



# KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

## STAFF REPORT

### Larson Fruit Co. Conditional Use Permit

TO: Kittitas County Hearing Examiner  
FROM: Kittitas County Community Development Services Staff  
RE: Larson Fruit Co. Conditional Use Permit (CU-13-00007)  
DATE: February 13, 2014 (Hearing Date)

#### I. GENERAL INFORMATION

Requested Action: Keith Larson, secretary of Larson Orchards Inc., land owner and John Cornell, authorized agent, submitted a conditional use permit application for farm worker housing on approximately 2 acres of a 21 acre parcel that is zoned Forest and Range. The applicant is proposing a total of 4 units. This proposed use is consistent with KCC 17.15.060.1 (F) farm labor shelter.

Location: This proposal encompasses 1 parcel, located approximately 1 mile east of SR 821 (Canyon Hwy) on Burbank Creek Road, in a portion of Section 27, T. 15 N., R. 19 E., W.M. in Kittitas County, bearing Assessor's map number 15-19-27000-0002.

#### II. SITE INFORMATION

Total Property Size:	21 acres
Number of Lots:	1; no new lots are being proposed
Domestic Water:	Group water system
Sewage Disposal:	Individual Septic
Power/Electricity:	Kittitas County PUD
Fire Protection:	Area outside of Fire Districts
Irrigation District:	None

#### Site Characteristics:

North: Mix of vacant land, orchards and low density residential

South: Vacant, BLM land

East: Mix of vacant land, orchards and low density residential

West: Mix of vacant land, orchards, low density residential and BLM land

Access: The site is accessed from Burbank Creek Road.

Zoning and Development Standards: The subject property is located in the Yakima River Canyon area within Kittitas County and has a zoning designation of Forest and Range. The general purpose and intent of the Forest and Range 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. The Forest and Range zone allows for a vast array of permitted and conditional uses; this project is being proposed under KCC 17.15.060.1 (F) farm labor shelter. This use is a conditional use and requires that the following be met:

- 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;
- 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.

Conditional Uses: This application is consistent with KCC 17.60A. There are a number of requirements that must be met; these are addressed under Project Analysis below. The Board of Adjustment was dissolved as part of the 2012 Annual Docket process through Ordinance No. 2012-009. Conditional use permits are now required to have a public hearing before the Hearing Examiner for a recommendation and then a closed record hearing before the Board of County Commissioners, where the BOCC will make the final decision on the conditional use permit.

### **III. ADMINISTRATIVE REVIEW**

Notice of Application: A conditional use permit application was submitted to Kittitas County Community Development Services department on September 26, 2013. This application was deemed complete on November 6, 2013. The Notice of Application for the conditional use permit was issued on December 4, 2013 and a Corrected Notice of Application was issued on December 5, 2013 due to an incorrect legal description. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on December 20, 2013.

### **IV. COMPREHENSIVE PLAN**

The Kittitas County Comprehensive Plan designates the subject property as Rural Working Land. Kittitas County has established the following goals and policies to guide activities within the rural lands. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:

GPO 2.2 – Protect, preserve, maintain, and enhance the County’s natural resource industry base, natural environment, and rural character, including but not limited to timber, agriculture, mineral, water and energy resources. The County shall avoid land use conflicts with its resource industry by applying low residential densities to lands adjacent to resource lands.

GPO 2.7 – Kittitas County will maintain a flexible balance of land uses which will protect, preserve, and enhance the rural character, historical forest lands, agriculture industries, mineral lands, and high quality environment.

GPO 8.1 – Rural lands are characterized by a lower level of services; mixed residential, agricultural and open space uses; broad visual landscapes and parcels of varying sizes, a variety of housing types and small unincorporated communities.

GPO 8.2 – Rural lands often have an established land use pattern that inhibits urban character and are generally, and anticipated to continue to be, served by septic systems and individual wells or small community water systems.

GPO 8.4 – Development in rural areas is subject to agricultural and forestry activities that may take place as a right on adjacent properties.

GPO 8.9 – Protecting and preserving resource lands should be given priority. Development that is permitted and adjacent resource lands shall be properly managed.

GPO 8.11 – Policies will reflect a “right to farm” in agriculture lands.

GPO 8.16 – Give preferences to land uses in Rural designated areas that are related to agriculture, rural residential development, tourism, outdoor recreation, and the other open space activities.

GPO 8.46 – Kittitas County will continue to research innovative incentive-based strategies that encourage and support farming activity.

GPO 8.47 – Kittitas County will encourage voluntary farm conservation and agriculture preservation activities, and support activities engaged in agriculture preservation.

GPO 8.48 – Non-farming residents should be informed on the practices of farming so that they are aware of the non-urban activities and impacts that occur in the agricultural environment.

## **V. ENVIRONMENTAL REVIEW**

Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on January 28, 2014. The appeal period ended on February 11, 2014 at 5:00 p.m. No appeals were filed.

## **VI. AGENCY AND PUBLIC COMMENTS**

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments have been included as Exhibits in the Hearing Examiner packet.

## **VII. PROJECT ANALYSIS**

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.

### Consistency with the Comprehensive Plan:

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: GPO 2.2, 2.7, 8.1, 8.2, 8.4, 8.9, 8.11, 8.16, 8.46, 8.47, and 8.48.

### Consistency with the provisions of KCC 17A, Critical Areas:

Staff has conducted an administrative critical area review in accordance with KCC 17A and found no critical areas on-site. There is a DNR stream type 9 – unknown north of the subject parcel on an adjacent lot. This stream is also known as Burbank Creek. The proposed activities will take place on the south side of an existing driveway and will not be adjacent to Burbank Creek.

### Consistency with the provision of KCC 17.56, Forest and Range zoning:

This proposal is consistent with the Kittitas County Zoning Code 17.56. The proposal is compatible with KCC 17.56.020 referring to the uses table in KCC 17.15. Specifically, this is compatible as a conditional use with 17.15.060.1 (F) farm labor shelter.

### Consistency with the provisions of KCC 17.60A, Conditional Uses:

This proposal is consistent with the Kittitas County Zoning Code for Conditional Uses. The proposed conditional use will be adequately served by rural levels of service. As conditioned, staff finds the proposal is 1) desirable to public convenience, 2) will not be detrimental to public health, safety or welfare, 3) is not economically detrimental to the public, and 4) is adequately serviced by public facilities.

- A) *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.*

**Applicant response:** The addition of a professionally designed and installed drain field system for the project, the company housing/grounds maintenance, and contracted regular garbage pickup will result in no increase to any threat to the public health beyond whatever exists in the area at the present.

The State requires we post housing rules regarding proper behavior. There is an existing ranch manager, who will provide oversight. The company has existing employee policies against drugs, weapons, etc, which the workers are notified of in advance, and how violations will be disciplined. We expect to have the same level of peace and safety as is presently experienced by the neighborhood.

**Staff response:** Staff agrees that the installation of up to 4 farm worker housing (farm labor shelters) will not be detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood. This use is one you would expect in a resource or agricultural area. The ranch manager and policies established by Larson Orchards in regard to behavior will protect the public health, peace, and safety of the area.

- B) *The proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by finding that (1) it will be adequately serviced by existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers, an schools; or (2) that the applicant shall provide such facilities; or*

**Applicant response:** The proposed housing is for a long established orchard. The traffic generated from the operation is almost exclusively between March and November. We actually anticipate traffic and therefore noise and dust and wear and tear on the road to decline from previous levels once the units are installed and in use, in that we will not have to transport so many in from other ranches.

Essentially there are no specific public services to be impacted, other than perhaps if a county sheriff or fire crew would be called. We expect no increase in either of those types of calls to the neighborhood as a result of this project, as we have not experienced any calls to date from our other projects which have been in operation for up to 4 years.

**Staff response:** This proposal is subject to providing adequate water and septic facilities prior to gaining approval to build/install the farm housing units. The applicant will also be required to work with the Kittitas County Fire Marshal and follow the Wildland Urban Interface requirements since it is located outside of a fire district. Specific fire protection requirements, if necessary, will be determined by the Fire Marshal through the WUI application process. As required by Kittitas County Code and as conditioned, this proposal will not be detrimental to the economic welfare of the county.

- C) *Demonstrate that the proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.*

**Applicant response:** The project will increase the tax base of the existing operation, providing added revenue to the county for its ongoing projects elsewhere.

**Staff response:** The Kittitas County Comprehensive Plan encourages retention and preservation of existing agricultural and forestry activities. This proposal fits within this goal by allowing an existing orchard operation to house its workers during their growing season. The comprehensive plan also recognizes that the “most common uses in rural lands are agriculture, recreation and logging, which have

been basic industries historically and remain important in terms of employment, income and tax base.” The addition of farm worker housing for this orchard in Rural Kittitas County will not be an economic detriment.

Consistency with the provisions of the KCC Title 14.04, Building Code:

This proposal is consistent with the Kittitas County Building Code as conditioned.

Consistency with the provisions of KCC Title 12, Roads and Bridges:

As conditioned, the proposal is consistent with the provisions of KCC Title 12.

Agency Comments:

The following agencies provided comments during the comment period: Kittitas County Department of Public Works, Kittitas County Fire Marshal, WA Department of Transportation, and WA Department of Health. Late comments were provided by Kittitas County Environmental Health Department. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.

Public Comments:

Public comments were submitted for this proposal at the time of staff review and were considered. They are attached to this staff report as part of the Larson Fruit Co. Conditional Use Permit Index File.

**VIII. RECOMMENDATION**

As conditioned below, staff finds that the application is not detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 12, Title 14.04, Title 17.15, Title 17.56, Title 17.60A, & Title 17A of the Kittitas County Code and the Kittitas County Comprehensive Plan. Staff recommends approval of the Larson Fruit Co. Conditional Use Permit application, subject to the following findings of fact and conditions:

**Staff Findings of Fact**

1. Keith Larson, secretary of Larson Orchards Inc., land owner and John Cornell, authorized agent, submitted a conditional use permit application for farm worker housing on approximately 2 acres of a 21 acre parcel that is zoned Forest and Range. The applicant is proposing a total of 4 units. This proposed use is consistent with KCC 17.15.060.1 (F) farm labor shelter.
2. This proposal encompasses 1 parcel, located approximately 1 mile east of SR 821 (Canyon Hwy) on Burbank Creek Road, in a portion of Section 27, T. 15 N., R. 19 E., W.M. in Kittitas County, bearing Assessor’s map number 15-19-27000-0002.
3. Site Information:

Total Property Size:	21 acres
Number of Lots:	1; no new lots are being proposed
Domestic Water:	Group water system
Sewage Disposal:	Individual Septic
Power/Electricity:	Kittitas County PUD
Fire Protection:	Area outside of Fire Districts
Irrigation District:	None

4. Site Characteristics:
  - North: Mix of vacant land, orchards and low density residential
  - South: Vacant, BLM land
  - East: Mix of vacant land, orchards and low density residential
  - West: Mix of vacant land, orchards, low density residential and BLM land
5. Site Characteristics: The area is located in the Yakima River Canyon area of Kittitas County. The area is comprised predominantly with low ranching, grazing, farming, orchard, and low density residential development.
6. The Comprehensive Plan designation is “Rural Working Land.”
7. The subject property is zoned “Forest and Range,” which allows for farm labor shelters as a conditional use.
8. A conditional use permit application was submitted to Kittitas County Community Development Services department on September 26, 2013. This application was deemed complete on November 6, 2013. The Notice of Application for the conditional use permit was issued on December 4, 2013 and a Corrected Notice of Application was issued on December 5, 2013 due to an incorrect legal description. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on December 20, 2013.
9. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on January 28, 2014. The appeal period ended on February 11, 2014 at 5:00 p.m. No appeals were filed.
10. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: GPO 2.2, 2.7, 8.1, 8.2, 8.4, 8.9, 8.11, 8.16, 8.46, 8.47, and 8.48.
11. Staff has conducted an administrative critical area review in accordance with KCC 17A and found no critical areas on-site. There is a DNR stream type 9 – unknown north of the subject parcel on an adjacent lot. This stream is also known as Burbank Creek. The proposed activities will take place on the south side of an existing driveway and will not be adjacent to Burbank Creek.
12. This proposal is consistent with the Kittitas County Zoning Code 17.56. The proposal is compatible with KCC 17.56.020 referring to the uses table in KCC 17.15. Specifically, this is compatible as a conditional use with 17.15.060.1 (F) farm labor shelter.
13. This proposal is consistent with the Kittitas County Zoning Code for Conditional Uses. The proposed conditional use will be adequately served by rural levels of service. As conditioned, staff finds the proposal is 1) desirable to public convenience, 2) will not be detrimental to public health, safety or welfare, 3) is not economically detrimental to the public, and 4) is adequately serviced by public facilities.
14. This proposal is consistent with the Kittitas County Building Code as conditioned.
15. As conditioned, the proposal is consistent with the provisions of KCC Title 12.
16. The following agencies provided comments during the comment period: Kittitas County Department of Public Works, Kittitas County Fire Marshal, WA Department of Transportation, and WA Department of

Health. Late comments were provided by Kittitas County Environmental Health Department. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.

17. Public comments were submitted for this proposal at the time of staff review and were considered. They have been included in the index file record.
18. The applicant is proposing “seasonal” farm worker housing and shall adhere to the specified season for farm worker housing occupancy.

**Staff Conclusions:**

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interest will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 14.04 Building Code, and Title 12 Roads and Bridges.

**Recommended Conditions of Approval:**

1. Submittal of a WUI application is required for this property as it is located outside of a fire district.
2. Fire extinguishers shall be located appropriately. Contact the Fire Marshal for assistance prior to occupancy.
3. A fire and life safety inspection shall be conducted prior to occupancy.
4. All development, design and construction shall comply with Kittitas county Code, Kittitas County Zoning and the most current version of the International Fire & Building Codes.
5. The farm worker housing units shall only be occupied from March 1<sup>st</sup> to November 30<sup>th</sup> of each year.
6. Based on comments received during the public comment period and other information submitted with this project permit application, A SEPA Mitigation Determination of Non-Significance (MDNS) was issued by Community Development Services on January 21, 2014. The following are the mitigation measures contained within the MDNS and shall be conditions of approval:

**I. Water**

- A. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require a NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan. It is the applicant’s responsibility to contact the Department of Ecology.
- B. Withdrawals of groundwater on the subject property are subject to the rules and regulations adopted and administrated by the Washington State Department of Ecology; this includes the use of water for irrigation. Legally obtained water must be used on-site.

- C. Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in an area becomes limited, use could be curtailed by those with senior water rights.
- D. Prior to receiving any type of building permit in Kittitas County, applicants shall be required to make appropriate provisions for potable water supplies per RCW 58.17.110 which includes, but is not limited to, the minimum requirements outlined in the Kittitas County Board of Commissioners Resolution 2012-027 (see attached).
- E. The Washington State Department of Health, Office of Drinking Water requires an approved water system for this project.

**II. Septic**

- A. As of the date of this determination, there are no permitted septic systems for this proposed project. The applicant will need to follow WAC 246-272A to comply with state and local regulations. Please contact the Kittitas County Public Health Department for assistance. Septic permits must be issued prior to issuance of any building permits.

**III. Fire & Life Safety**

- A. A turn-around shall be provided for fire department access.
- B. A County approved blue reflective address marker shall be posted and maintained at the driveway to the structures and on each structure. This address can be obtained through application to the Public Works Department.
- C. The buildings may be no closer than 10' from each other.

**IV. Light and Aesthetics**

- A. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.

**V. Noise**

- A. Development and construction practices for this project shall only occur between the hours of 7:00 am and 7:00 pm to minimize the effect of construction noise on nearby residential properties.

**VI. Historic and Cultural Preservation**

- A. Should ground disturbing or other activities related to the proposed conditional use permit result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State Department of Archaeology and Historic Preservation (DAHP). Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.