.wa.gov>; Nelson, Jennifer L
(DFW) <Jennifer.Nelson@dfw.wa.gov>; cassandra.weekes@dfw.wa.gov; rivers@dnr.wa.gov;
luke.warthen@dnr.wa.gov; SEPACENTER@dnr.wa.gov; MARTIN.MAUNEY@dnr.wa.gov;
amanda.moody@dnr.wa.gov; Hendrix, Leah D <lhendrix@usbr.gov>; ken.graham@parks.wa.gov;
Larned, Kimberly - FS, WA <kimberly.larned@usda.gov>; Deborah.j.knaub@usace.army.mil;
jenae.n.churchill@usace.army.mil; Jacob.Prilucik@wsdot.wa.gov; SCPlanning@wsdot.wa.gov;
AviationLandUse@wsdot.wa.gov; CMOLcese@bpa.gov; Connell,Valorie L (BPA) - TERR-PASCO
<VLConnell@bpa.gov>; rightofway@pse.com; dylan.marcus@pse.com; jorgenja@cwu.edu;
nelmsk@cwu.edu; brooksideconsulting@gmail.com; tribune@nkctribune.com;
terry@nkctribune.com; Sabrina Nutt <snutt@kvnews.com>; KVNews Legals <legals@kvnews.com>;
kimberly.preacher@navy.mil; robert.d.bright10.civ@army.mil; mark.a.gradwohl.civ@mail.mil; Rich
Elliott <elliott@kvfr.org>; timothy.lawless@dammanschool.org; marsha@dammanschool.org;
yusid@ci.ellensburg.wa.us; pubworks@ci.ellensburg.wa.us; comdev@ci.ellensburg.wa.us;
energyservices@ci.ellensburg.wa.us; jonesc@ci.ellensburg.wa.us; johnstonj@ci.ellensburg.wa.us
Subject: RZ-24-00001 Gibson - Notice of Application

CDS is requesting comments on the following SEPA application: **RZ-24-00001 Gibson**. Links to the file materials can be found below. Kittitas County anticipates issuing a DNS for this project application and is using the optional SEPA process. This may be the only opportunity to comment on the environmental impacts of this project.

The comment period will end **August 30, 2024, at 5pm**. CDS will assume your agency does not wish to provide comment if not received by this date. Please contact me directly with any questions or issues accessing the materials.

Public Access: [RZ-24-00001 Gibson](#)

Internal Access: [RZ-24-00001 Gibson](#)

Jamey Ayling

Planning Manager

Kittitas County

411 N Ruby ST, Suite 2

Ellensburg WA 98926

(509) 962-7065

Jamey.Ayling@co.kittitas.wa.us

The information transmitted by this email is intended only for the person or entity to which it is addressed. This email may contain confidential and/or privileged material. If you are not the intended recipient of this message, be aware that any use, review, retransmission, distribution, or reproduction is strictly prohibited. If you received this in error, please contact the sender immediately and delete the material from all devices.

message id: 38eb45916c6dcdbdac24bb8719d004a14

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient and may contain confidential and privileged information. Any unauthorized review, copy, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. PUD #1 of Kittitas County is subject to the Washington Public Records Act, RCW 42.56. Therefore, this email, and its attachments if any, may be disclosed as a public record.



To Protect and Promote the Health and the Environment of the People of Kittitas County

August 16, 2024

Jamey Ayling
Kittitas County Community Development Services
411 N. Ruby Street
Ellensburg, WA. 98926

Jamey,

Public Health has no comment on the SEPA application RZ-24-00001 Gibson. So long as everything that was submitted in the application is true.

Sincerely,

Dan Suggs, B.S. Environmental Health Specialist II

P: 509.962.7024 | F: 509.962.7581 | E: dan.suggs@co.kittitas.wa.us

Kittitas County Public Health Department

507 N Nanum St Suite 102, Ellensburg WA 98926

www.co.kittitas.wa.us/health

Please tell us how we're doing: [KCPHD Customer Survey](#)



507 N. Nanum Street, St. 102 · Ellensburg, WA 98926

T: 509.962.7515 · F: 509.962.7581

www.co.kittitas.wa.us/health/

From: [Steven Moses](#)
To: [Jamey Ayling](#)
Subject: Re: RZ-24-00001 Gibson - Notice of Application
Date: Friday, August 16, 2024 8:19:54 AM

CAUTION: This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

The Snoqualmie Tribe [Tribe] is a federally recognized sovereign Indian Tribe. We were signatories to the Treaty of Point Elliott of 1855; we reserved certain rights and privileges and ceded certain lands to the United States. As a signatory to the Treaty of Point Elliot, the Tribe specifically reserved, among other things, the right to fish at usual and accustomed areas and the “privilege of hunting and gathering roots and berries on open and unclaimed lands” off-reservation throughout the modern-day state of Washington.

Thank you for the opportunity to review and comment. Based on the information provided and our understanding of the project and its APE, we have no substantive comments to offer at this time. However, please be aware that if the scope of the project or the parameters for defining the APE change, we reserve the right to modify our current position.

Thank you, again!

Steven Moses (he/him), Director
Department of Archaeology & Historic Preservation
sduk^walbix^w

steve@snoqualmietribe.us

For project reviews,
dahp@snoqualmietribe.us

From: Jamey Ayling <jamey.ayling@co.kittitas.wa.us>

Date: Thursday, August 15, 2024 at 4:13 PM

To: Dan Young <dan.young@co.kittitas.wa.us>, Marvin Douvier (SH) <marvin.douvier.sh@co.kittitas.wa.us>, Kim Dawson <kim.dawson@co.kittitas.wa.us>, adminstaff@kittcom.org <adminstaff@kittcom.org>, storch@kittcom.org <storch@kittcom.org>, Julie Kjorsvik <julie.kjorsvik@co.kittitas.wa.us>, Laura Kukes <laura.kukes@co.kittitas.wa.us>, Public Health Inspectors <PublicHealthInspectors@co.kittitas.wa.us>, Lisa Lawrence <lisa.lawrence@co.kittitas.wa.us>, Patti Stacey <patti.stacey@co.kittitas.wa.us>, Kelee Hodges <kelee.hodges.pw@co.kittitas.wa.us>, Candie Leader

<candie.leader@co.kittitas.wa.us>, Tate Mahre <tate.mahre@co.kittitas.wa.us>, Jackie Sharp <jackie.sharp@co.kittitas.wa.us>, Samantha Cox <samantha.cox@co.kittitas.wa.us>, Josh Fredrickson <josh.fredrickson@co.kittitas.wa.us>, Cameron Curtis <cameron.curtis@co.kittitas.wa.us>, Jeremy Larson <jeremy.larson@co.kittitas.wa.us>, Steph Mifflin <steph.mifflin@co.kittitas.wa.us>, Haley Mercer <haley.mercer@co.kittitas.wa.us>, Christy Garcia <christine.garcia@co.kittitas.wa.us>, ken.edwards@kittitaspud.com <ken.edwards@kittitaspud.com>, DAHP SEPA <sepa@dahp.wa.gov>, enviroreview@yakama.com <enviroreview@yakama.com>, Corrine Camuso <Corrine_Camuso@Yakama.com>, Jessica Lally <Jessica_Lally@Yakama.com>, noah_oliver@yakama.com <noah_oliver@yakama.com>, Casey Barney <Casey_Barney@Yakama.com>, kozj@yakamafish-nsn.gov <kozj@yakamafish-nsn.gov>, Guy Moura <guy.moura@colvilletribes.com>, sam.rushing@colvilletribes.com <sam.rushing@colvilletribes.com>, Connor Armi <connor.armi.hsy@colvilletribes.com>, darnell.sam.adm@colvilletribes.com <darnell.sam.adm@colvilletribes.com>, john.sirois.adm@colvilletribes.com <john.sirois.adm@colvilletribes.com>, milton.davis.adm@colvilletribes.com <milton.davis.adm@colvilletribes.com>, Steven Moses <steve@snoqualmietribe.us>, DAHP <dahp@snoqualmietribe.us>, Adam Osbekoff <adam@snoqualmietribe.us>, Mau, Russell E (DOH) <Russell.Mau@DOH.WA.GOV>, tebu461@ecy.wa.gov <tebu461@ecy.wa.gov>, lowh461@ECY.WA.GOV <lowh461@ECY.WA.GOV>, FormerOrchards@ecy.wa.gov <FormerOrchards@ecy.wa.gov>, wendy.neet@ecy.wa.gov <wendy.neet@ecy.wa.gov>, ECY RE CRO SEPA Coordinator <crosepa@ecy.wa.gov>, rand461@ecy.wa.gov <rand461@ecy.wa.gov>, Downes, Scott G (DFW) <Scott.Downes@dfw.wa.gov>, Nelson, Jennifer L (DFW) <Jennifer.Nelson@dfw.wa.gov>, cassandra.weekes@dfw.wa.gov <cassandra.weekes@dfw.wa.gov>, rivers@dnr.wa.gov <rivers@dnr.wa.gov>, luke.warthen@dnr.wa.gov <luke.warthen@dnr.wa.gov>, SEPACENTER@dnr.wa.gov <SEPACENTER@dnr.wa.gov>, MARTIN.MAUNEY@dnr.wa.gov <MARTIN.MAUNEY@dnr.wa.gov>, amanda.moody@dnr.wa.gov <amanda.moody@dnr.wa.gov>, Hendrix, Leah D <lhendrix@usbr.gov>, ken.graham@parks.wa.gov <ken.graham@parks.wa.gov>, Larned, Kimberly - FS, WA <kimberly.larned@usda.gov>, Deborah.j.knaub@usace.army.mil <Deborah.j.knaub@usace.army.mil>, jenae.n.churchill@usace.army.mil <jenae.n.churchill@usace.army.mil>, Jacob.Prilucik@wsdot.wa.gov <Jacob.Prilucik@wsdot.wa.gov>, SCPlanning@wsdot.wa.gov <SCPlanning@wsdot.wa.gov>, AviationLandUse@wsdot.wa.gov <AviationLandUse@wsdot.wa.gov>, CMOlcese@bpa.gov <CMOlcese@bpa.gov>,

Connell, Valorie L (BPA) - TERR-PASCO <VLConnell@bpa.gov>, rightofway@pse.com
<rightofway@pse.com>, dylan.marcus@pse.com <dylan.marcus@pse.com>,
jorgenja@cwu.edu <jorgenja@cwu.edu>, nelmsk@cwu.edu <nelmsk@cwu.edu>,
brooksideconsulting@gmail.com <brooksideconsulting@gmail.com>,
tribune@nkctribune.com <tribune@nkctribune.com>, terry@nkctribune.com
<terry@nkctribune.com>, Sabrina Nutt <snutt@kvnews.com>, KVNews Legals
<legals@kvnews.com>, kimberly.preacher@navy.mil <kimberly.preacher@navy.mil>,
robert.d.bright10.civ@army.mil <robert.d.bright10.civ@army.mil>,
mark.a.gradwohl.civ@mail.mil <mark.a.gradwohl.civ@mail.mil>, Rich Elliott
<elliotttr@kvfr.org>, timothy.lawless@dammanschool.org
<timothy.lawless@dammanschool.org>, marsha@dammanschool.org
<marsha@dammanschool.org>, yusid@ci.ellensburg.wa.us
<yusid@ci.ellensburg.wa.us>, pubworks@ci.ellensburg.wa.us
<pubworks@ci.ellensburg.wa.us>, comdev@ci.ellensburg.wa.us
<comdev@ci.ellensburg.wa.us>, energyservices@ci.ellensburg.wa.us
<energyservices@ci.ellensburg.wa.us>, jonesc@ci.ellensburg.wa.us
<jonesc@ci.ellensburg.wa.us>, johnstonj@ci.ellensburg.wa.us
<johnstonj@ci.ellensburg.wa.us>

Subject: RZ-24-00001 Gibson - Notice of Application

CDS is requesting comments on the following SEPA application: **RZ-24-00001 Gibson**. Links to the file materials can be found below. Kittitas County anticipates issuing a DNS for this project application and is using the optional SEPA process. This may be the only opportunity to comment on the environmental impacts of this project.

The comment period will end **August 30, 2024, at 5pm**. CDS will assume your agency does not wish to provide comment if not received by this date. Please contact me directly with any questions or issues accessing the materials.

Public Access: [RZ-24-00001 Gibson](#)

Internal Access: [RZ-24-00001 Gibson](#)

Jamey Ayling

Planning Manager

Kittitas County

411 N Ruby ST, Suite 2

Ellensburg WA 98926

(509) 962-7065

Jamey.Ayling@co.kittitas.wa.us

The information transmitted by this email is intended only for the person or entity to which it is addressed. This email may contain confidential and/or privileged material. If you are not the intended recipient of this message, be aware that any use, review, retransmission, distribution, or reproduction is strictly prohibited. If you received this in error, please contact the sender immediately and delete the material from all devices.
message id: 38eb45916c6dcdbdac24bb8719d004a14

From: [Carla Thomas](#)
To: [Laura Osiadacz](#)
Cc: [Jeff Hutchinson](#); [Jamey Ayling](#); [Chad Bala](#); jrehberger@cascadialaw.com; [Thomas Carla](#); [Baker Amber](#); [Brett Wachsmith](#)
Subject: Re: Gibson Rezone (RZ-24-00001)
Date: Monday, August 26, 2024 12:19:18 PM
Attachments: [image001.png](#)

CAUTION: This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

After reviewing the rezoning request and the letter from Jeff Huchinson.

I also don't necessarily disagree with the rezoning request.

The points Jeff Huchinson made in his letter to you, details the future concerns and confusing issues to required process, for establishing permitted mining operations in Kittitas County.

If you recall the Gibson's set up a rock crushing operation on the Owens property off Bettas Road recently without going through the proper permitting process for rock crushing. The rock crushing site had to be terminated by the county, for lack of following the proper process for permitting of such activity.

I've been through this permitting process in working with Ellensburg Cement in the past. Mineral lands of long-term significance is one of the qualifying factors considered as well.

I would appreciate clarification from the county commissioners regard to rezone request and the process being considered for establishing a mining operation.

In talking to other individuals with similar mining operations in Kittitas County, we've all had to go through the same SEPA process to establish mining operations of different kinds on our properties.

I would also requested this communication be added as Laura indicated to the record.

Look forward to hearing more information from the county commissioners, in this matter.

Thank You,
Carla Thomas
Z Bar Ranch LLC
Clthomas@fairpoint.net
(509) 899-1540

Sent from my iPhone

On Aug 26, 2024, at 10:53 AM, Laura Osiadacz <laura.osiadacz@co.kittitas.wa.us> wrote:

Can we make sure this makes it into the record? Thank you!!

Laura Osiadacz (*Oh-shaw-dis*)
Commissioner District #2
205 W 5th Ave. Ste. 108
Ellensburg, WA 98926-2887

Office: 509.962.7508
Fax: 509.962.7679

From: Jeff Hutchinson <Jeff@ellensburgcement.com>
Sent: Wednesday, August 21, 2024 8:06 AM
To: Cory Wright <cory.wright@co.kittitas.wa.us>; Laura Osiadacz <laura.osiadacz@co.kittitas.wa.us>; Brett Wachsmith <brett.wachsmith.co@co.kittitas.wa.us>; Kittitas County Commissioners Office <bocc@co.kittitas.wa.us>
Cc: jrehberger@cascadialaw.com; clthomas@fairpoint.net
Subject: Gibson Rezone (RZ-24-00001)

CAUTION: This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Jamey Ayling, Cory Wright, Laura Osiadacz, Brett Wachsmith,

I am concerned that this rezone is being processed through the 2024 Annual Comprehensive Plan Docket Process as opposed to the normal SEPA review process which is much more comprehensive and allows for a more robust public comment period. That is the process we have always been required to adhere to when attempting to rezone our properties. It seems unfair that Kristin Gibson (Owner) can circumvent those normal channels by utilizing what appears to be a loophole in the rezoning process.

I am not necessarily opposed to the rezoning of this property. However, I feel it is important for the public to know that the actual reason for this rezone is to allow the

Gibson family to operate their rock crushing operation at that site (which is not allowed under the current Ag-20 zoning). The neighbors of this particular property should be made aware of this fact because rock crushing can have negative ramifications that if not properly mitigated will impact the peaceful enjoyment of their homes and properties. Also, without proper mitigation there is the potential for dust storms and visibility problems. Dust mitigation requires water and according to the legal notice "the subject site lacks water sources" so not sure how that will be accomplished. In addition, if not mitigated properly, it may drive down the property values in the area and the ability to resell said properties having a rock crushing operation at that location. There will also be a huge increase in truck and equipment traffic in that area and throughout the City of Kittitas.

Under a normal SEPA review process the neighboring property owners would have the opportunity to protest the rezoning and request such concessions as:

1. Limits to the hours of operation for the rock crushing operation.
2. Limits to when, where and during what hours trucks and heavy equipment could be on the County roads surrounding the rezone site.
3. Requiring that dust mitigation measures be put into place (again, this would be difficult considering that requires water and this application states that part of the reason for the rezone is a "lack of water sources").

Please note, if this is going to be a loophole that you allow this applicant to exploit, we have 1,000's of acres we would like to rezone using this same process. I don't think this is a precedence that you want to set with regards to bypassing the proper channels for the rezoning of property in this County.

I know that a letter was sent out to the neighboring property owners and saw the notice in the newspaper stating that written comments could be submitted but neither stated the true reason for the rezone request (or at least a statement of what would be allowed under the new zoning). If you decide to allow this application to continue being processed through this loophole, I feel it is important that revised letters and legal notices go out stating the true nature of the rezone request. Otherwise, the average citizen wouldn't have a clue how this rezone would negatively impact their lives and property values moving forward.

Thank you,

Jeff Hutchinson

Ellensburg Cement Products, Inc

509 859 3597

jeff@ellensburgcement.com

www.ellensburgcement.com





State of Washington
DEPARTMENT OF FISH AND WILDLIFE

South Central Region • Region 3 • 1701 South 24th Avenue, Yakima, WA 98902-5720
Telephone: (509) 575-2740 • Fax: (509) 575-2474

August 30, 2024

Jamey Ayling
Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA 98926

SUBJECT: WDFW COMMENTS ON RZ-24-00001GIBSON

Dear Mr. Ayling,

Thank you for the opportunity to comment on the proposed rezone of Parcel 280533 located at 5125 Parke Creek Road from Agriculture 20 to Forest and Range. The Washington Department of Fish and Wildlife (WDFW) has read through the application and is familiar with the location and site conditions. WDFW submits the following comments regarding critical areas on the parcel that are part of Fish and Wildlife Habitat Conservation Areas (FWHCA) under the Kittitas County Critical Areas Ordinance (CAO).

The parcel is mapped by WDFW under our Priority Habitats and Species (PHS) program as shrubsteppe habitat. Kittitas County CAO adopted PHS as the basis for FWHCA and thus shrubsteppe is a FWHCA under the Kittitas County CAO. To ensure that impacts for shrubsteppe associated with the application are minimized and for those that cannot be avoided or minimized, compensatory mitigation is applied, WDFW requests a habitat management plan as a condition of approval if this application is approved. Further, WDFW would like to be part of the review and development of the plan.

The habitat management plan should include both any plans for future expansion of the operation and their impact on the shrubsteppe, but also plans for habitat restoration once the current mining areas are completed. WDFW can assist with appropriate restoration plans along with assisting Kittitas County with potential appropriate mitigation ideas. WDFW would recommend a site visit with the county and the applicant prior to writing the habitat management plan to help further define the necessary components in the plan.

Thank you again for the opportunity to comment. Please contact Jennifer Nelson at 509-962-3421 or Jennifer.Nelson@dfw.wa.gov if you have comments or questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scott Downes".

Scott Downes
Regional Land Use Lead

Page 2

Cc: Jennifer Nelson, WDFW



KITTITAS COUNTY

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: All Staff
FROM: Public Works Plan Review Team
DATE: August 30, 2024
SUBJECT: RZ-24-00001 Gibson

ACCESS	<ol style="list-style-type: none">1. An approved access permit shall be required from the Kittitas County Department of Public Works prior to creating any new driveway access or altering an existing access.2. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.3. Any further subdivision or lots to be served by access may result in further access requirements. See KCC Title 12.4. Access easements for this parcel are provided under Auditor's File No 200306240042.5. In addition to the above-mentioned conditions, all applicable Kittitas County Road Standards apply to this proposal. Access is not guaranteed to any existing or created parcel on this application. (JS)
ENGINEERING	Except as exempted in KCC 14.05.060, no grading or filling upon a site involving more than one hundred (100) cubic yards shall be performed without a grading permit from the County Engineer or Public Works designee (KCC 14.05.050). An application for grading in excess of five hundred (500) cubic yards shall be accompanied by an engineered grading plan (KCC 14.05.080). (CP)
SURVEY	There are no survey comments regarding this application. (JT)
TRANSPORTATION CONCURRENCY	No transportation concurrency management application is required for this project. (JS)
FLOOD	Parcel # 280533 is not located in a FEMA identified special flood hazard area (100-year floodplain). A floodplain development permit is not required. (SC)
WATER MITIGATION/ METERING	No comments. (SC)
AIRPORT	No comments. (JS)

ease contact Kittitas County Public Works (509) 962-7523 with any questions.

September 26, 2024



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

Re: **Gibson Rezone, RZ-24-00001 – Response to SEPA Public Comments**

Dear Mr. Ayling, staff, and interested parties,

Thank you for the opportunity to receive and respond to comments from the community.

Responses to citizen comments

With regards to the information provided and the appropriateness of a rezone:

While the county is doing a major comprehensive plan update, it is an appropriate time to request this zoning change as staff are already reviewing designations and the subsequent zone assignments.

With regards to the suggestion that rezoning our property is spot zoning or sets a precedent:

We are not the first property to request this type of rezone. Parcel 636433 owned by JH Enterprises is a single parcel zoned Forest and Range in the midst of a large swath of parcels zoned Agriculture-20. Similarly, a group of parcels with connected ownership on the outskirts of the Ellensburg city limits is zoned Forest and Range amidst other Agriculture-20 and Agriculture-5 zones. See the COMPAS map annotated snip and aerial snips in **Attachment A**.

No precedent is being set, only being followed, nor is there preferential treatment. It has been the county's established policy to evaluate parcel rezone requests on their merit. This has led to pockets of individual zoning to fit established uses. This acknowledges the wide-ranging characteristics of the land and their best uses, and is consistent with past actions.

With regards to utilizing the CUP process and the county's ability to set conditions on the operations:

The comment to request a Conditional Use Permit review of future operations is not a change the county can make through a rezone. Instead, the action to apply that review process to future uses would be a code amendment. If the county, applicant, or community would like to make such a change, it cannot be executed through a rezone application.

The gravel operations on this property have been a permitted and established use for over three decades. State permits and inspections are in order showing compliance with

industry standards including dust suppression by water truck, as one example in the submitted citizen comments.

With regards to the accusation of vague project details:

This is a non-project action, meaning that there is not a specific proposal or permit application attached to the rezone request or the SEPA checklist. As it is unknown whether the county would approve the application, no plans have been prepared. A scope of work has not been determined and therefore there is no scope to study, quantify, calculate or evaluate – just general guidelines.

Rezone applications can be submitted as part of a project action with a specific underlying permit application at any point during the year; or they can be submitted as a nonproject action during the comprehensive plan update, without a specific underlying permit application.

Small comprehensive plan updates are conducted annually, and large comprehensive plan updates are conducted every five years, or as triggered by changes in state law that mandate compliance by counties and cities. Part of this year's Kittitas plan update is the requirement to comply with the laws passed in the 2023 legislative session that notably adopted middle housing requirements amongst other changes. The passage of the middle housing bill requires jurisdictions to evaluate their land use designations and the resulting zoning.

Responses to reviewer/jurisdiction comments

Kittitas County Department of Public Works:

- Any new driveway access or alteration of an existing access requires permit approval
 - Grading permits may apply
- Acknowledged*

Kittitas PUD: no comment

Acknowledged

Kittitas County Public Health Department: no comment

Acknowledged

Confederated Tribes of the Colville Reservation:

- request implementation of Inadvertent Discovery Plan (IDP) if future ground-disturbing activities are undertaken in the future
- Acknowledged*

Department of Archaeology & Historic Preservation, Snoqualmie Tribe: no comment

Acknowledged

Department of Fish and Wildlife:

- request a habitat management plan

Acknowledged

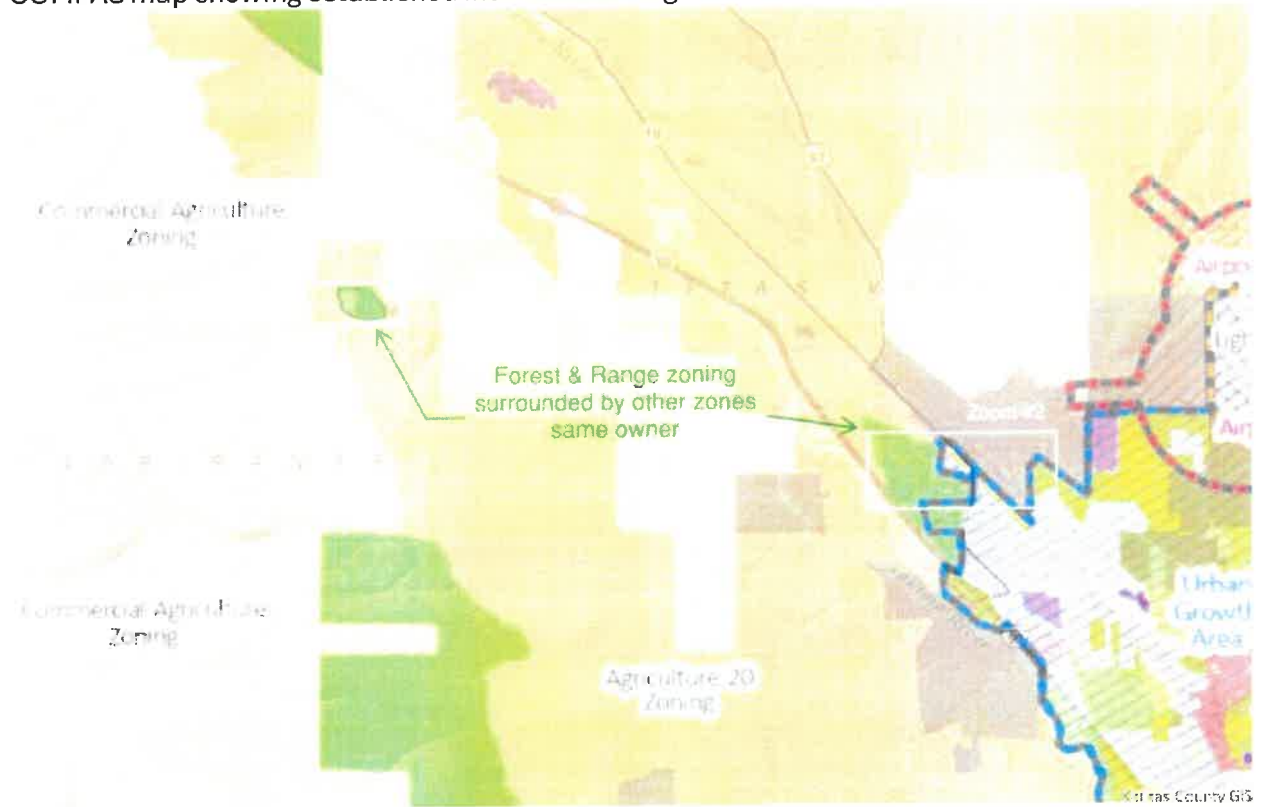
Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Kory Gibson', with a long, sweeping horizontal line extending to the right.

Kory Gibson
Gibson Family
1221 South Thorp Highway
Ellensburg WA 98926
509-201-1023

ATTACHMENT A
COMPAS Map Snips

COMPAS map showing established individual zoning

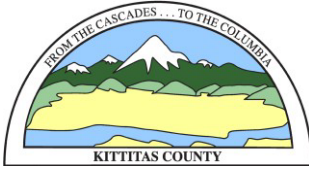


Zoom #1



Zoom #2





KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

“Building Partnerships – Building Communities”

NOTICE OF SEPA ACTION

To: Applicable Agencies
Parties of Record
Applicant

From: Jamey Ayling, Planning Manager

Date: October 1, 2024

Subject: **RZ-24-00001 Gibson – SEPA MDNS**

NOTICE IS HEREBY given that pursuant to WAC 197-11-355 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 1, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson. The applicants are proposing a rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C and WAC 197-11-355. This decision was made after review of a SEPA environmental checklist, and other information on file with the lead agency. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. The complete application file is available to the public on request or may be viewed at Kittitas County Community Development Services at 411 North Ruby St, Suite 2 Ellensburg, WA 98926, or on the county website. <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> (rezones, View Active Applications, file number RZ-24-00001 Gibson).

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of non-compliance with the provisions of Chapter 43.21C RCW (State Environmental Policy Act) and pursuant to Chapter 15A.07.010 KCC, may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services, 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. **Timely appeals must be received no later than 5:00pm, October 15, 2024.**

Direct questions regarding this proposal to:

Jamey Ayling
411 N. Ruby St. Suite 2
Ellensburg, WA. 98926
509-962-7065
jamey.ayling@co.kittitas.wa.us

Notice of SEPA Action
RZ-24-00001 Gibson

NOTICE IS HEREBY given that pursuant to WAC 197-11-355 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 1, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson. The applicants are proposing a rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. Parcel# 280533 located off Parke Creek Road north of Vantage Hwy in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C and WAC 197-11-355. This decision was made after review of a SEPA environmental checklist, and other information on file with the lead agency. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. The complete application file is available to the public on request or may be viewed at Kittitas County Community Development Services at 411 North Ruby St, Suite 2 Ellensburg, WA 98926, or on the county website.

<http://www.co.kittitas.wa.us/cds/land-use/default.aspx> (Rezones), View Active Applications, file number RZ-24-00001 Gibson).

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of non-compliance with the provisions of Chapter 43.21C RCW (State Environmental Policy Act) and pursuant to Chapter 15A.07.010 KCC, may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services, 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00pm, October 15, 2024.

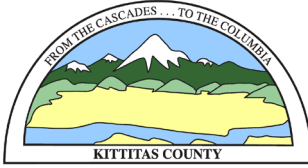
Direct questions regarding this proposal to:

Jamey Ayling
411 N. Ruby St. Suite 2
Ellensburg, WA. 98926
509-962-7065
jamey.ayling@co.kittitas.wa.us

Date: October 1, 2024

Publish Daily Record: October 3, 2024

Appeal Period Ends: October 15, 2024



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

State Environmental Policy Act MITIGATED DETERMINATION OF NONSIGNIFICANCE

- Description:** A proposed rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. The rezone will allow the current use of the property to be consistent and compatible with the zoning code of Forest and Range, as well as allow future expansion of existing uses. A rezone application (RZ-24-00001), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.
- Proponent:** Kristin Gibson, Applicant, authorized agent
- Location:** Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.
- Lead Agency:** Kittitas County Community Development Services

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030 (2) (c) and WAC 197-11. This decision was made after review of a SEPA environmental checklist and other information on file with the lead agency, after considering voluntary mitigation measures which the lead agency or the applicant will implement as part of the proposal, and after considering mitigation measures required by existing laws and regulations that will be implemented by the applicant as part of the Kittitas County permit process. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. This information is available to the public on request.

The lead agency has determined that certain mitigation measures are necessary in order to issue a Mitigated Determination of Non-Significance (MDNS) for this proposal. Failure to comply with the mitigation measures identified hereafter will result in the issuance of a Determination of Significance (DS) for this project. The mitigation measures include the following:

Earth

- 1) A fill and grade permit is required pursuant to Kittitas County Code 14.05.050 for any authorized use in the zone proposing grading that exceeds the thresholds for a permit.

Transportation

- 1) The applicant shall adhere to all applicable regulations as set forth in the current Kittitas County Road Standards.
- 2) The Kittitas County Grading Ordinance requires a permit if grading activity in excess of 100 cubic yards occurs pursuant to KCC 14.05. Contact Kittitas County Public Works for information relating to permitting at 509-962-7523.

Water and Waste Disposal

- 1) Adequate proof of water availability to serve proposed projects shall be provided to Kittitas County Water Resources to satisfy all requirements prior to or at the time of building permit submittal.

Building

- 1) All structures will meet Kittitas County Code Title 14

Fire

- 1) All structures must have adequate fire apparatus access.
- 2) All future development must comply with the International Fire Code (IFC) and Appendices

Critical Areas

- 1) A habitat management plan shall be developed in conjunction with Washington State Department of Fish and Wildlife for any further expansion of the site addressing impacts to the shrub steppe and also address plans for restoration once the current mining areas are completed.

Cultural Resources and Historic Preservation

- 1) Should ground disturbing or other activities related to the proposed project 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 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.

This MDNS is issued under WAC 197-11-350 and KCC Title 15. The lead agency will not act on this proposal for 15 days. Any action to set aside, enjoin, review, or otherwise challenge this administrative SEPA action's procedural compliance with the provision of Chapter 197-11 WAC shall be commenced within 10 working days (on or before 5:00 pm, October 15, 2024).

Responsible

Official: _____
Jamey Ayling

Title: Planning Official

Address: Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7506

Date: October 1, 2024

Pursuant to Chapter 15A.07 KCC, this MDNS may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services office at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00 pm, October 15, 2024.



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

State Environmental Policy Act Withdrawal Notice MITIGATED DETERMINATION OF NONSIGNIFICANCE

Issued: October 16, 2024

Lead Agency: Kittitas County Community Development Department

Agency Contact: Jamey Ayling, Planning Manager jamey.ayling@co.kittitas.wa.us, (509) 962-7065

Agency File Number: RZ-24-00001

Description: A proposed rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. The rezone will allow the current use of the property to be consistent and compatible with the zoning code of Forest and Range, as well as allow future expansion of existing uses. A rezone application (RZ-24-00001), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.

Location: Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.

Proponent: Kristin Gibson, Applicant, authorized agent korygibson@hotmail.com

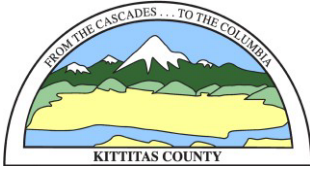
The lead agency for this proposal is withdrawing the SEPA threshold Mitigated Determination of Non significance issued on October 1, 2024. A new threshold determination has been issued October 16, 2024. The lead agency will not act on this proposal for 15 days. Any action to set aside, enjoin, review, or otherwise challenge this administrative SEPA action's procedural compliance with the provision of Chapter 197-11 WAC shall be commenced within 10 working days (on or before 5:00 pm, October 31, 2024).

**Responsible
Official:**


Jamey Ayling

Title: Planning Official

Address: Kittitas County Community Development Services



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

“Building Partnerships – Building Communities”

NOTICE OF SEPA ACTION

To: Applicable Agencies
Parties of Record
Applicant

From: Jamey Ayling, Planning Manager

Date: October 16, 2024

Subject: **RZ-24-00001 Gibson – SEPA MDNS**

NOTICE IS HEREBY given that pursuant to WAC 197-11-350 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 16, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson. The applicants are proposing a rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C and WAC 197-11-350. This decision was made after review of a SEPA environmental checklist, and other information on file with the lead agency. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. The complete application file is available to the public on request or may be viewed at Kittitas County Community Development Services at 411 North Ruby St, Suite 2 Ellensburg, WA 98926, or on the county website. <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> (rezones, View Active Applications, file number RZ-24-00001 Gibson).

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of non-compliance with the provisions of Chapter 43.21C RCW (State Environmental Policy Act) and pursuant to Chapter 15A.07.010 KCC, may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services, 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. **Timely appeals must be received no later than 5:00pm, October 31, 2024.**

Direct questions regarding this proposal to:

Jamey Ayling
411 N. Ruby St. Suite 2
Ellensburg, WA. 98926
509-962-7065
jamey.ayling@co.kittitas.wa.us



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

State Environmental Policy Act MITIGATED DETERMINATION OF NONSIGNIFICANCE

- Description:** A proposed rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. The rezone will allow the current use of the property to be consistent and compatible with the zoning code of Forest and Range, as well as allow future expansion of existing uses. A rezone application (RZ-24-00001), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.
- Proponent:** Kristin Gibson, Applicant, authorized agent
- Location:** Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.
- Lead Agency:** Kittitas County Community Development Services

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030 (2) (c) and WAC 197-11. This decision was made after review of a SEPA environmental checklist and other information on file with the lead agency, after considering voluntary mitigation measures which the lead agency or the applicant will implement as part of the proposal, and after considering mitigation measures required by existing laws and regulations that will be implemented by the applicant as part of the Kittitas County permit process. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. This information is available to the public on request.

The lead agency has determined that certain mitigation measures are necessary in order to issue a Mitigated Determination of Non-Significance (MDNS) for this proposal. Failure to comply with the mitigation measures identified hereafter will result in the issuance of a Determination of Significance (DS) for this project. The mitigation measures include the following:

Earth

- 1) A fill and grade permit is required pursuant to Kittitas County Code 14.05.050 for any authorized use in the zone proposing grading that exceeds the thresholds for a permit.

Transportation

- 1) The applicant shall adhere to all applicable regulations as set forth in the current Kittitas County Road Standards.
- 2) The Kittitas County Grading Ordinance requires a permit if grading activity in excess of 100 cubic yards occurs pursuant to KCC 14.05. Contact Kittitas County Public Works for information relating to permitting at 509-962-7523.

Water and Waste Disposal

- 1) Adequate proof of water availability to serve proposed projects shall be provided to Kittitas County Water Resources to satisfy all requirements prior to or at the time of building permit submittal.

Building

- 1) All structures will meet Kittitas County Code Title 14

Fire

- 1) All structures must have adequate fire apparatus access.
- 2) All future development must comply with the International Fire Code (IFC) and Appendices

Critical Areas

- 1) A habitat management plan shall be developed in conjunction with Washington State Department of Fish and Wildlife for any further expansion of the site addressing impacts to the shrub steppe and also address plans for restoration once the current mining areas are completed.

Cultural Resources and Historic Preservation

- 1) Should ground disturbing or other activities related to the proposed project 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 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.

This MDNS is issued under WAC 197-11-350 and KCC Title 15. The lead agency will not act on this proposal for 15 days. Any action to set aside, enjoin, review, or otherwise challenge this administrative SEPA action's procedural compliance with the provision of Chapter 197-11 WAC shall be commenced within 10 working days (on or before 5:00 pm, October 31, 2024).

**Responsible
Official:**


Jamey Ayling

Title:

Planning Official

Address:

Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7506

Date:

October 16, 2024

Pursuant to Chapter 15A.07 KCC, this MDNS may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services office at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00 pm, October 31, 2024.

