



KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

STAFF REPORT

Osprey Solar Farm

Conditional Use Permit & Shoreline Substantial Development Permit

TO: Kittitas County Hearing Examiner
FROM: Kittitas County Community Development Services Staff
RE: Osprey Solar Farm Conditional Use Permit (CU-13-00004)
Osprey Solar Farm Shoreline Substantial Development Permit (SD-13-00001)
DATE: April 9, 2015 (Hearing Date)

I. GENERAL INFORMATION

Requested Action: One Energy Development LLC authorized agent for Pat Taylor, landowner, submitted a conditional use application and shoreline substantial development permit for the construction and operation of a 13.6 acre photovoltaic solar power generation facility on approximately 112 acres. The subject property is zoned Agriculture 20. This "Utility" (KCC 17.61.010{1}) is subcategorized as a major alternative energy facility (KCC 17.61.010{9}), and as such is a conditional use for the zone (KCC 17.61.020(4)(b)).

Location: This proposal is located approximately 3.5 miles northwest of Ellensburg on Highway 10 (US 97) in a portion of Section 20, T18N, R18E, WM in Kittitas County, bearing Assessor's map number 18-18-20030-0006. Access is provided for via an existing permit with WSDOT.

II. SITE INFORMATION

Total Property Size: 112 acres
Total project size: 13.6 Acres
Number of Lots: 1; no new lots are being proposed
Domestic Water: None required or planned at this time
Sewage Disposal: None required or planned at this time
Power/Electricity: Kittitas County PUD
Fire Protection: Kittitas Valley Fire and Rescue
Irrigation District: Ellensburg Water and Olsen Ditch

Site Characteristics:

North: Private Residential Farming and Grazing

South: Private Residential Farming and Grazing

East: Private Residential Farming and Grazing

West: Private Residential Farming and Grazing

Access: The site is accessed from State Route 10/ US 97; a permitted access with current and pending railroad crossings permits.

Zoning and Development Standards: The subject property is located within the Agriculture 20 zone. The agriculture (A-20) zone is an area wherein farming, ranching and rural life styles are dominant characteristics. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses; and protect the rights and traditions of those engaged in agriculture. The Agriculture 20 zone allows for an array of permitted and conditional uses, this project is being proposed under KCC 17.61 Utilities as a major alternative energy facility, a conditional use for the zone.

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. Conditional use permits are 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.

III. ADMINISTRATIVE REVIEW

Notice of Application: The conditional use permit application was submitted to Community Development Services (CDS) on September 26th, 2014; the shoreline substantial development permit was submitted to CDS on November 3rd, 2014. Both of these applications were deemed complete on December 11th, 2015. The Notice of Application for the conditional use and shoreline substantial development permits was issued on January 19th, 2015. 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 February 19th, 2015.

IV. COMPREHENSIVE PLAN

The Kittitas County Comprehensive Plan designates the subject property as a Mineral Land of Long Term Significance. The Growth Management title of the Revised Code of Washington states that each County shall designate, where appropriate, “mineral resource lands that are not already characterized by urban growth and that have long-term significance for extraction of minerals”(RCW 36.70A. 170). The Act defines minerals as sand, gravel and valuable metallic substances, and states that each County shall adopt development regulations to assure the conservation of mineral resource lands (RCW 36.70A.060). In classifying mineral resource lands, Kittitas County shall identify and classify aggregate and mineral resource lands from which the extraction of minerals occurs or can be anticipated. Areas for sand, gravel and other metallic substances of long-term commercial significance shall be identified by the County. Proposed land uses within these areas designated as mineral resource lands may require special consideration to ensure future supply of aggregate and mineral resource material will be available.

Kittitas County has established the following goals and policies to guide activities within mineral lands of long term significance. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:

GPO 8.152 When the County reviews proposed new land uses that have the potential to conflict with commercial mining activities, such as residential subdivisions, consideration of both surface and mineral rights ownership should be included in the review.

GPO 8.153 New uses, such as residential and commercial uses, conflicting with existing commercial mining activities in designated mineral resource areas shall be required to locate away from such mining activities.

GPO 8.154 Require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as mineral resource lands, shall contain a notice that states that: “The subject property is within or near designated mineral resource lands on which a variety of commercial activities and mineral operations may occur that are not compatible with residential development for certain periods of limited duration. Commercial natural resource activities and/or mineral operations performed in accordance with County, State and federal laws are not subject or legal action as public nuisances.”

GPO 8.155 The impact of potential residential/commercial development upon Mineral Resource Lands of Long-term Significance shall be considered when determining the compatibility of the proposed development within the Rural area.

Unlike Commercial Agriculture and Commercial Forest resource lands, mineral lands of long term significance

do not carry a corresponding zoning classification to compliment the land use designation. Some level of review of the parcel is appropriate as a quasi-rural working land designation due to its Agriculture 20 zoning. Uses within this designation generally encourage farming, ranching and storage of agriculture products, and some commercial and industrial uses compatible with rural environment and supporting agriculture and/or forest activities. Areas in this designation often have low population densities with larger parcel size compared to Rural Residential areas. Agriculture and forestry activities are generally less in scope than in the resource lands. The State of Washington Growth Management Act requires that the *County* “include measures that apply to rural development and protect the rural character of the area as established by the County.” These measures must be used to control rural development, assure visual compatibility of rural development with surrounding areas, reduce sprawl and protect against conflict with the use of agricultural, forest and mineral resource lands (RCW 36.70A.070). “Rural Character” is defined in the Act as lands where:

- open space and visual and natural landscape predominate over the built environment,
 - opportunities exist for traditional rural lifestyle and rural based economies,
 - spaces and development are compatible with wildlife habitat,
 - undeveloped land is not converted to development of sprawl and low density,
 - activities generally do not require extension of urban governmental services, and
 - land use is consistent with protection of surface and ground water flows and recharge/discharge areas.
- (RCW 36.70A.030(15))

“Rural governmental services” include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. (RCW 36.70A.030(17)). Rural policies are intended to enhance and protect the County’s rural character, and to encourage appropriate rural land use patterns and service levels. Rural land uses consist of dispersed and clustered residential developments, farms, ranches, wooded lots, and agricultural and recreational/commercial and industrial uses that serve local and national and international populations as customers.

Kittitas County has established the following goals and policies to guide activities within the rural working lands and utilities in general. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:

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 8.3 The County shall promote the retention of its overall character by establishing zoning classifications that preserve rural character identified to Kittitas County.

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 8.8 A certain level of mixed uses in rural areas and rural service centers is acceptable and may include limited commercial, service, and rural industrial uses.

GPO 8.13 Encourage development activities and establish development standards which enhance or result in the preservation of rural lands.

GPO 8.14C Development shall be located distances from streams, rivers, lakes, wetlands, critical areas determined necessary and as outlined within existing Shorelines Management Program, the Critical Areas Ordinance and other adopted resource ordinances in order to protect ground and surface waters.

GPO 8.15 Uses common in rural areas of Kittitas County enhancing rural character, such as agriculture uses in

Lower Kittitas and rural residential uses and recreation uses in Upper Kittitas shall be protected from activities which encumber them.

GPO 8.16 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

GPO 8.17 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..

GPO 8.21 Kittitas County will provide criteria within its zoning code to determine what uses will be permitted within rural zone classifications in order to preserve rural character.

GPO 8.21B 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. The first sentence of this policy shall not apply to agricultural activities as defined in RCW 90.58.065(2)(a). When required by the county shoreline master program or critical area regulations, buffers shall be provided.

GPO 8.37 Conveyance instruments including plats and short plats, development permits and building permits, within 500 feet of land designated as Rural Working lands or Resource Lands shall contain a notice to potential buyers and residents as directed within RCW 36.70A.060(1)(b).

GPO 8.44A Commercial/Industrial development in rural areas shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.

GPO 8.44 Growth and development in Rural lands will be planned to minimize impacts upon adjacent natural resource lands.

GPO 8.44C New commercial/industrial development shall be required to meet standards or any measures found needed to protect existing surface and groundwater users from impairment and contamination.

GPO 8.48 In addition to the notice requirements in RCW 36.70A.060(1)(b), 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.

GPO8.51 Where proposed residential development is determined incompatible with natural resource activities, all mitigation measures to make the development compatible with the activities shall be completed and cost borne by the developer.

GPO 6.6 Expansion and improvement of utility systems should be recognized primarily as the responsibility of the utility providing the corresponding service.

GPO 6.7 Decisions made by Kittitas County regarding utility facilities will be made in a manner consistent with and complementary to regional demands and resources.

GPO 6.8 Additions to and improvements of utilities facilities will be allowed to occur at a time and in a manner sufficient to serve growth.

GPO 6.9 Process permits and approvals for all utility facilities in a fair and timely manner, and in accordance with development regulations that ensure predictability and project concurrency.

GPO 6.10 Community input should be solicited prior to county approval of utility facilities, which may

significantly impact the surrounding community.

GPO 6.13 The County should coordinate with utility providers.

GPO 6.18 Decisions made regarding utility facilities should be consistent with and complementary to regional demand and resources and should reinforce an interconnected regional distribution network.

GPO 6.22 To review the placement and appropriateness of utilities

GPO 6.23 Kittitas County reserves the right to review all applications for utilities placed within or through the County for consistency with local policies, laws, custom and culture

GPO 6.36 Develop a study area encompassing the entire county to establish criteria and design standards for the siting of solar farms.

V. ENVIRONMENTAL REVIEW

Kittitas County acted as the lead agency for the SEPA Environmental Checklist; a Mitigated Determination of Non-Significance (MDNS) was issued for this project on March 25, 2015. The appeal period for this SEPA determination ended on April 8, 2015 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. While the proposed project is a non-mineral land activity located on a mineral land of long term significance, there are currently no mining activities taking place on the parcel at this time. The proposal comprises only 13.6 acres of the 112 acre site. The average life span of a solar farm is approximately 30 years; the proposal would not do anything to permanently inhibit or preclude future mining activity should it become desirable and/or economically viable. The proposed use is for the most part devoid of human activity; potential conflicts with adjoining mining activities now or in the future would be minimal.

With regard to the quasi-rural working land status of the parcel due to its Agriculture 20 zoning, the use is compatible with the designation. The size and stature of the solar panels and the proposal as a whole are not of sufficient scale to significantly impact the visual and natural landscape, opportunities for traditional rural lifestyle, or wild life habitat. The project is uninhabited; sprawl and density concerns are moot, and governmental services are limited to nominal police and fire protection. The proposal presents almost no risk of contamination or incidental impact to surface or groundwater resources during construction or operation. The proposal will not impact nor will it be impacted by agricultural or forestry activities in the immediate vicinity. Appropriate setbacks and environmental mitigations will be required when identified within the perimeter and immediate vicinity of the proposed project. Community input has been sought and received regarding the proposed project.

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

Staff has conducted an administrative critical area review in accordance with KCC 17A and found that this proposal has two environmental elements that warrant additional scrutiny:

1. The National Wetland inventory GIS data set indicates that there is a Palustrine Emergent “C” water regime (seasonally flooded) wetland within the project area. Other wetlands are shown within the 112 acre parcel but are not impacted by the project as proposed. A critical areas report was produced by Sewall Wetland Consulting Incorporated on April 8, 2014 utilizing the methodology described in the Washington State Wetlands Identification Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0). The wetland in question was identified in the report as PEM1C category IV less than one acre in size which under KCC 17A.04.020 requires no buffer. Other wetlands on site were categorized as category III wetlands with low habitat value and required buffers of 20 -80 feet per KCC 17A.04.020. The report went on to conclude that:

“The proposed panel structures will be located on small pin piles throughout the site outside the wetlands and buffers with the exception of Wetland A. Panels are proposed to be placed over Wetland A but will not cause any fill of the wetland nor disturbance to vegetation as they are elevated on racks .

In addition to the wetland regulations previously described for wetlands and streams, certain activities (filling and dredging) within “waters of the United States” may fall under the jurisdiction of the US Army Corps of Engineers (ACOE). The ACOE regulates all discharges into “waters of the United States” (wetlands) under Section 404(b) of the Clean Water Act.

The use of pin piles does not constitute fill of waters of the US under an existing interpretation by the Army Corps of Engineers. As a result no impacts or fill of wetlands is proposed. (staff emphasis)

If the proposal was to be changed and include fill of wetlands were proposed, both the Corps of Engineers and Washington Department of Ecology should be contacted regarding permit conditions.”

No conditions with regard to above mentioned wetland were placed in the Mitigated Determination of Non-Significance (MDNS); condition three under water stipulates that:

“3) Development shall be limited to the proposal as submitted; modifications or expansion of the development shall require additional environmental review”

2. Dry Creek runs along the western border of the parcel and the project as proposed. The Washington State Department of Natural Resources GIS data set utilized by Kittitas County indicates that Dry Creek is a Type 2 fish bearing stream. This was confirmed in the critical areas report generated by the consultant:

“Dry Creek is known to have high use by various salmonid species including spring chinook salmon, coho salmon and mid-columbia steelhead, as well as rainbow trout. Dry Creek best meets the criteria of a Type 2 water. According to KCC 17 A.02.300, Type 2 waters have a buffer ranging from 40'-100'.”

In a comment letter dated February 18, 2015 Jennifer Nelson of the Washington State Department of Fish and Wildlife expressed concerns regarding the environmental significance and sensitivity of Dry Creek and requested that a 70 foot buffer be maintained around the stream and that assurances be given that:

“... tall trees in the buffer will not be cut or removed if they shade the solar panels. We also want to ensure that there will be no future proposals for flood protection structures beyond what currently exist [sic] onsite to protect the new infrastructure.”

Staff incorporated these concerns into the MDNS in conditions one and two under water:

“1) A 70 foot buffer from the ordinary high water mark shall be placed on Dry Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.

2) No additional flood control structures may be constructed on the project parcel.

Consistency with the Shoreline Master Program:

The proposal falls within a Rural designation under the County’s current Shoreline Master Program (SMP) as indicated on the map template found on page E-13 of the SMP. Section 37 of the SMP defines utilities as:

“...services which produce and carry such things as electric power, sewage, communications, and fuels. At this time the most feasible methods of transmission are the lineal ones of pipes and wires. Installation of these systems disturbs the landscape but can usually be planned to have minimal visual and physical effect on the environment.

For utilities, the use activity policy statements of the SMP stipulate that:

Utilities should be designed and installed in a manner which would result in minimal damage to the normal qualities of the shoreline area.

Utilities should be planned to avoid destroying scenic views.

Upon completion, the applicant should restore the project area to a natural or near natural condition.

From a regulatory perspective section 37 provisions that utilities in the Urban and Rural environments shall be placed underground wherever feasible, and that:

“Those utilities which unavoidably must cross a body of water or pass through the Environment shall be permitted.

and;

“When alternatives exist, overhead utilities shall not parallel shorelines unless for the electrification of railroad lines.

Where such utility systems cross shoreline areas, clearing necessary for installation or maintenance shall be kept to the minimum necessary to prevent interference by trees and other vegetation with the proposed facilities.

Upon completion of installation of any underground or overhead system or of any maintenance project which disrupts the environment, the disturbed area shall be regraded to compatibility with the natural terrain and replanted to prevent erosion and provide an attractive vegetation cover which is harmonious with the surrounding area and the project requirements.

When alternatives exist, utilities shall not obstruct, parallel, or destroy scenic views”.

Under section 5(3)(r) the use is considered Substantial Development, and a substantial development permit is required. Staff would also like to stipulate that the proposed project is approximately 3,000 feet from the ordinary high water mark of the Yakima River, and that under Kittitas County’s proposed update to the SMP which is being reviewed by the Department of Ecology at this time, none of the proposal or the proposals parcel would fall

under the jurisdiction of the Shoreline Master Program. As conditioned, the proposal is consistent with the Shoreline Master Program. Staff recommends approval of the Shoreline Substantial Development Permit.

Consistency with the provisions of KCC 17.61 Utilities for location in the Agriculture 20 zoning:

This project is being proposed under KCC 17.61 Utilities as a major alternative energy facility, a conditional use for the zone. The proposal is consistent with that section of code.

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.

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 agency provided comments during the comment period:

Kittitas County Public Works
Washington State Department of Transportation
Washington State Department of Fish & Wildlife
Washington State Department of Health
Kittitas County Fire Marshal
Kittitas Valley Fire & Rescue

These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.

Public Comments:

The following individuals provided comments during the comment period:

Sylvia Shriner
Martha Duskin-Smith
Rance Dewitt
Larry Lowther

These comments have been included in the index file record; **all expressed support for the project as presented** and were considered when preparing the recommended conditions for this proposal.

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 17.56, Title 17.60A, & Title 17A of the Kittitas County Code and the Kittitas County Comprehensive Plan. Staff recommends approval of the Osprey Solar Farm Conditional Use Permit and Shoreline Substantial Development Permit applications, subject to the following findings of fact and conditions:

Staff Findings of Fact

1. One Energy Development LLC authorized agent for Pat Taylor, landowner, submitted a conditional use application and shoreline substantial development permit for the construction and operation of a 13.6 acre photovoltaic solar power generation facility on approximately 112 acres. The subject property is zoned Agriculture 20. This “Utility” (KCC 17.61.010{1}) is subcategorized as a major alternative energy facility (KCC 17.61.010{9}), and as such is a conditional use for the zone 17.61.020(4)(b).
2. This proposal is located approximately 3.5 miles northwest of Ellensburg on Highway 10 (US 97), in a portion of Section 20, T18N, R18E, WM in Kittitas County, bearing Assessor’s map number 18-18-20030-0006. Access is provided for via an existing permit with WSDOT.
3. Site Information:

Total Property Size:	112 acres
Total project size:	13.6 Acres
Number of Lots:	1; no new lots are being proposed
Domestic Water:	None required or planned at this time
Sewage Disposal:	None required or planned at this time
Power/Electricity:	Kittitas County PUD
Fire Protection:	Kittitas Valley Fire and Rescue
Irrigation District:	Ellensburg Water and Olsen Ditch
4. Site Characteristics:
5. North: Private Residential Farming and Grazing
6. South: Private Residential Farming and Grazing
7. East: Private Residential Farming and Grazing
8. West: Private Residential Farming and Grazing
9. Site Characteristics: The subject property is generally flat pasture land with perimeter and occasional internal clumps of deciduous trees and brush.
10. The Comprehensive Plan designation is “Mineral Land.”
11. The subject property is zoned “Agriculture 20”; major alternative energy facilities are a conditional use in the zone (KCC 17.61.020(4)(b))
12. The conditional use permit application was submitted to Community Development Services (CDS) on September 26th, 2014; the shoreline substantial development permit was submitted to CDS on November 3rd, 2014. Both of these applications were deemed complete on December 11th, 2015. The Notice of Application for the conditional use and shoreline substantial development permits was issued on January 19th, 2015. 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 February 19th, 2015.
13. Kittitas County acted as the lead agency for the SEPA Environmental Checklist; a Mitigated Determination of Non-Significance (MDNS) was issued for this project on March 25, 2015. The appeal period for this SEPA determination ended on April , 2015 at 5:00 p.m. No appeals were filed.
14. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan.
15. Staff has conducted an administrative critical area review in accordance with KCC 17A and found that this proposal contains a wetland and is adjacent to a type 2 fish bearing stream. The applicant provided a

critical areas assessment prepared by Sewall Wetland Consultants for the site and it is included in the Record. The onsite wetland has a designation of PEMC. Kittitas County agrees with the critical areas assessment that the wetland (identified as 'A' in the report) is a class IV and that no buffer is required. Kittitas County further agrees that the use of pin piles does not constitute fill of waters of the US and that no impacts or fill would occur from the project as proposed. Other wetlands on the property will not be impacted by the project as proposed, if expansion is contemplated at some point in the future, additional environmental review will be required. Kittitas County agrees with the comments provided by The Washington State Department of Fish and Wildlife regarding Dry Creek's designation as a Type 2 Fish Bearing stream and will enforce the recommended 70 buffer as well as prohibit the removal of trees and vegetation inside the buffer.

16. The proposal is covered by a Shoreline Master Program 'Rural' designation. Kittitas County finds that utilities are permitted within the "Rural" designation under the SMP (section 37) and that the development portion of the proposal is approximately 3,000 feet from the ordinary high water mark of the Yakima River. Kittitas County further finds that the project as proposed is designed and will be installed in a manner which would result in minimal damage to the normal qualities of the shoreline area; that the project as proposed will not destroy scenic views; and that as conditioned the project will restore the area to a status comparable to its current state at such time as it may be decommissioned. As conditioned, the proposal is consistent with the Shoreline Master Program.
17. This proposal is consistent with the Kittitas County Zoning Code as proposed under KCC 17.61 Utilities as a major alternative energy facility, a conditional use for the Agriculture 20 zone.
18. 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.
19. This proposal is consistent with the Kittitas County Building Code as conditioned.
20. As conditioned, the proposal is consistent with the provisions of KCC Title 12
21. The following agency provided comments during the comment period: Kittitas County Public Works, Washington State Department of Transportation, Washington State Department of Fish & Wildlife, Washington State Department of Health, Kittitas County Fire Marshal, and Kittitas Valley Fire & Rescue. These comments have been included in the index file record and were considered when preparing the recommended conditions for this proposal.
22. The following individuals provided comments during the comment period. Sylvia Shriner, Martha Duskin-Smith, Rance Dewitt, and Larry Lowther. These comments have been included in the index file record; **all expressed support for the project as presented** and were considered when preparing the recommended conditions for this proposal.

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, Title 12 Roads and Bridges and the Kittitas County Shoreline Master Program.

Recommended Conditions of Approval:

1. The project shall proceed in substantial conformance with the plans and application materials on file dated September 26th, 2014 and November 3rd, 2014 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. A 70 foot buffer from the ordinary high water mark shall be placed on Dry Creek within the project parcel; no development, structures, excavation, or clearing of existing vegetation may occur within the buffer.
4. No additional flood control structures may be constructed on the project parcel.
5. Development shall be limited to the proposal as submitted; modifications or expansion of the development shall require additional environmental review.
6. The parcel's approach shall:
 - a. remain the same; no additional approaches to Highway 10/US 97 shall be permitted; and
 - b. be extended 50 feet from the centerline of US 97; and
 - c. have its permit updated
7. A fully executed Burlington Northern crossing permit shall be obtained and recorded before operation of the facility.
8. The project shall comply with all aspects of the International Fire Code Appendix D including twenty (20) foot wide access roads.
9. All current and future landowners must comply with the International Fire Code.
10. All development, design and construction shall comply with all Kittitas County Codes and the International Fire and Building Codes.
11. Building permits will be required for any construction or structure not exempted by 2012 IBC 105.2 Work exempt from permit.
12. Addressing of the parcel shall be clearly visible from the road.
13. All gates shall be a minimum of 12' wide; if gates are locked, keys or equivalent shall be provided to all emergency services.
14. The dike road (defined by easement) shall remain free of encroachments, fences, structures, vehicles, and debris.
15. On-site stormwater management that conforms to the specifications of the most current version of the Stormwater Management Manual for Eastern Washington is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Development of the site shall be in conformance with the stormwater report furnished with the application; any deviation from the proposal as presented will require a stormwater report addendum, and may require at the discretion of the Planning Official, an amendment to the Conditional Use Permit.
16. Should ground disturbing or other activities related to the proposed plat 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.

17. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties and Highway 10/US 97.
18. Developed areas of the project shall maintain vegetation control for fire protection purposes; vegetation in an around solar panels and other infrastructure shall be kept at or below six (6) inches. Other vegetation control measures may be required by the Kittitas County Fire Marshal.
19. Prior to final approval of the conditional use permit, the applicant shall provide to the County for its review and approval a Project Decommissioning and Site Restoration plan to meet the event of decommissioning of the project. Such Plan shall be prepared in sufficient detail to identify, evaluate, and resolve all major environmental, and public health and safety issues reasonably anticipated by the Applicant at the time of decommissioning of the project. The plan shall describe the measures that will be taken to decommission the project and restore the project site, including any measures necessary to finance the operation. Decommissioning the project shall involve removal of the project's components, including, without limitation, the solar panels, panel trackers, anchors, supports and mounts, inverter buildings, underground electrical conductors, substation, and operations and maintenance building, and any foundations or permanently fixed anchors; the re-grading of any areas significantly impacted by the removal of any components; removal of Project maintenance roads and overhead cables (except for any roads, buildings, and/or power cables that project area landowner may wish to retain).
20. The subject property is within or near designated mineral resource lands on which a variety of commercial activities and mineral operations may occur that are not compatible with residential or other development for certain periods of limited duration. Commercial natural resource activities and/or mineral operations performed in accordance with County, State and federal laws are not subject or legal action as public nuisances.