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JAN 24 2013

KITTITAS COUNTY
CDS

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CDS

11-26-2012

GOCC COMPLIANCE
HEARING

To: Kittitas County Commissioners
cc: Robert "Doc" Hansen, CDS

Re: Compliance Public Hearing of November 26, 2012

I submit the following comments with regard to the proposed changes in county-wide planning policies, comprehensive plan, and county code in an effort to be found compliant by the Growth Management Hearings Board orders and the Supreme Court of the State of Washington decision of July 2011.

Population Projections

I have previously argued on several occasions since 2007 (as the former Vice Chair of the Land Use Advisory Committee) that the county's habit of picking the high population trend, as projected by the state, is neither scientifically nor anecdotally grounded in fact or reality. The county should be using the middle population projection at the very most.

The "Rural Reserve" population is set too high and is in and of itself counter to the efforts herein to be determined compliant by reducing rural sprawl. It needs to be lowered by at least 75% with this population being reallocated to the Urban Growth Areas specifically of our five existing incorporated towns and/or the five towns.

Further arithmetic needs to be done to further refine the "Rural Reserve" population by clearly defining the population allocation subcategories of "Rural Reserve" for the following already approved by Final Plat status rural residential developments: The Master Planned Resort ("New Suncadia LLC/Suncadia LLC/MountainStar et al."); all Planned Unit Developments; all cluster-based performance plats; all Long Plats; all Short Plats; and all other remaining rural residential developments. This exercise of clearly allocating population to final plat-approved land development projects has never been done on purpose by the county as the math would show that the county has already overachieved its "Rural Reserve" population allocation. This can no longer be an acceptable methodology of obfuscating the truth about rural residential development.

Exempt Wells For Rural Residential

Water neutrality in the Yakima River Basin is a reality until our society increases storage and/or capacity (through desalination or other means of water production) and/or greater water efficiency. The county shall eventually agree to require the mitigation of all new rural residential exempt wells with senior surface water rights. This is best done through the private market through water banks and/or outright sales and purchase by private parties amongst themselves. Putting a market price on water serves as the ONLY means to induce conservation and efficiency and analysis of cost-versus-benefits of all types of water usage for the longer term and necessarily points us in the better direction of investment in infrastructure improvements for irrigation and

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other industrial/commercial uses.

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Urban Growth Area – City of Kittitas

Whereas previous decisions by county commissioners and the City of Ellensburg have ruined for posterity the best location in the county for an intermodal transportation hub that combines road surface and rail (at the West Exchange of Ellensburg), the only remaining area left in the county that could serve is that portion north of the interstate at the City of Kittitas. For this reason alone, that is to say, the potential usage as a regional intermodal transportation hub, I am in favor of the expansion of the UGA of the City of Kittitas.

Rural Residential Development

Whereas previous and present commissioners have not understood that market valuations of land are not a continued linear or exponential trajectory UPWARDS and can descend even more precipitously than they can ascend, it is imprudent and unwise to view rural residential development as a “cash cow” when, in fact, it is the exact opposite. Rural residential development never pays for itself and always uses MORE in services than it will ever pay for via taxes. In fact, as we have just witnessed by the passage of an unnecessary county-wide flood zone district, it requires more and more taxes to pay for the cost of a burgeoning inefficient county government. The spectra of demographic that was to be able to afford to live rurally was temporary and is on the wane for the next more than 20 years. Urban-type densities need to be focused inside existing UGAs to achieve economies of scale for infrastructure in order to achieve a modicum of “affordable housing” in tune with the realities of living wages and salaries.

Commercial agriculture, commercial forests, and commercial mineral lands need to be protected from encroachment of their production, harvesting, and mining for the long-term financial health of county government with all other uses being subjugated to their projection. Not enough work has been done to provide buffer areas between rural residential development and these working lands. I do applaud, however, the creation of Working Rural Lands with its two subcategory zones as a first step. I do note, however, that there are many Agriculture-20 tax parcels that lie within a water irrigation district (mostly the Kittitas Reclamation District, “KRD,”) yet are neither irrigatable nor farmable, hence, should be automatically rezoned to Forest & Range-20 at no expense to the property owner. I note further that in an older hearings board order soil sampling was to be done to define agricultural lands to ascertain the merits of their remaining in the agricultural production inventory of the county.

Respectfully,

Catherine Clerf
60 Moe Road
Ellensburg, Washington 98926

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JAN 24 2013

PL 10F3
CLERK
02-14-2012

Christina Wollman

KITTITAS COUNTY

CDS

From: Catherine Clerf <catherine.a.clerf@hotmail.com>
Sent: Tuesday, February 14, 2012 4:48 PM
To: Christina Wollman; Jan Ollivier; Dan Valoff
Subject: Road Standards Proposed Code Written Comments Planning Commission 2/14/2012

To: Public Works of Kittitas County

Re: Proposed Code Changes to Kittitas County Road Standards

Please accept these written comments as my public input. I have a conflict with another meeting cannot attend this evening's Planning Commission scheduled public hearing.

My comments are directly firstly to the section being proposed in 12.01.09 General Regulations as follow:

B. Second Access Regulations

1. A second access is required if more than 100 lots/units will use the private road.
2. A second access is required OR all buildings within the new development must have sprinklers if:
 - i. 100 or less lots/units will use the private road; and
 - ii. The proposed single development has more than 30 lots/units.
3. No second access or sprinklers required if:
 - i. 100 or less lots/units will use the private road; and
 - ii. The proposed single development has 30 or less lots/units.

If the second access is restricted to emergency access only, it must meet or exceed the following requirements:

60 foot easements, 20 foot roadway width, all-weather surface, and a paved apron. Access restrictions such as gates or bollards must be approved by the Fire Marshal. If the second access is to be used for ingress and egress, It must meet the same standards as the first access.

COMMENTS

1. As a citizen viewer, I attended every meeting of the Road Standards Committee and personally heard all of the comments and conversations amongst, by, and between county staff and the designated committee members and any other guests which were narrowly confined to an employee of the Weis Family of Inland Telephone and development company(ies), Fire Chief John Sinclair and Deputy Fire Chief Richard Elliott of District 2, and Mr. Evans, Fire Chief of District 1 (Thorp) who tried to attend as many meetings as possible. There are minutes to reflect each meeting, yet I make note that many debates, discussions, conversations, etc., could not and were not put into the formal meeting minutes. It is the side bar debates and conversations that are most revealing.
2. Historically, at the very first meeting of the Road Standards Committee, the Public Works staff, Doug D'Hondt, P.E., as county engineer ran the meeting in lieu of absent PW Director Kirk Holmes. Chris Wollman and Jan Ollivier in attendance. It was explained to those citizens who had been chosen by the BOCC to be on the committee who attended, Urban Eberhart, Patrick Deneen, David Gerth (who came a little late), and Marc Kirkpatrick (Terry Clarke had not yet been appointed, he was volunteered by Urban Eberhart) that the Public Works staff would have THEIR opinion and that the committee members could have THEIR opinion in a majority-minority 2-part conclusion to any and all areas where consensus could not be reached as it was expected that the issues of second access especially would be a point of

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contention.

3. To shrink the time line, Planning Commission members need to be apprised of the fact that the development community purported consistently, especially verbalized by Patrick Deneen, citing that he had the Weis Family and Sapphire Skies/Sean Northrup in agreement with him, and to which Urban Eberhart also agreed, that if the policy of the BOCC was to STOP economic development in the rural part of the county, then requiring a second access for development projects greater than 30 lots would certainly accomplish this, to paraphrase the comment stated by Mr. Deneen on more than one occasion, including at Monday afternoon BOCC work study sessions with Public Works when the non-consensus issue of second access was brought to the BOCC at the request of the citizens appointed to the Road Standards Committee by the BOCC on more than 1 occasion.

Concurrently, the fire chiefs of all county fire districts expressed their opinions as to steepness of grade of existing private roads in developments that were already troublesome and created dangerous conditions for fire and rescue trucks and equipment and, most importantly, the very volunteer fire fighters providing the services. They as on also expressed concern over allowing rural residential developments to evade second access requirements for projects more than 30 lots/units. I concur with the written and oral arguments given to the BOCC, the Public Works engineers, and the citizens on the committee that sprinklers in lieu of a second access does nothing to address that horrific fire danger realities that will be created by the county of development amidst and by diseased and dying forests on a huge scale. It is not just the number of lots that needs to be taken into consideration. It is the TOPOGRAPHY and the ALTITUDE and the GEOLOGY and the GEOMORPHOLOGY and the CRITICAL HAZARDS (steep slopes, rock slides, mud slides, earthquakes, floods, FIRES) that can randomly and naturally occur that are NOT man-made, let alone the man-made events that can be created. It is logical to deduce that more than 1 vehicle per lot in what constitutes especially Upper County rural development means it is not 1 vehicle per household trying to escape a hazard in ONE egress, but multiple people and vehicles per lot/unit trying to escape a hazard in ONE egress.

Hence, I concur with the recommendation of the combined fire districts and fire chiefs with regard to second access being required for the much lower number of lots/units, as well as their recommendations for road grade not exceeding 10% for private roads. It is also noted that 15% private driveways do not always accommodate loaded fire trucks and equipment and that it should be noted on plat notes that individual lot owners need to be aware that a driveway greater than 10% does carry a potential risk of fire and rescue equipment not being able to be reach a structure only accessible by such a driveway.

When I was allowed to make comments on this issue, I pointed out that sprinklers IN a residential structure may buy some time to get occupants OUT, but that sprinklers do NOTHING to combat the holocaust waiting for them outside if what is on fire is the FOREST itself. That is why second access is critical, to allow as many humans as possible to as quickly as possible exit the area of existing fire and/or approaching fire and/or surrounding fire. There is never orderly exiting...it is panic...that is the nature of being human and scared for one's life and loved ones' lives...

I also directed the BOCC's attention to another perspective. Insurance companies do not just look at existing code of a jurisdictional entity. It looks at probability and risk factors. The diseased and dying forests in Kittitas County are part of a huge Pacific Northwest globally known problem. Insurance companies will look at WATER AVAILABILITY when underwriting risk in non-urban, non-suburban areas that are FORESTED AREAS, FORESTED AND IN A DESERT, SHRUB-STEPPE, AND SHRUB-STEPPE IN A DESERT. Insurance companies look at whether there is a PROFESSIONAL FIRE DISTRICT (with usually better funding from a wealthier enclave of support) or a VOLUNTEER FIRE DISTRICT which usually is rural, sparsely populated.

It is my opinion that allowing rural residential development to exceed the second access requirements for developments greater than 30 lots/units and up to 100 lots/units in rugged topography with LIMITED WATER AVAILABILITY with VOLUNTEER ONLY FIRE DISTRICTS in a county with DISEASED AND DYING FORESTS and in a county with so much land owned by the Washington State Department of Fish & Wildlife which borders the forest & range rural areas that are also focus points for development in this county (noting that the DFW has no firefighting capabilities and which the Department of Natural Resources has already publicly cited that it will no longer fight fires on DFW lands due to budget constraints/restraints) is placing an avoidable, unnecessary financial and legal burden of risk upon its county taxpayers and is a complete avoidance of the responsibility of the county to protect "health, safety, and welfare" of human beings just so capital-poor developers who have already purchased land speculatively and are already hard pressed to stay in business can pass costs and risks onto the taxpayers because without such relief they could not afford to develop and get a return on their investment. It is the county's responsibility to look at the whole picture and consider all of the risks involved and the true public benefit, not just the limited POTENTIAL financial remuneration benefit for a few.

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I also disagree with the county agreeing to take on all private roads built to county road standards that are inside private developments. That is simply passing the costs of snow plowing, road maintenance, etc., that should be part of a homeowners association, mutual road cooperative, and other such PRIVATE enterprises, onto all county taxpayers. This county is a sparsely populated rural county and growing the road system unnecessarily is a huge burden to county taxpayers as it is.

Respectfully submitted,

Catherine Anne Clerf
60 Moe Road
Ellensburg, Washington 98926

PG 1 OF 2
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ROAD STANDARDS,
SECOND ACCESS
02-28-2012

MEMO

To: Planning Commission
From: Neil A. Caulkins, Deputy Prosecuting Attorney
Re: Road Standards, Second Access
Date: February 28, 2012

The Prosecuting Attorney's Office, in addition to legally advising Kittitas County, administers claims for damages brought against the County. The Prosecutor's Office is concerned that, if the limitation on the number of lots requiring a second access is raised above the current standard, 40 lots, the County's liability will be unnecessarily increased and adequate provision for public health, safety, and welfare will not be provided.

RCW 58.17.110 provides, among other things, that, for a subdivision to be approved, the County must certify that adequate provision for health, safety, and welfare, specifically regarding transportation, has been made. Should the County raise the number of lots not needing a second access from 40 to 100, the potential liability is considerable. If a forest fire were to occur in which people died, the question will assuredly be asked, did the County assure that adequate provision was made for health, safety, and welfare regarding transportation, or did it breach a standard of care?

Administrative and legislative codes may be considered by juries as evidence of relevant standards of care. *See for example the Washington Products Liability Act, RCW 7.72.050.* It is normal in an injury case to look to uniform acts and regulations of the municipality and its neighbors to discern the applicable standard of care before the jury makes a determination whether that standard of care was breached. The International Fire Code sets the number of lots not requiring a second access at 30. Kittitas County Code has, before these proposed amendments, set that number at 40 lots. Chelan County limits the number of lots on a road to 40 before a second access is required. Grant County limits the number of parcels with one access to 36, and only 18 parcels (except for a planned unit development) can be on a private road. Douglas County requires a second access after 16 parcels. (They word it in terms of 160 Average Trips Per Day (ADT) which comes out to 16 parcels.) Yakima County limits it to 30 parcels before a second access is required. This would quite likely be found by a jury as the relevant standard of care, and if harm occurred to persons and property as a result of our increasing that threshold, the County could be found to have breached a standard of care, and thereby be liable. By raising the number of lots permissible without a second access to 100, the County is quite arguably not making adequate provision for health, safety, and welfare regarding transportation as required by RCW 58.17.110.

(King County limits the number of lots not needing a second access to 100. It is important to remember that King County is significantly different than Kittitas County. It has for more fire protection services because of its overall more urban nature. It is far wetter, and hence less prone to burning. Kittitas County is far drier and more rural. Having the same second access requirements as King County would only make sense if the two counties were similar.)

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02-28-2012

Additionally, the Growth Management Act (GMA) requires that the County make adequate provision for public services, which includes transportation, fire, and emergency services. One of the goals of the GMA, as stated in RCW 36.70A.020(12) provides that the County must "Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards." It is difficult to imagine how raising the number of allowable lots without secondary access to 100 from 40 meets the GMA goal of ensuring adequate provision of public transportation, emergency and fire services.

It is important to keep in mind our current context. The County is in the midst of a large compliance effort involving both its comprehensive plan and development regulations. That compliance is due in September of this year. Some of the key themes in that compliance effort are protection of rural character, appropriate uses in rural areas, and prevention of sprawl. It is difficult to imagine how raising the number of lots that do not require secondary access from 40 to 100 protects Kittitas County's rural character, provides for appropriate uses in the rural areas, or prevents sprawl. Raising this limit will surely be used against us in our compliance hearings before the GMA Hearings Board this fall. The Prosecutor's Office recommends leaving the threshold number of lots requiring a second access at 40 and not raising it to 100.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into as of the 15th day of July, 2010, by and between SUNCADIA LLC, a Delaware limited liability company ("Suncadia") and KITTITAS COUNTY, a political subdivision of the State of Washington (the "County").

WHEREAS, Suncadia executed that certain General Guaranty in favor of the County dated December 4, 2007 (the Guaranty") assuring all financial obligations of Suncadia for certain Obligations imposed by the County (individually and collectively the "Obligations"), a copy of the Guaranty is attached as Attachment 1; and

WHEREAS, the Guaranty is secured by certain letters of credit in favor of the County as beneficiary, copies of the current letters of credit are attached as Attachment 2 and which letters of credit may be extended or replaced (collectively the "Letters"); and

WHEREAS, there remain two long range Obligations as described in paragraph 1 for which the County requires on-going financial assurances for their costs in addition to the Guaranties;

NOW, THEREFORE, in consideration of the terms and conditions of this Settlement and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Suncadia is obligated to complete additional improvements to Jenkins Drive and for a trailhead parking lot and rest room facilities.

1.1 Jenkins Drive is the originally approved secondary access to Phase 3 that is now intended to be eventually replaced by a new road and bridge in the vicinity of the old Winston Bridge location. The Guaranties from Suncadia to the County run to the improvement of Jenkins Drive should Suncadia elect not to construct the Winston Bridge route. The Jenkins Drive Traffic Safety Plan with the County currently calls for design completion and work to commence by mid-2011 and for road and bridge completion by October 2012.

1.2 The trailhead parking lot and rest room facility in the area of the entrance to Phase 3 are general development elements that are meant to service the resort trail system and its connection to the area east of Bullfrog Road. This facility is shown on the Conceptual Master Plan – September 2000 and General Site Plan for Phase 3 but is not specifically required by the Development Agreement or any Phase 3 plat requirements. The completion of this improvement has also been deferred by the County into 2012.

1.3 The work described in this Section shall be completed on the following terms:

1.3.1 The Jenkins Drive Traffic Safety Plan is hereby further amended to provide that all design work shall be complete by April 30, 2013; construction on the Winston Bridge Route shall commence by July 1, 2013; and this Route shall be completed by October 15, 2014.

1.3.2 The trailhead facilities shall be completed by October 15, 2014.

1.3.3 Upon the extension or replacement of the Letters currently set to expire October 5, 2010, the amount of the Performance Letter of Credit shall be increased to \$5,500,000 and the amount of the Enforcement Letter of Credit shall be reduced to \$500,000 in order to more fully account for the completion of the work set forth in this Section.

1.3.4 Concurrent with the mutual execution of this Agreement, Suncadia shall provide the County with written assurances in a form acceptable to the County (i) from JELD-WEN, inc., that it will cause the extension or renewal of the Letters through May 31, 2011 (Extension Letters of Credit), and (ii) from U.S. Bank as administrative agent, that Suncadia and its lenders will provide Letters from and after June 1, 2011 at all times during which any work required in this Section remains to be completed (Replacement Letters of Credit); provided, that the amount of the Performance Letter of Credit shall not be required to be maintained in an amount greater than the estimated cost of the remaining work plus a reasonable contingency, all as may be agreed with the County.

2. In the event less than 31 days shall remain prior to the expiration date of the Letters, it shall constitute an immediate event of default under the Settlement Agreement and the Guaranties, and the County shall have the right, without further notice to or demand upon Suncadia, and without waiving any other rights or remedies which the County may have under the Development Agreement or the Guaranties, to immediately draw on the Letters for the cost of all remaining work including any attorney's fees and costs associated with the enforcement of the County's rights under the Guaranties. Absent an event of default, the County shall take no direct or indirect actions with regard to the Letters

3. Suncadia previously paid County Public Works a deposit of \$10,000 toward certain plat and other inspection fees. The County shall provide an accounting for such inspection fees and any unexpended funds shall be refunded to Suncadia.

4. In order that the County could independently confirm the terms and efficacy of the Letters provided to the County in support of the Guaranties, Suncadia has, without prejudice to either party, previously paid \$10,000 to the County toward payment of outside attorneys' and other third party consulting fees incurred for the review of these documents and assistance in enforcing their terms should that become necessary. The County shall provide Suncadia with copies of paid invoices and return any unexpended funds to Suncadia.

5. There are no other verbal or other agreements which modify or affect this Agreement, and all amendments hereto shall be in writing and signed by each party. Time is of the essence of this Agreement.

6. This Agreement shall be governed and construed according to the laws of the State of Washington and shall be binding upon and inure to the benefit of the parties hereto, their respective successors and assigns. In the event suit is brought to enforce any of the provisions of this Agreement, venue shall be laid in Kittitas County, Washington.

7. Suncadia does hereby ratify and confirm to the County that the Guaranty in favor of Kittitas County is in full force and binding affect.

Executed as of the date first above written.

SUNCADIA, LLC, a Delaware limited liability company

By: Easton Ridge Investors, LLC, a Delaware limited liability company, its Managing Member


By: Gary Kittleson, Vice President


By: Paul Eisenberg, Senior Vice President

KITTITAS COUNTY

By: Kittitas County Board of Commissioners

By: Mark McClain, Chairman Kittitas County Board of Commissioners
As authorized by Resolution No. 2010-_____



Approved As To Form:

Neil A. Caulkins, Deputy Prosecuting Attorney

ATTACHMENT 1

**Copy of the Guaranty
Follows this page**

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

**A RESOLUTION AUTHORIZING BOARD EXECUTION OF A SETTLEMENT
AGREEMENT WITH SUNCADIA LLC PROVIDING FOR CONTINUED
PERFORMANCE GUARANTIES**

RESOLUTION

NO. 2010-_____

WHEREAS, Suncadia executed a General Guaranty in favor of Kittitas County on December 4, 2007 assuring financial obligations of Suncadia for certain obligations; and

WHEREAS, that General Guaranty is secured by certain letters of credit in favor of Kittitas County; and,

WHEREAS, those obligations include additional improvements to Jenkins Drive and for a trailhead parking lot and rest room facilities; and,

WHEREAS, Suncadia and the County have negotiated a settlement agreement to provide for that continued performance guaranty and security.

NOW, THEREFORE BE IT RESOLVED: That the Kittitas County Board of Commissioners hereby authorizes the execution of the attached Settlement Agreement providing continuing performance guaranties from Suncadia LLC for certain obligations.

DATED this _____ day of _____, 2010 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

Mark McClain, Chairman

Paul Jewell, Vice- Chairman

Alan A. Crankovich, Commissioner

ATTEST:
CLERK OF THE BOARD

APPROVED AS TO FORM:

Julie A Kjorsvik

Neil A. Caulkins WSBA #31759

EXCERPTS FROM
KITITAS COUNTY
LONG RANGE TRANSPORTATION
PLAN
JUNE 3, 2008

Chapter 5 – New Corridors

New Corridors for Better Access

Kittitas County's population and the volume of traffic resulting from the population growth are expected to grow by a multiplier of 1.43 to the year 2025. The most concentrated growth is expected to occur in the Cle Elum-Roslyn-Suncadia sub-area and surrounding the City of Ellensburg. New corridors are needed to accommodate this future growth. Also, new corridors are needed for improved road network connectivity and additional access for emergency service areas.

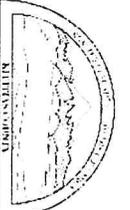
When new development projects occur in areas that this plan has identified as needing new corridors, the new facility would likely be for the benefit of new development. In these cases, developers (anyone subdividing land) will be required to build and dedicate the right of way for these roads to the County. These new corridors will be built to meet Kittitas County Road Standards for public roads. When land is subdivided, road improvements are generally required for a development to meet Kittitas County Road Standards. Other new corridors not directly related to new development projects will require federal or state grants with local matching funds.

New corridors were identified in locations that are experiencing increased development and in need of additional access and improved connectivity. These new corridors are conceptual and the specific alignment for these connections will be determined as future development occurs.

The new arterial corridors that have been identified are shown in the figure on the following page. Detailed information regarding the potential benefits of these projects and their estimated cost of construction are shown in Table 5-1. The costs were estimated for comparison purposes only, using the assumption that it cost \$1.62 million per mile. Engineer design estimates have not been prepared.

**Table 5-1
Kittitas County New Corridors**

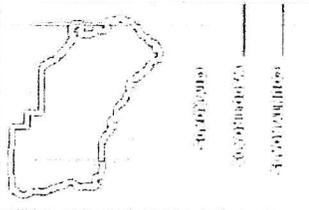
<i>Project Description</i>	<i>Benefits and Development Characteristics</i>	<i>Estimated Cost (In Millions)</i>
Bowers Road to Look Road Connector	Improve access to Industrial Park, Airport, and I-90, providing economic growth with better access to jobs. Estimated 2,400 ADT in 2025, LOS A. Level terrain.	\$1.4
Middle Fork Teanaway Rd to Salmon La Sac Rd. Connector	By-pass congested areas and access developable areas to provide economic growth. Estimated 900 ADT in 2025, LOS A. Rolling to mountainous terrain.	\$10.0
Salmon La Sac Rd./Cooper Lake Rd./FS Rd 4600-000 to FS Rd 4930-000/Kachess Lake Rd. Connector	Coordinate with US Forest Service to connect Forest Service Roads for an emergency access that is open during the summer season. Rolling to mountainous terrain.	\$5.0
Winston Road to I-90 Connector	Provide secondary access to Cle Elum Lake vicinity and by-pass congested areas. Improve transportation grid system in sub-area. Rolling terrain.	\$5.0
Alliance Road to Dakota Road Connector	Provide improved connectivity between Alliance Road and Roslyn and by-pass congested areas of SR 903. Improve transportation grid system in Cle Elum-Roslyn area. Rolling terrain.	\$2.0
Fowler Creek Road to Nelson Siding Road Connector	Provide secondary access parallel with Nelson Siding Road and Westside Road. Improve transportation grid system in sub-area and access to recreational areas. Rolling terrain.	\$4.5
Pasco Road - Westside Road Connector	Provide secondary access parallel with Fowler Creek Road and Woods & Steele Road. Improve transportation grid system in sub-area. Rolling terrain.	\$1.5



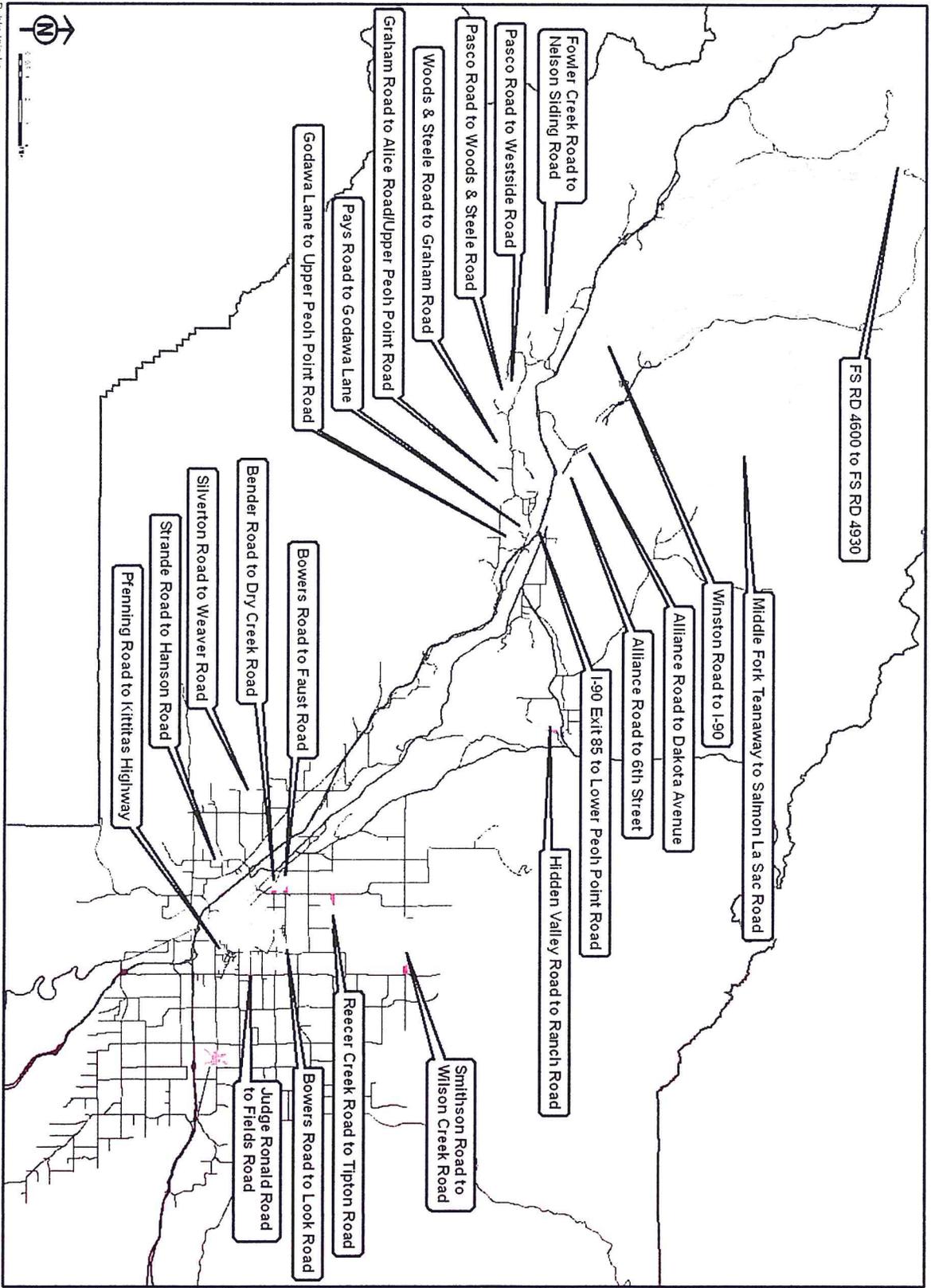
Kittitas County Transportation Plan

Map of KITTITAS COUNTY

Legend
State Road Departments
County Road Dept.
City/Township



2008 Kittitas County Department of Public Works



intersection with a stop sign controlling southbound traffic. The posted speed on University Way is 40 miles per hour and on Reecer Creek Road is 50 miles per hour. The County standard for the intersection is LOS "C."

This intersection's future LOS "E" can be improved to LOS "B" if a traffic signal is installed at this intersection. Special advance signing will be required on University Way.

Estimated Costs: \$200,000.

Although the above intersections just east and west of Ellensburg are the only significant county road intersections identified as having a LOS below standard, there are three other locations outside of the County's jurisdiction that will fall below the LOS standard of LOS C (rural) and LOS D (urban) in 2025:

- I90 EB ramps / Bullfrog Road (Exit 80) west of Cle Elum
- Canyon Road / I90 EB ramps in Ellensburg
- Alder Street / 14th Avenue in Ellensburg

Another area of emerging concern for increasing traffic levels is the Cle Elum-Roslyn-Suncadia sub-area. The Suncadia Master Planned Resort, at build out, will add 3,785 new residential units and will have a ripple effect on the population growth in the cities of Cle Elum and Roslyn. The County should carefully monitor the traffic impacts on County roads in this sub-area as growth occurs.

Operating conditions of intersections throughout the county will continue to be monitored and addressed as needed.

proportionate to the forecasted growth of the general population. Finding solutions for meeting their mobility needs will continue into the future.

Considering the increasing aging population, persons with disabilities, youth population, and low-income individuals in Kittitas County, it is estimated the future public transportation demand in 2025 is 5.0% of the total trips. This estimate also assumes that public transportation services would be made available for both the special needs population and the general public. This percent of trips translates into approximately 1,270 peak hour trips. Using the transportation planning model, the locations of where these public transportation trips started and ended were determined and the model indicated that approximately 90 trips would be made on I-90 in each direction and the highest demand for trips would be concentrated within Ellensburg and in the Cle Elum / Suncadia / Roslyn sub-area.

School District Transportation

There are five school districts in Kittitas County with a total of 4,841 students enrolled in 2005. Each of the districts provides transportation services to students with their own equipment, driver training, maintenance, and operations. School districts also provide some transportation for after-school activities and for extracurricular events. The state allocates funds to each school district based on a formula that identifies the number of students and miles from school that students are transported. This allocation doesn't represent the total expense for transportation. School districts must supplement their transportation allocation with local funds – which often results in a shortage of funds to provide transportation for after-school activities. A study conducted in 2006 indicated that school districts in Kittitas County provide transportation for 1,985 students or 714,600 passenger trips during a school year and receive an average state reimbursement of \$1.67 per trip.⁹

The County coordinates with the school districts to identify school safety zones, no-parking zones adjacent to schools, and improvements needed for bus stops or bus turnarounds.

⁹ Coordinated Public Transit – Human Services Transportation Plan; 2006; QUADCO – Kittitas, Lincoln, Grant, and Adams.

Specific recreational sites and their unique transportation related characteristics are discussed below.

Gladmar Park: is located in Thorp and owned by Kittitas County. In 1996, flooding created a new river channel, which cut off access to the park. A recent 50-year lease agreement with Central Washington University will bring improvements and access to the park, opening it for the public and student research and education. In exchange for low lease payments, CWU will improve the park by installing parking, restrooms, and footbridges. State Parks will be involved in the improvements so the site can serve as an access point to the John Wayne Trail, which runs adjacent to the park.

Suncadia: An assessment of traffic generated by recreational activities was conducted by Suncadia during the 2006 Memorial Day weekend in the Cle Elum / Roslyn / Suncadia area. Memorial Day was assumed to have traffic volumes that would represent a high average summer weekend or a low summer holiday weekend.

Bullfrog Road is a major route leading from the Puget Sound area to Upper County. Traffic counts collected by Suncadia indicate Bullfrog Road weekday ADT has increased by 10.4 – 11.7% a year since 2000. Weekend traffic has increased by 2.4 – 3.0% a year since 2000.

Kittitas County traffic counts indicate that Bullfrog Road ADT has increased over 50% in the past four years. Suncadia will continue to monitor traffic levels and impacts related to the Suncadia resort area as required by its Development Agreement with the County.

County Sno-Parks: The County is responsible for keeping several roads and official Sno-Parks plowed and accessible. Designated county road shoulders are used for winter recreation parking on Lake Kachess Road, Salmon La Sac Road, Teanaway Road, and Reecer Creek Road. Concerns over safety have been raised by the use of county road shoulders as Sno-Parks on these roads due to the reduction of roadway width when snow is stored on the sides of the road and the intermingling of vehicular traffic with snowmobiles, snowshoers, cross-country skiers, and other winter recreation users. The county should replace the on-street parking with off-street parking lots for recreational activities, especially

Model Forecasts

The number of dwelling units for each subarea is presented in Table 13 below. Note that Upper County has some zones with large numbers. These include recreational and part time dwellings. By splitting the land use categories, as explained in the previous paragraph, this allowed the model to more appropriately generate trips for the recreational dwellings at a lower rate than the Lower County dwellings. A complete listing by zone is presented in the aforementioned Model Documentation report.

Table 13: Kittitas County Traffic Model
Number of Dwelling Units by Subarea and Growth

2005 -2025

District	2005	2025	Growth Multiplier
Upper County	11,300	16,300	1.44
Lower County	5,500	6,900	1.25
Range	1,800	2,000	1.10

Forecasts were made by again assimilating the forecasted land use for each of the previous models. For the forecasts, it was assumed that the Cle Elum-Roslyn- Suncadia sub-area would develop as proposed in the Cle Elum UGA study conducted by Shapiro and Associates. These forecasts were using Alternative 4 for a 30 year horizon.

One goal for the forecasts was that they be consistent with the Washington State Office of Financial Management (OFM) "high growth" scenario for Kittitas County. The OFM high forecasts show a multiplier of 1.43 for the County population. In the new traffic model, the number of residential units was used as a surrogate for population. After the growth in the Cle Elum-Roslyn-Suncadia sub area was included, the growth for the remaining zones was adjusted until the total growth of residential units equaled the 1.43 multiplier. All other land uses were similarly adjusted. The forecast number of dwelling units and their distribution is shown in Table 13.

Growth is isolated and shown at the same scale in Figure 6. As can be seen, most of the growth is occurring in the Upper County and Lower County with very little growth in the Range area.

The growth areas are the Suncadia and Cle Elum - Roslyn areas with additional growth occurring in and around Ellensburg. Employment growth follows a similar trend. A more complete discussion of growth by TAZ is provided in the aforementioned report.

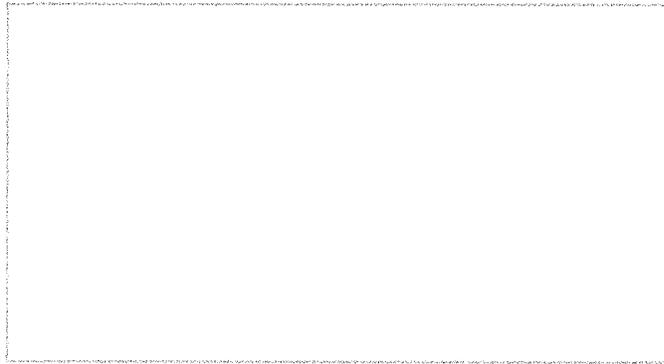


Figure 6: Forecasted Growth by Traffic Analysis Zone

Future Transportation Service

Modeling enables a “snap shot” of the performance of the County transportation network in 2025. This review of service includes all roadways under the jurisdiction of the County and the municipalities. It also includes the state highways and ramp facilities controlled by the Washington State Department of Transportation.

In general, it appears the transportation network will continue to function well in the future, assuming current levels of maintenance and investment continue. There are locations however that will need attention. This section discusses future traffic volumes, future level-of-service and future new roadway connections. A more detailed discussion is offered in the companion engineering document, Technical Report and Technical Appendix found in the Public Works Department archives.

Lindsey Ozbolt

From: Lindsey Ozbolt
Sent: Wednesday, January 09, 2013 4:04 PM
To: 'Jessica Lally'
Cc: Kate Valdez; Kristina Proszek; Elizabeth Sanchez; Phil Rigdon; joe@yakamanation-olc.org; David Powell; John Marvin; Gretchen.Kaehler@dahp.wa.gov
Subject: RE: Sasse Ridge Long Plat LP-11-00002 YN CRP Comments

Jessica,

They will be included in the record for the hearing tomorrow night.

Thank you,
Lindsey Ozbolt

From: Jessica Lally [mailto:jessica@Yakama.com]
Sent: Wednesday, January 09, 2013 2:58 PM
To: Lindsey Ozbolt
Cc: Kate Valdez; Kristina Proszek; Elizabeth Sanchez; Phil Rigdon; joe@yakamanation-olc.org; David Powell; John Marvin; Gretchen.Kaehler@dahp.wa.gov
Subject: Sasse Ridge Long Plat LP-11-00002 YN CRP Comments

Lindsey,

Please see the Yakama Nation Cultural Resources Program's Comments regarding the Sasse Ridge Long Plat (attached).

Thank you,

Jessica Lally
Yakama Nation Archaeologist
Cultural Resources Program
509-865-5121 x4766

RECEIVED

JAN 24 2013

KITTITAS COUNTY
CDS

SASSE
EX 29 29



Confederated Tribes and Bands of the Yakama Nation
Established by the Treaty of June 9, 1855

Post Office Box 151
Toppenish Washington 98948

Kittitas County
Community Development Services
ATTENTION: Kittitas County Hearing Examiner
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

January 9, 2013

RE: Sasse Ridge Long Plat (LP-11-00002)

Yakama Nation CRP is providing these comments for the Kittitas County Hearing Examiner's January 10th, 2013 public hearing and in follow up to recent phone conversations with Kittitas County Planning staff, Lindsey Ozbolt.

As stated in our February 9, 2012 letter regarding this same subject, the Yakama Nation CRP has significant concerns regarding the treatment of cultural resources under this SEPA review. The SEPA checklist for the Sasse Ridge Long Plat states that Yakama Nation archaeologist, David Powell visited the site in 2004. It should be noted that Mr. Powell's site visit represents only a cursory review for a forest practices application and does not in any way fulfill the requirements of SEPA.

Yakama Nation CRP has identified the Sasse Ridge long plat as a culturally sensitive area and requested a full survey in our February 9, 2012 letter. We will consider the SEPA checklist deficient until such a survey has been conducted in accordance with SEPA and RCW 27.53.070.

The Yakama Nation maintains that question 13b of the SEPA checklist cannot be answered without a process that incorporates historic research, tribal consultation, data gathering and professional field investigation. The Yakama Nation has sent numerous correspondences to this effect with little to no acknowledgement from Kittitas County. Please see the attached letter dated June 30, 2006 from then Cultural Committee Chairman, Johnny Smartlowit. This letter is only one example of many sent to Kittitas County on this matter.

Kittitas County has cited language in RCW 27.53.070 that excuses the county from cultural resources surveys on private lands. While the Yakama Nation has always disagreed with Kittitas County's interpretation of RCW 27.53.070, it should be noted that law was amended in 2011. Language identified by Kittitas County dismissing the need for surveys on private lands has been clarified in order to more clearly reflect the intent of the law. RCW 27.53.070 now states:

"It is the declared intention of the legislature that field investigation on privately owned lands should be conducted by professional archaeologists in accordance with both the provisions and spirit of this chapter."

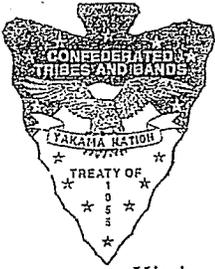
Yakama Nation CRP requests full survey of the Sasse Ridge long plat. Again, we will consider the SEPA checklist deficient until such a survey has been conducted in accordance with SEPA and RCW 27.53.070. If you have any questions, please contact me or call Yakama Nation Archaeologist, Jessica Lally at x4766.

Sincerely,



Johnson Meninick
Yakama Nation Cultural Resources Program Manager
509-865-5121 x4737

CC: Kate Valdez, Yakama Nation THPO
Elizabeth Sanchez, Yakama Nation Environmental Management
Phil Rigdon, Yakama Nation Department of Natural Resources Deputy Director
Joe Sexton, Yakama Nation Office of Legal Counsel
David Powell, Yakama Nation Archaeologist, TFW
Scott Nicolai, Yakima Subbasin Habitat Coordinator, YKFP
John Marvin, Habitat Biologist, YKFP
Gretchen Kaehler, Department of Archaeology and Historic Preservation



June 30, 2006

Kittitas County Public Works
Kittitas County Planners
411 N. Ruby St., Suite 1
Ellensburg, WA 98926

Subject: SEPA Checklist, question 13.

Dear County Planner:

It has come to the attention of the Yakama Nation that Kittitas County has approved SEPA documents without adequate cultural resources investigations. Question 13b of the SEPA checklist reads:

"Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site."

This question cannot be answered without a process that incorporates historic research, tribal consultation, data gathering and professional field investigation. SEPA rules require that decisions made during environmental review be based on sufficient information. Threshold determinations must be "based upon information reasonably sufficient to evaluate the environmental impact of a proposal (WAC 197-11-335)." WAC 197-11-080(1) states that "(I)f information on significant adverse impacts essential to a reasoned choice among alternatives is not known, and the costs of obtaining it are not exorbitant, agencies shall obtain and include the information in their environmental documents;" and "(W)hen there are gaps in relevant information or scientific uncertainty concerning significant impacts, agencies shall make clear that such information is lacking or that substantial uncertainty exists."

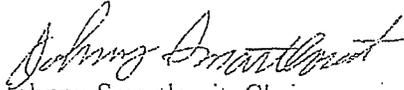
The rule goes on to say that "When there are gaps in relevant information or scientific uncertainty concerning significant impacts, agencies shall make clear that such information is lacking or that substantial uncertainty exists (WAC 197-11-080(2))."

In addition to this, WAC 197-11-080(3) says that if information is not available or costs too much to obtain or if the means to obtain the information is speculative or unknown, the agency may proceed but it "shall generally indicate in the appropriate environmental documents its worst case analysis and the likelihood of occurrence, to the extent this information can reasonably be developed." Therefore, without a professionally reasoned archaeological investigation of a proposed project area, it must be assumed that the entire area contains an archaeological site of cultural significance.

Much of Kittitas County is high probability to contain archaeological resources. Whenever you are the lead agency for SEPA determination and conditioning, please

require a professionally reasoned cultural resources survey to insure that question 13 is adequately answered. Please send the Yakama Nation's Tribal Historic Preservation Officer, Kate Valdez, a copy of the survey report. If you have any questions or comments, please do not hesitate to call Kate Valdez at (509) 985-7596.

Sincerely,



Johnny Smartlowit, Chairman
Cultural Committee

cc: Dave Ward, OLC
Dr. Allyson Brooks, State Historic Preservation Officer



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

Kittitas County
Community Development Services
ATTENTION: Kittitas County Hearing Examiner
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

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JAN 03 2013

KITTITAS COUNTY
CDS

Thursday, January 03, 2013

RE: Sasse Ridge Long Plat (LP-11-00002)

I appreciate the opportunity to provide comments to the Kittitas County Hearing Examiner regarding the proposed Sasse Ridge Long Plat (LP-11-00002).

Please find attached correspondence to me from my fisheries staff. I concur with the findings of the report for fisheries protection. As you may know, substantial funding is being invested in the Yakima River Basin, to allow it to once again support a viable salmonid and resident fish population. The proposed land division may add to the cumulative negative effects that result in a degraded watershed.

Please contact my staff regarding your response to the mitigation measures noted in the attached memo. John Marvin can be reached at 509-966-7406.

Sincerely,

Phil Rigdon
Deputy Director of Natural Resources
Yakama Nation

CC Yakama Nation Office of Legal Council
Scott Nicolai
File

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JAN 24 2013

KITTITAS COUNTY
CDS

Post Office Box 151, Fort Road, Toppenish, WA 98948 (509) 865-5121

SASSE

EX 28

28



Confederated Tribes and Bands
of the Yakama Nation

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Treaty of June 9, 1855

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JAN 03 2013

KITTITAS COUNTY
CDS

Kittitas County
Community Development Services
ATTENTION: Kittitas County Hearing Examiner
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

Thursday, January 03, 2013

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Please contact my staff regarding your response to the mitigation measures noted in the attached memo. John Marvin can be reached at 509-966-7406.

Sincerely,

Phil Rigdon
Deputy Director of Natural Resources
Yakama Nation

CC Yakama Nation Office of Legal Council
Scott Nicolai
File

MEMORANDUM

TO: Phil Rigdon, Deputy Director, DNR
THROUGH: Scott Nicolai, Yakima Subbasin Habitat Coordinator, YKFP
FROM: John Marvin, Habitat Biologist, YKFP
DATE: Wednesday, January 2, 2013
RE: Sasse Ridge Long Plat (LP-11-00002)

The Kittitas County Hearing examiner is conducting a public hearing on the Sasse Ridge Long Plat (LP-11-00002) on January 10th at 6:00 pm. The project proposes to subdivide 30 acres into 10 single-family lots, with water provided by a community water system.

Groundwater

The project proposes to provide potable water with a Group A water system. Staff sees nothing in the record that the proponent has, or proposes to acquire any water rights. The DOE letter submitted on November 14, 2007 also states that the proposal, and the two adjacent proposals, will be required to acquire water rights. The 2007 DOE letter is also prior to the Upper Kittitas Groundwater "Moratorium". On July 16, 2009, the Department of Ecology filed a temporary, emergency rule that closed northern Kittitas County to all new groundwater withdrawals. The Department of Ecology adopted a permanent rule (Chapter 173-539A WAC), effective on January 22, 2011, for managing ground water resources in upper Kittitas County. The new rule withdraws from appropriation all groundwater in Upper Kittitas County with the exception of uses for structures for which a building permit was granted and vested prior to July 16, 2009 and uses which are determined to be water budget neutral. The rule establishes a pathway for developers, contractors, and/or individuals to construct water budget neutral projects by identifying water rights that can be placed into the trust water right program to offset their consumptive use of groundwater.

The Washington State Supreme Court (Court) issued its opinion in *Kittitas County v. Eastern Washington Growth Management Hearings Board* (Board) (No. 84187-0) on July 28, 2011. In its opinion, the Court found that Kittitas County violated the Growth Management Act (GMA) on a number of issues, including the failure to protect water resources.

The Court affirmed that the Board correctly interpreted and applied the law when it found that the County's subdivision regulations violate the GMA by failing to protect water resources. The Court affirmed the Board's conclusions that resulted from connecting the GMA's mandates to protect water resources with the Courts interpretation of RCW 90.44.050 in *Campbell & Gwinn* " that the total group groundwater use in a residential development must be considered, rather than the separate use of each residential lot, for purposes of determining if use is in excess of 5,000 gallons per day for permit exemption." *Campbell & Gwinn*, Slip. Op. at p. 34. In *Campbell & Gwinn*, the Court interpreted the permit exemption of RCW 90.44.050 and held that commonly owned developments are not exempt from the state groundwater permit requirement if the total

development uses more than 5,000 gallons of water per day. The Supreme Court in *Kittitas County* held that:

... several relevant statutes indicate that the County *must* regulate to some extent to assure that land use is not inconsistent with available water resources. The GMA directs that the rural and land use elements of a county's plan include measures that protect groundwater resources. RCW 36.70A.070(1), (5)(c)(iv). Additional GMA provisions, codified at RCW 19.27.097 and 58.17.110, require counties to assure adequate potable water is available when issuing building permits and approving subdivision applications.

Kittitas County, supra, Slip Op. at p. 38 (citation omitted)

The Court concluded "... that the County is not precluded and, in fact, is required to plan for the protection of water resources in its land use planning." Slip Op. at pp. 38-39

The GMA requires that counties provide for the protection of groundwater resources and that county development regulations comply with the GMA. The Court affirmed that the Board properly interpreted the GMA's mandate to protect water to at least require that the County's subdivision regulations conform to statutory requirements by not permitting subdivision applications that effectively evade compliance with water permitting requirements. The proposal should be required to conform to the findings of the Washington State Supreme Court (Court) in its opinion in *Kittitas County v. Eastern Washington Growth Management Hearings Board* (Board) (No. 84187-0).

Staff Recommendation

- The proposal is within jurisdiction of, and should be required to conform to Chapter 173-539A WAC. The proposal should also be required to be consistent with the findings of the Washington State Supreme Court (Court) in its opinion in *Kittitas County v. Eastern Washington Growth Management Hearings Board* (Board) (No. 84187-0).

c: file
Yakama Nation Office of Legal Council



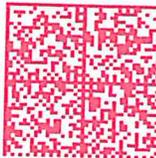
FISHERIES RESOURCE MANAGEMENT
Confederated Tribes and Bands
of the Yakama Nation

Post Office Box 151, Fort Road
Toppenish, WA 98948

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JAN 09 2013

KITTITAS COUNTY
CDS



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Kittitas County
Community Development Services
Attn: Kittitas County Hearing Examiner
411 N. Ruby St., Suite 2
Ellensburg WA 98926

5452656200 0004



Lindsey Ozbolt

From: Lindsey Ozbolt
Sent: Thursday, January 10, 2013 3:05 PM
To: 'John Marvin'; Doc Hansen
Subject: RE: Sasse Ridge LP-11-00002

John,

I have received your comments and they will be entered into the record tonight.

Thank you,
Lindsey Ozbolt

From: John Marvin [mailto:jmarvin@Yakama.com]
Sent: Thursday, January 10, 2013 2:45 PM
To: Lindsey Ozbolt; Doc Hansen
Subject: Sasse Ridge LP-11-00002

Please enter the attached documents into the record for tonight's hearing on Sasse Ridge LP-11-00002.

Please confirm receipt.

Thank you,

John L. Marvin
Habitat Biologist
Yakama Nation
Yakima/Klickitat Fisheries Project
760 Pence Rd
Yakima, WA, 98909
1-509-966-7406 office
1-509-949-2176 cell
1-509-966-4972 fax
jmarvin@yakama.com

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JAN 24 2013
KITITAS COUNTY
CDS

SASSE 27
EX 27

Lindsey Ozbolt

From: John Marvin [jmarvin@Yakama.com]
Sent: Thursday, January 10, 2013 2:45 PM
To: Lindsey Ozbolt; Doc Hansen
Subject: Sasse Ridge LP-11-00002
Attachments: Image.jpg; SasseRidge.doc; DOEMeadow1.jpg; DOEMeadow2.jpg; Sasse Ridge (Newport Hills) LP-11-00002, 11-28-11.docx

Please enter the attached documents into the record for tonight's hearing on Sasse Ridge LP-11-00002.

Please confirm receipt.

Thank you,

John L. Marvin
Habitat Biologist
Yakama Nation
Yakima/Klickitat Fisheries Project
760 Pence Rd
Yakima, WA, 98909
1-509-966-7406 office
1-509-949-2176 cell
1-509-966-4972 fax
jmarvin@yakama.com



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

Kittitas County
Community Development Services
ATTENTION: Kittitas County Hearing Examiner
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

Thursday, January 03, 2013

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Please contact my staff regarding your response to the mitigation measures noted in the attached memo. John Marvin can be reached at 509-966-7406.

Sincerely,

Phil Rigdon
Deputy Director of Natural Resources
Yakama Nation

CC Yakama Nation Office of Legal Council
Scott Nicolai
File

MEMORANDUM

TO: Phil Rigdon, Deputy Director, DNR
THROUGH: Scott Nicolai, Yakima Subbasin Habitat Coordinator, YKFP
FROM: John Marvin, Habitat Biologist, YKFP
DATE: Wednesday, January 2, 2013
RE: Sasse Ridge Long Plat (LP-11-00002)

The Kittitas County Hearing examiner is conducting a public hearing on the Sasse Ridge Long Plat (LP-11-00002) on January 10th at 6:00 pm. The project proposes to subdivide 30 acres into 10 single-family lots, with water provided by a community water system.

Groundwater

The project proposes to provide potable water with a Group A water system. Staff sees nothing in the record that the proponent has, or proposes to acquire any water rights. The DOE letter submitted on November 14, 2007 also states that the proposal, and the two adjacent proposals, will be required to acquire water rights. The 2007 DOE letter is also prior to the Upper Kittitas Groundwater "Moratorium". On July 16, 2009, the Department of Ecology filed a temporary, emergency rule that closed northern Kittitas County to all new groundwater withdrawals. The Department of Ecology adopted a permanent rule (Chapter 173-539A WAC), effective on January 22, 2011, for managing ground water resources in upper Kittitas County. The new rule withdraws from appropriation all groundwater in Upper Kittitas County with the exception of uses for structures for which a building permit was granted and vested prior to July 16, 2009 and uses which are determined to be water budget neutral. The rule establishes a pathway for developers, contractors, and/or individuals to construct water budget neutral projects by identifying water rights that can be placed into the trust water right program to offset their consumptive use of groundwater.

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The Court affirmed that the Board correctly interpreted and applied the law when it found that the County's subdivision regulations violate the GMA by failing to protect water resources. The Court affirmed the Board's conclusions that resulted from connecting the GMA's mandates to protect water resources with the Courts interpretation of RCW 90.44.050 in *Campbell & Gwinn* " that the total group groundwater use in a residential development must be considered, rather than the separate use of each residential lot, for purposes of determining if use is in excess of 5,000 gallons per day for permit exemption." *Campbell & Gwinn*, Slip. Op. at p. 34. In *Campbell & Gwinn*, the Court interpreted the permit exemption of RCW 90.44.050 and held that commonly owned developments are not exempt from the state groundwater permit requirement if the total

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Kittitas County, supra, Slip Op. at p. 38 (citation omitted)

The Court concluded "... that the County is not precluded and, in fact, is required to plan for the protection of water resources in its land use planning." Slip Op. at pp. 38-39

The GMA requires that counties provide for the protection of groundwater resources and that county development regulations comply with the GMA. The Court affirmed that the Board properly interpreted the GMA's mandate to protect water to at least require that the County's subdivision regulations conform to statutory requirements by not permitting subdivision applications that effectively evade compliance with water permitting requirements. The proposal should be required to conform to the findings of the Washington State Supreme Court (Court) in its opinion in *Kittitas County v. Eastern Washington Growth Management Hearings Board* (Board) (No. 84187-0).

Staff Recommendation

- The proposal is within jurisdiction of, and should be required to conform to Chapter 173-539A WAC. The proposal should also be required to be consistent with the findings of the Washington State Supreme Court (Court) in its opinion in *Kittitas County v. Eastern Washington Growth Management Hearings Board* (Board) (No. 84187-0).

c: file
Yakama Nation Office of Legal Council

FW: Kittitas Permit Question

Dunbar, Mark (ECY) [MDUN461@ECY.WA.GOV]

Sent: Wednesday, January 09, 2013 9:53 AM

To: John Marvin

Cc: Park, Sage (ECY) [SUEB461@ECY.WA.GOV]; Reed, Catherine D. (ECY) [CRAJ461@ECY.WA.GOV]

Attachments: Sasse Ridge (Newport Hill~1.docx (751 KB) ; G4-35251 Superseeding ROE ~1.pdf (6 MB)

Mark Dunbar
Water Resources Program
Dept. of Ecology
Central Regional Office
(509) 575-2024

From: Walker, Kurt (ECY)
Sent: Tuesday, January 08, 2013 6:58 PM
To: Dunbar, Mark (ECY)
Cc: Park, Sage (ECY)
Subject: RE: Kittitas Permit Question

Meadow Springs LP0700015 and Tamarac Ridge LP0700018 have water rights.

These two long plat applications are part of a larger project known as "Meadow Springs" which is covered under permit G4-35251. G4-35251 is a mitigated permit. Some of conditions (17 and 20 particularly) have not yet to be satisfied. Thus, full water use is not currently authorized (see attached ROE).

Sassy Ridge LP 1100002 does not have water rights.

The Sassy Ridge long plat application is part of a larger development effort by Newport Hills Land Company Incorporated and managing interest (see attached SEPA WR comments). In total, the project consists of 5 contiguous subdivisions and 8 adjacent lots amounting to 60 lots within an area of approximately 215 acres.

Ecology has had multiple correspondences with the proponent's attorney, Anne Watanabe, regarding the matter of water right permitting for the subject project. Ms. Watanabe has requested that the project be exempted from WAC 173-539A and Water Right Permitting. To be clear, Ecology has consistently informed Newport Hills that a Water Right Permit(s) is required for all water use by the project.

For additional information/detail regarding any of these subdivisions, please feel free to email or stop by my cube.

Hope this helps.

Kurt Walker

WA Dept of Ecology, CRO
Water Resources Program
(509) 454-4237
kwal461@ecy.wa.gov

Winston Churchill

From: Dunbar, Mark (ECY)
Sent: Monday, January 07, 2013 1:19 PM
To: Walker, Kurt (ECY)
Subject: FW: Kittitas Permit Question

Mark Dunbar
Water Resources Program
Dept. of Ecology
Central Regional Office
(509) 575-2024

From: Park, Sage (ECY)
Sent: Monday, January 07, 2013 10:59 AM
To: Dunbar, Mark (ECY)
Subject: Kittitas Permit Question

Mark,
John Marvin from the Yakama Nation contacted us to determine if the following long plats have received a WR permit. They are in upper Kittitas.

Meadow Springs LP0700015
Tamarac Ridge LP0700018
Sassy Ridge LP 1100002

I believe you can find these on Kittitas County's Planning website to find our comment letters. I would check with Kurt and Melissa to see if they recognize the names. Johns phone number is 966-7406. He would like to know by this Wed am if possible.
Thanks!

Sage Park
Permitting Unit Supervisor
Water Resources Program
Washington State Department of Ecology
Central Regional Office
15 W. Yakima Ave, Suite 200 | Yakima, WA 98902
phone (509) 454-7647 | fax (509) 575-2809

Water Resources SEPA Comments for Kittitas County Long Plat Application LP-11-00002, Sasse Ridge

Thank you for the opportunity to comment on the Sasse Ridge Long Plat (LP-11-00002) application.

Total Scope of the Project Pursued by the Proponent

The proponent of this application (LP-11-00002) has pursued several subdivisions in the same area under several Limited Liability Company (LLC) names. These LLCs are controlled by Newport Hills Land Company Incorporated (Newport Hills) and managing interests. In total, the project consists of 5 contiguous subdivisions and 8 adjacent lots amounting to 60 lots within an area of approximately 215 acres. Ecology is aware of the subdivisions listed below in Table 1; not all have been approved by Kittitas County to date (see map below for precise location.)

Table 1 Subdivisions Pursued by Newport Hills Land Co. Inc. in T. 24 N. 7 R. 14 E. W. M. Section 21		
LLC	Subdivision	Lots
Newport Hills Land Co.	Anna Bell	14
Cedar Grove	Cedar Grove	14
Newport Hills Land Co.	Hex Mountain	8
Jolly Mountain Group	Eagle Nest	14
Sasse Ridge	Sasse Ridge	10

Ecology records show that Newport Hills has drilled 7 wells in the subject area (see Table 2). The wells were drilled under controlling LLCs or managing parties.

Table 2 Wells Drilled by Newport Hills Land Co. Inc. in T. 24 N. 7 R. 14 E. W. M. Section 21	
Well Tag No.	¹ Name or LLC
AFH679	Newport Heights
AFH680	Nathan Weis
APG953	Anna Bell Water Club
APG997	Greg Maras
APG996	Marion Weis
APE780	Jolly Mountain Group LLC
APE751	Sasse Ridge LLC

¹ Each well was drilled under a managing interest of Newport Hills Land Co. Inc.

SEPA Checklist

In 3.a.1) of the SEPA checklist, the proponent proposes to use groundwater for the subject application. Under A.9.&10. of the checklist, the proponent acknowledges that approval from the Department of Ecology regarding water use 'may'/'will' be necessary. We agree that water use will require authorization from Ecology.

Applicable Law, Rules, and Court Decisions

In the state of Washington, withdrawals of groundwater from 1945 onward require a water right permit or certificate unless the use is specifically exempt from the state permitting requirements. These exempt uses can be found in RCW 90.44.050. This statute is commonly referred to as 'the permit exemption' or simply 'the exemption' (see attachment for additional information). The use of groundwater under the permit exemption has been interpreted in two Attorney General Opinions (AGO 1997 No. 6 and AGO 2005 No. 17) and by the State Supreme Court in the *Campbell & Gwinn v. Ecology* decision. The recent Upper Kittitas Ground Water Rule (WAC 173-539A) provides additional guidance with respect to defining what uses are 'exempt' from water right permitting.

With regard to this project/application, there are no valid 'exemptions' under RCW 90.44.050. Thus, all use of water must be covered or withdrawn under the authority of a water right permit or certificate. To date, the proponent has not applied for any Water Right Permits for the project.

Correspondence with Proponent

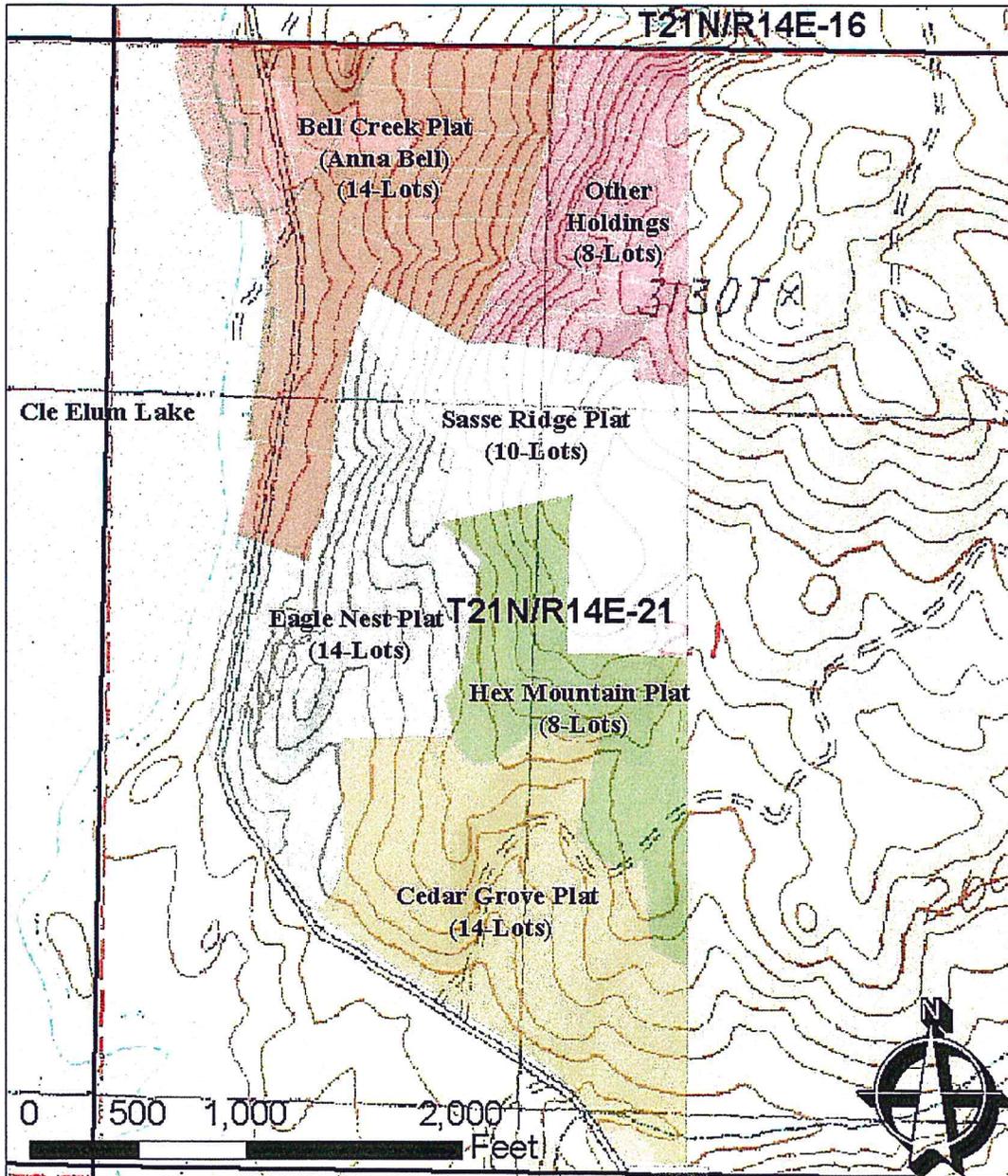
Ecology has had multiple correspondences with the proponent's attorney, Anne Watanabe, regarding the matter of water right permitting for the subject project. Ms. Watanabe has requested that the project be exempted from WAC 173-539A and Water Right Permitting. To be clear, Ecology has consistently informed Newport Hills that a Water Right Permit(s) is required for all water use by the project.

In Summary

The Sasse Ridge (LP-11-00002) subdivision is part of a larger project as defined by WAC 173-539A and AGO Opinion 197 No. 6. As a result, all water use by the project, including LP-11-0002, must be withdrawn and used under an authorized Water Right Permit(s).

The proponent acknowledges that water use authorization from Ecology will be necessary. However, the applicant has not applied for any Water Right Permits for the project. Thus, Ecology will reserve judgment regarding future applications and any mitigation offered. If mitigation is offered as a part of this application, all commenting agencies and persons should have an opportunity to address any potential concerns with or the adequacy of the mitigation offered.

Newport Hills Land Co. Inc. Land Holdings and Subdivisions in T21N / R14E Sec 21



Kittitas County Hearing Examiner

January 10, 2013

Sasse Ridge Preliminary Plat
(LP-11-00002)



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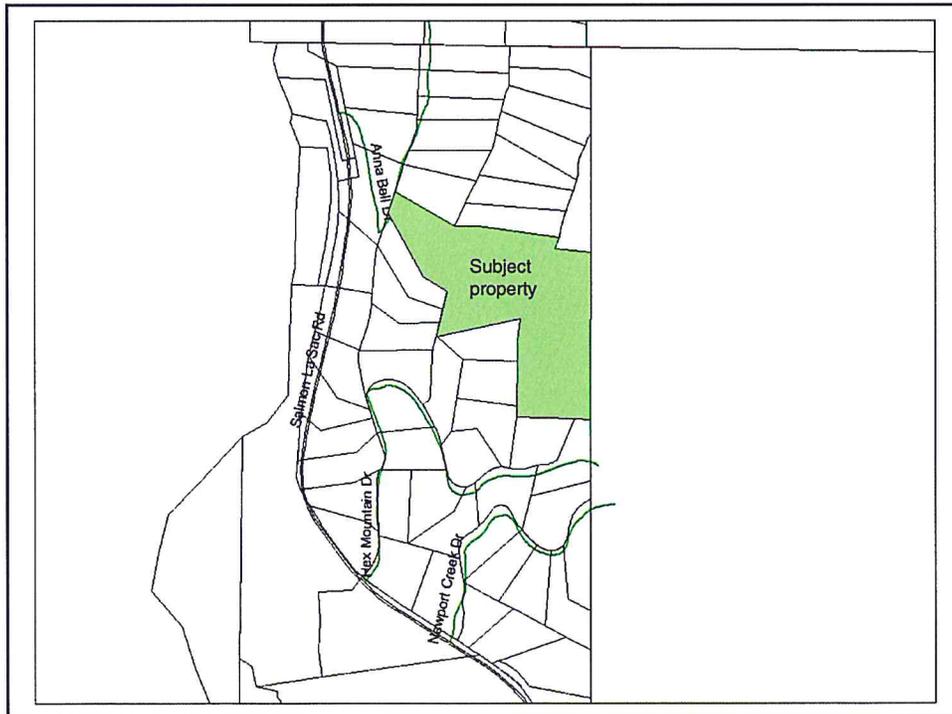
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Kittitas County Hearing Examiner

January 10, 2013

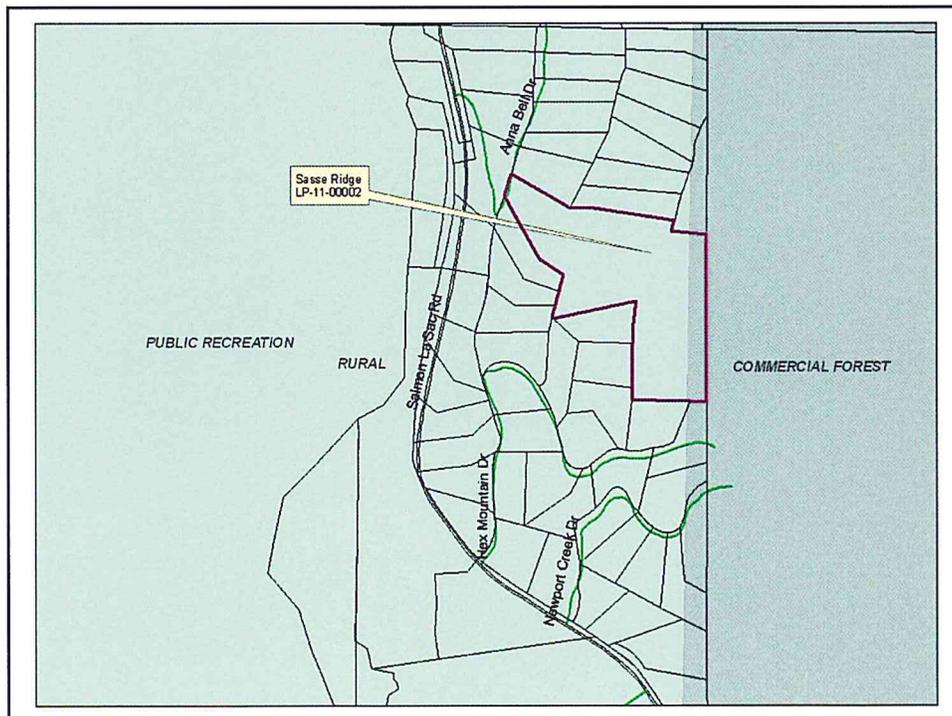
Sasse Ridge Preliminary Plat (LP-11-00002)

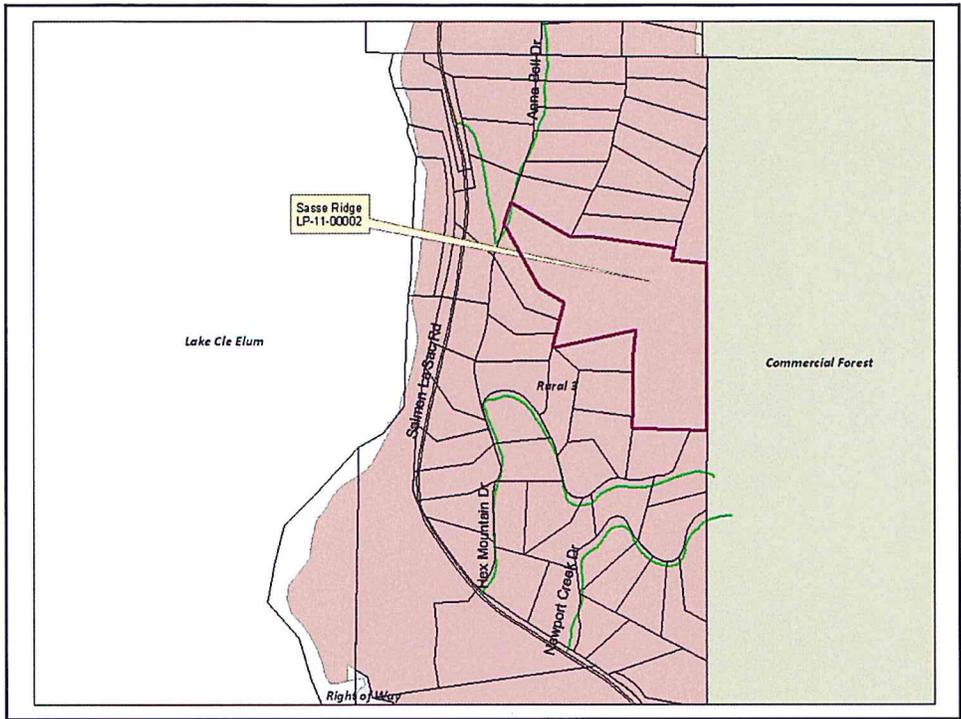


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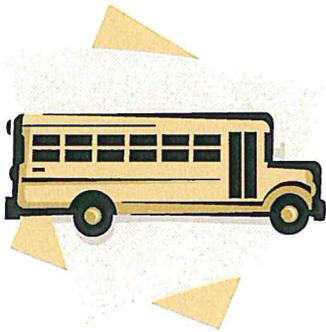
Overview of Proposal

- Project acreage: 30.61 acres
- Number of lots: 10
 - Ranging in size: 3.01 to 3.12 acres
- Domestic Water: Community Water System
- Sewage Disposal: Individual on-site septic or community drainfields
- Land Use: Rural
- Zoning: Rural-3

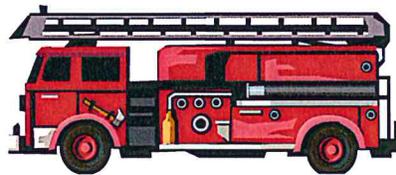




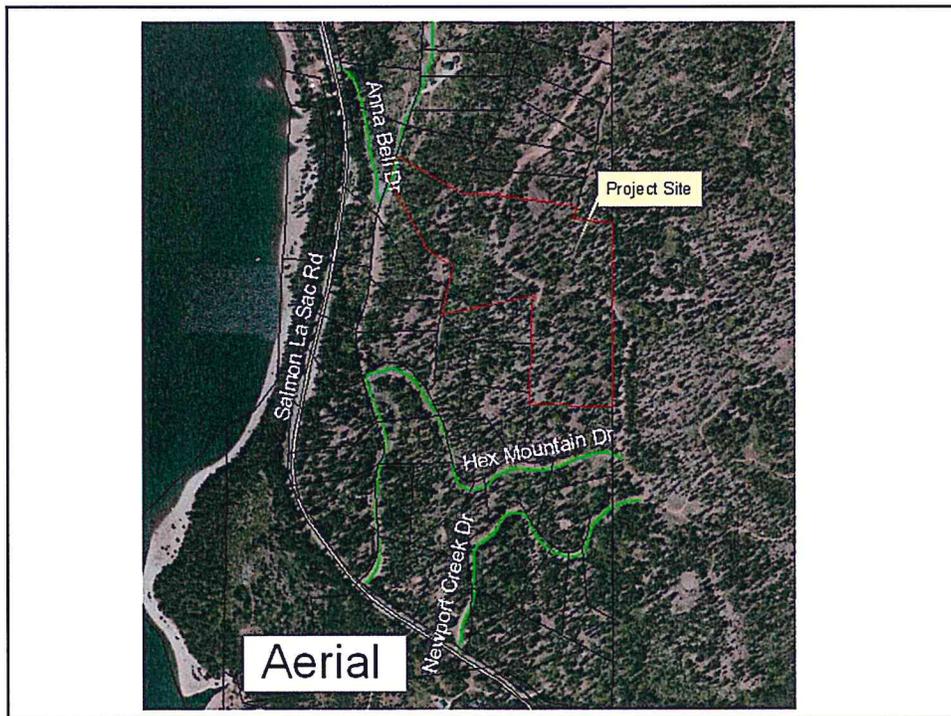
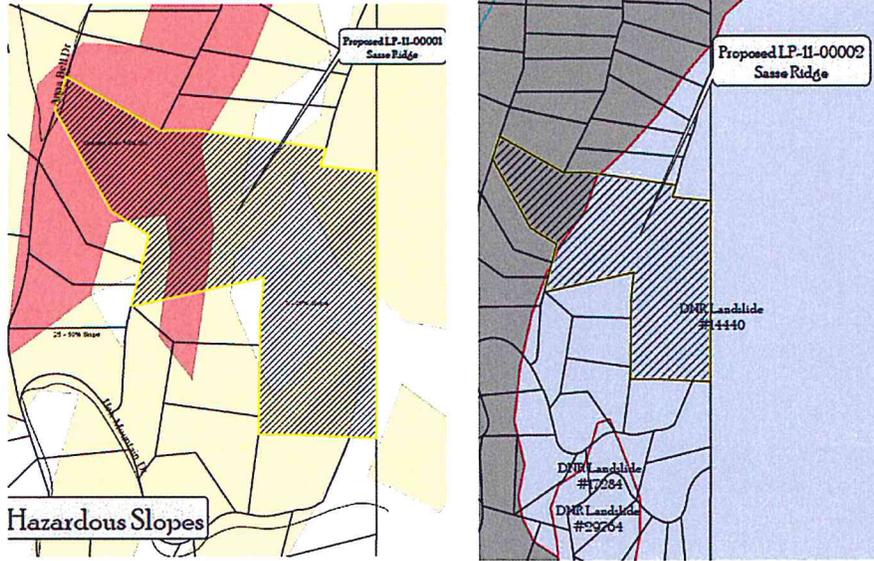
Cle Elum – Roslyn School District



Fire District 7



Critical Areas Analysis



Access

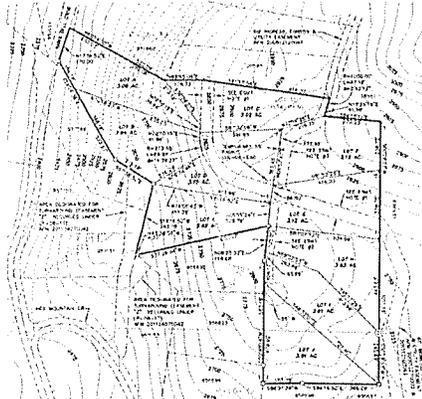
This proposal will have access from Hex Mountain Drive, a 60-foot private access easement off of Salmon La Sac Road.

Notices

- Application was submitted: Aug. 17, 2011
- Notice of Application: Nov. 17, 2011
 - Comment Period ended: Dec. 2, 2011
 - Comments were received by: WA Dept. of Health, WA Dept. of Ecology, Kittitas County Dept. of Public Works, KC Dept. Public Health, KC Fire Marshal, and Yakama Nation.
- SEPA MDNS was issued on Dec. 21, 2012
 - Appeal period ended on Jan. 9, 2013 at 5:00 pm, no appeals were filed.

SASSE RIDGE PLAT
A PORTION OF THE WEST 1/2 OF SECTION 21,
TOWNSHIP 21 NORTH, RANGE 14 EAST, W.M.
KITITAS COUNTY, STATE OF WASHINGTON

LP-11-XX



APPROVALS

KITITAS COUNTY DEPARTMENT OF PUBLIC WORKS
DRAWING AND APPROVED THIS _____ DAY OF _____ A.D. 2011

KITITAS COUNTY ENGINEER
KITITAS COUNTY DEPARTMENT OF PUBLIC WORKS
I HEREBY CERTIFY THAT THE SASSE RIDGE PLAT HAS BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF WASHINGTON. I HAVE REVIEWED THE PLAT AND FIND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE WASHINGTON PLAT ACT.
DATE THIS _____ DAY OF _____ A.D. 2011

KITITAS COUNTY HEALTH DEPARTMENT
KITITAS COUNTY DEPARTMENT OF PUBLIC WORKS
I HEREBY CERTIFY THAT THE SASSE RIDGE PLAT HAS BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF WASHINGTON. I HAVE REVIEWED THE PLAT AND FIND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE WASHINGTON PLAT ACT.
DATE THIS _____ DAY OF _____ A.D. 2011

KITITAS COUNTY PLANNING DEPARTMENT
KITITAS COUNTY DEPARTMENT OF PUBLIC WORKS
I HEREBY CERTIFY THAT THE SASSE RIDGE PLAT HAS BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF WASHINGTON. I HAVE REVIEWED THE PLAT AND FIND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE WASHINGTON PLAT ACT.
DATE THIS _____ DAY OF _____ A.D. 2011

KITITAS COUNTY ASSESSOR
KITITAS COUNTY DEPARTMENT OF PUBLIC WORKS
I HEREBY CERTIFY THAT THE SASSE RIDGE PLAT HAS BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF WASHINGTON. I HAVE REVIEWED THE PLAT AND FIND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE WASHINGTON PLAT ACT.
DATE THIS _____ DAY OF _____ A.D. 2011

KITITAS COUNTY BOARD OF COMMISSIONERS
KITITAS COUNTY DEPARTMENT OF PUBLIC WORKS
I HEREBY CERTIFY THAT THE SASSE RIDGE PLAT HAS BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF WASHINGTON. I HAVE REVIEWED THE PLAT AND FIND IT TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE WASHINGTON PLAT ACT.
DATE THIS _____ DAY OF _____ A.D. 2011

RECIPIENT'S CERTIFICATE
I, _____, of the County of _____, State of Washington, do hereby certify that I am the owner of the land described in the above plat and that I have received the same from the grantor named therein.
Signature: _____
County Assessor: _____

SURVEYOR'S CERTIFICATE
I, _____, a duly licensed Professional Engineer in the State of Washington, do hereby certify that I have surveyed the land described in the above plat and that the same is in accordance with the requirements of the Surveying Act of the State of Washington.
Signature: _____
Candidate No. 10012

Encompass
LAND SURVEYING & ENGINEERING
1014 1/2 1st Ave. SW, Everett, WA 98201
Tel: 425-336-8888 Fax: 425-336-8889
www.encompasswa.com

SASSE RIDGE PLAT
A PORTION OF THE WEST 1/2 OF SECTION 21,
TOWNSHIP 21 NORTH, RANGE 14 EAST, W.M.
KITITAS COUNTY, STATE OF WASHINGTON

DATE	FILE NO.	PLAT NO.
12/15/2011	11076	1 of 2

Project Analysis

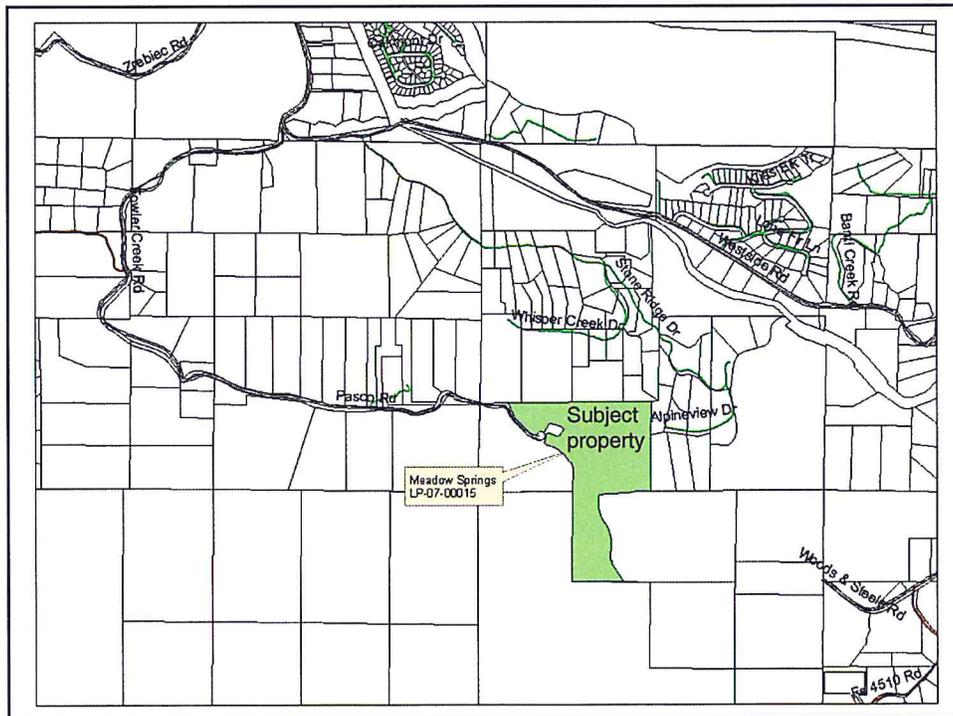
- Consistent with Comprehensive Plan.
- Not consistent with KCC 17.30 Rural-3 zoning designation. Specifically KCC 17.30.055. Commercial Forest setback
 - As conditioned; showing the 200' setback on the final plat will make this project consistent with the R-3 zone.
- Consistent with KCC 16.12 Preliminary Plat Subdivision Code
- Consistent with KCC 12 Roads and Bridges

Staff recommends preliminary approval as conditioned.

Kittitas County Hearing Examiner

January 10, 2013

Meadow Springs PBCP Preliminary Plat (LP-07-00015)



Overview of Proposal

- The original request was for a 62 lot PBCP on approximately 158 acres. It was proposed to be served by a public water system, and individual septic systems or community drainfields would provide sewage disposal.
- This project was amended and reduced in size in 2010.

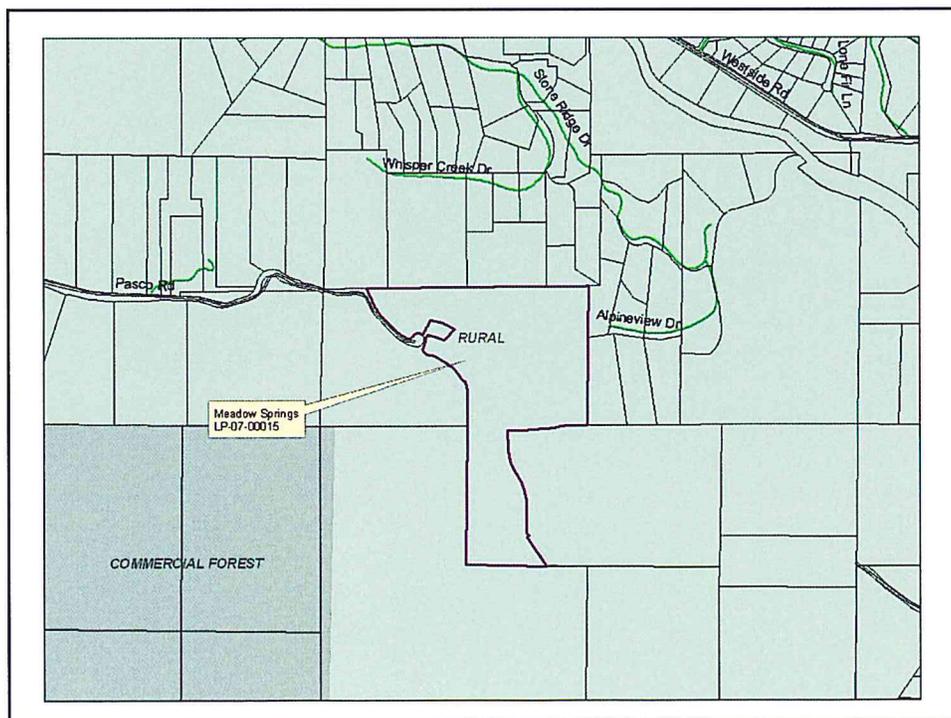
Overview of Proposal cont.

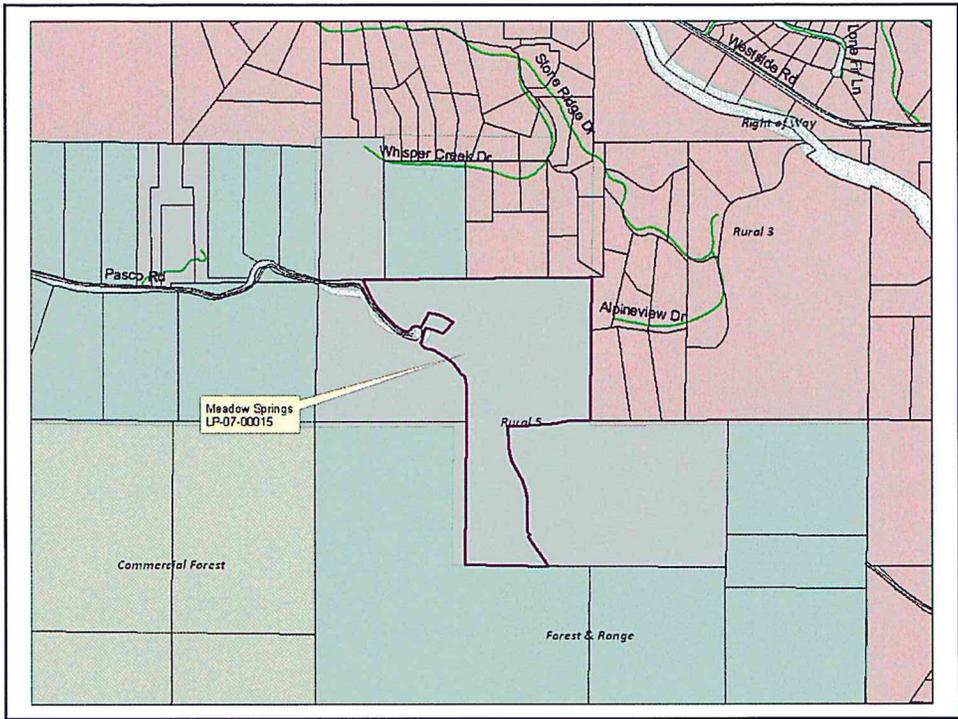
The revised project is as follows:

- Project acreage: 67.41 acres
- Number of lots: 26
 - Average lot size is .88 acres
- Domestic Water: Public Water System
- Sewage Disposal: Individual on-site septic or community drainfields
- Land Use: Rural
- Zoning: Rural-5

Overview of Proposal

- Group A water system and individual septic systems and/or community drainfields are proposed.
- As a condition of approval, the Public Health Department will require:
 - Completion of soil logs which meet the septic availability requirement;
 - Documentation from DOE verifying that the quantity of water required for the plat has been transferred;
 - Placement of all proposed wells and submittal of well logs showing yields consistent with the requirement above and the require nitrate and bacteriological tests showing potability of that water.

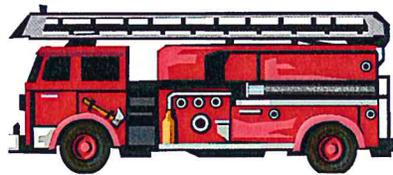


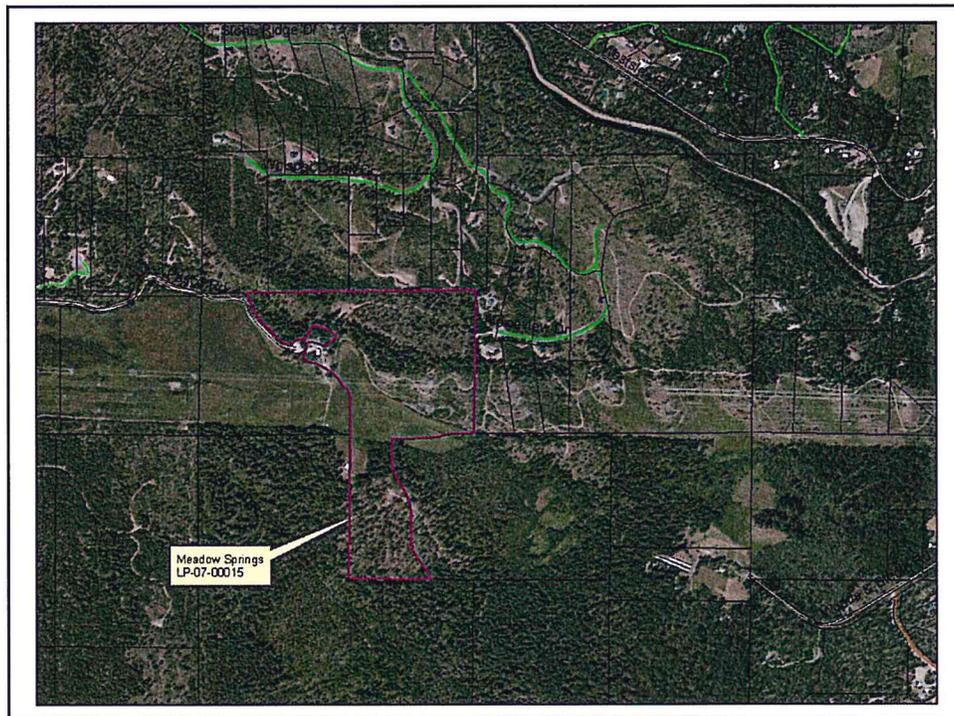
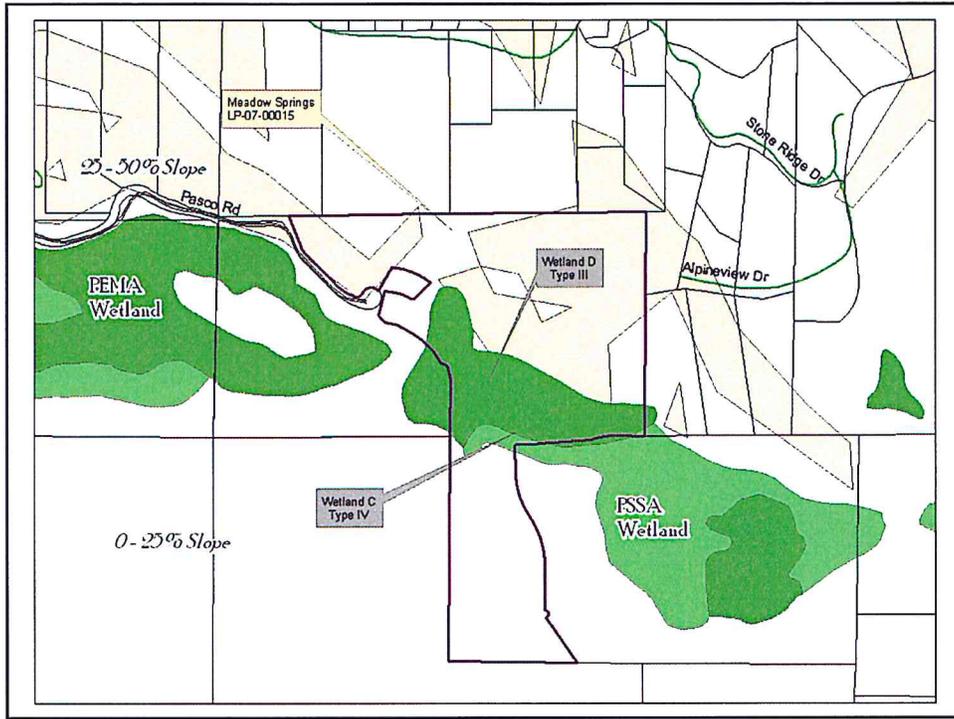


Cle Elum – Roslyn School District



Fire District 7





Access

There are two proposed access scenarios:

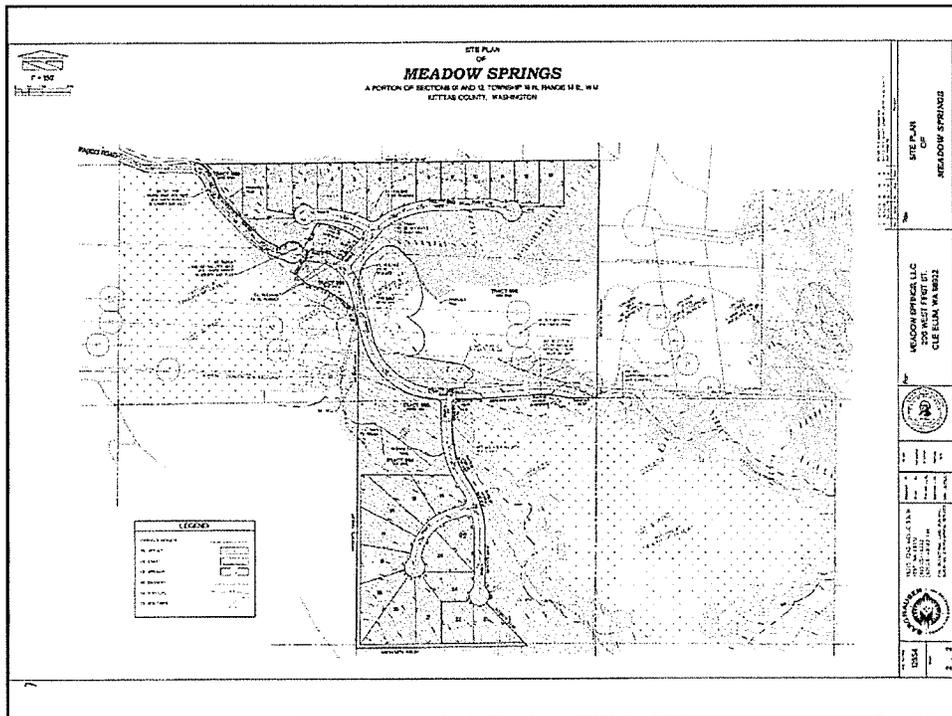
- The preferred scenario would have primary access from Stone Ridge Drive, a private 60-foot access easement, and second access from Pasco Road.
 - Currently, the property does not have legal access across Stone Ridge Drive, and the developer will have **one year** from the date of preliminary approval to secure legal access.
- The second scenario would be primary access from Pasco road and a second access would not be required.
 - This would go into effect if legal access is not secured to use Stone Ridge Drive within one year from date of preliminary approval.

Notices

- Application was submitted: Apr. 10, 2007.
- Notice of Application: Oct. 31, 2007
 - Comment period ended: Nov. 15, 2007
 - Numerous comments were received from the public. The following agencies provided comment: WA Dept. of Ecology, Dept. of Archaeology & Historic Preservation, KC Fire District 7, Kittitas County Fire Marshal, KC Dept. of Public Works, KC Dept. of Environmental Health, WA Dept. of Fish & Wildlife, and BPA.
- SEPA MDNS was issued on Oct. 30, 2009
 - Appeal period ended on Nov. 13, 2009 at 5:00 pm. No appeals were filed.

Notices cont.

- Based on revised information, a new SEPA MDNS was issued on Nov. 30, 2012.
 - Appeal period ended on Dec. 13, 2012 at 5:00 pm. No appeals were filed.
- Notice of Cancelled Hearing: Dec. 6, 2012
- SEPA MDNS – Addendum was issued on Dec. 21, 2012
 - Appeal period ended on Jan. 7, 2013 at 5:00 pm. No appeals were filed.



Project Analysis

- Consistent with Comprehensive Plan.
- Consistent with KCC 16.09 Performance Based Cluster Platting
 - KCC 16.09 requires 40% of the project area to be placed in open space. This equals 26.96 acres. Proposed open space is 28.77 acres

OPEN SPACE TABLE	
GROSS SITE AREA	67.41 AC. (2,936,553 S.F.)
REQUIRED OPEN SPACE (40% OF GROSS SITE AREA)	26.96 AC.
PROPOSED OPEN SPACE	28.77 AC.
PROPOSED OPEN SPACE % OF PROJECT AREA	42.7% PERCENT

PBCP Rating System

PBCP BONUS POINTS	
TRANSPORTATION CONNECTIVITY	25 POINTS
OPEN SPACE	0 POINTS
WILDLIFE HABITAT	15 POINTS
HEALTH/SAFETY (GROUP A WELL)	50 POINTS
RECREATION (PASSIVE/ACTIVE)	15 POINTS
TOTAL POINTS	105 POINTS

67.41 ac. / 5 ac. zone = 13 units

13 units x 2 (100% bonus) = 26 units

Project proposes 26 units

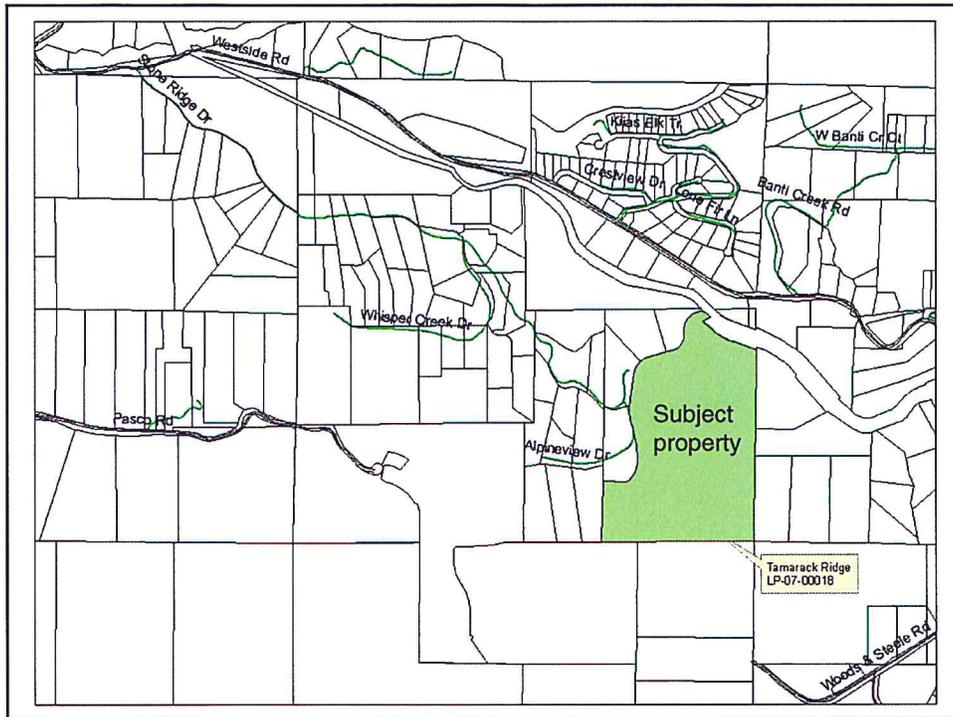
Project Analysis cont.

- As conditioned, it is consistent with KCC 17.30A - Rural 5 Zoning
 - KCC 17.30A requires the minimum lot size for a cluster plat to be 0.5 acres when public water and sewer systems are used. The current average lot size is 0.88 acres.
 - As public sewer system is required when the lot size decreases below 5 acres. A community septic system qualifies as a public system.
- Not consistent with KCC 16.12 Preliminary Plat Subdivision Code
 - Prelim. Plat page size is too large, KCC 16.12 requires 18 x 24 rather than the submitted 24 x 36 inches.
- Consistent with KCC 12 Roads and Bridges

Kittitas County Hearing Examiner

January 10, 2013

**Tamarack Ridge PBCP Preliminary Plat
(LP-07-00018)**



Overview of Proposal

- The original request was for a 32 lot PBCP on approximately 50 acres. It was proposed to be served by a public water system, and individual septic systems or community drainfields would provide sewage disposal.
- This project was amended in 2010.
 - Tamarack Ridge PBCP and Starlite Heights PBCP were combined together , thereby reducing overall size of project.

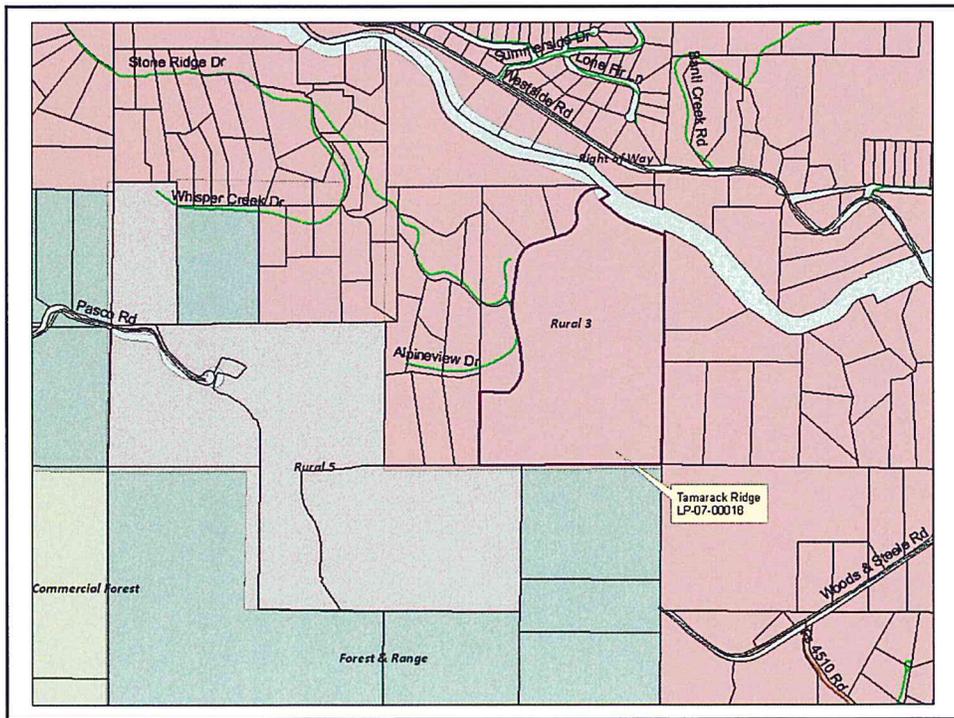
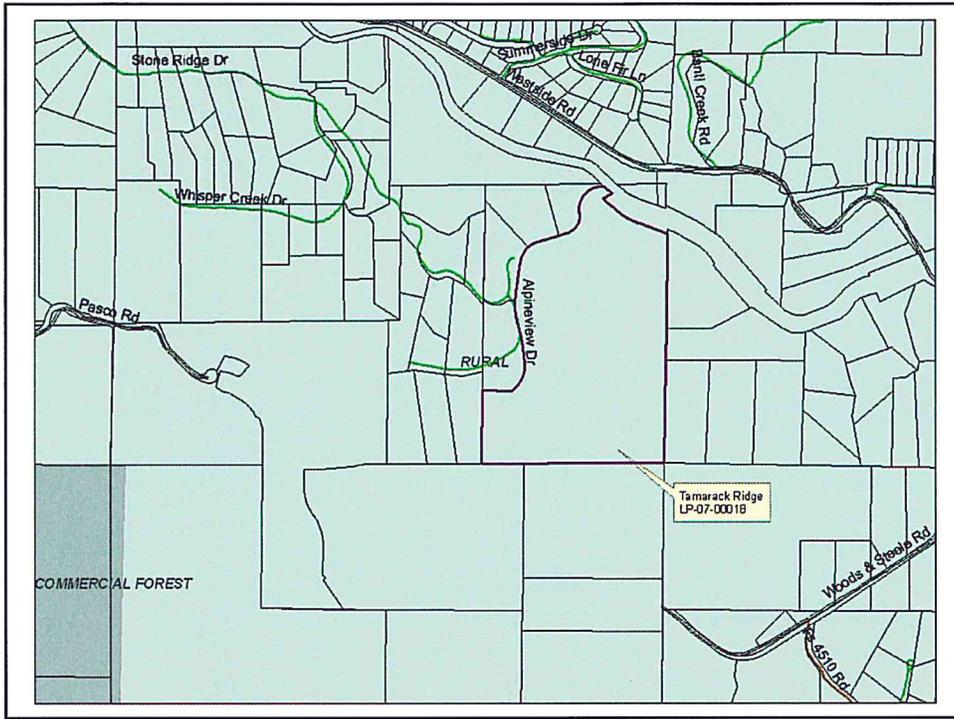
Overview of Proposal cont.

The revised project is as follows:

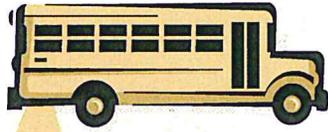
- Project acreage: 78.49 acres
- Number of lots: 37
 - Average lot size is .95 acres
- Domestic Water: Public Water System
- Sewage Disposal: Individual on-site septic or community drainfields
- Land Use: Rural
- Zoning: Rural-3

Overview of Proposal

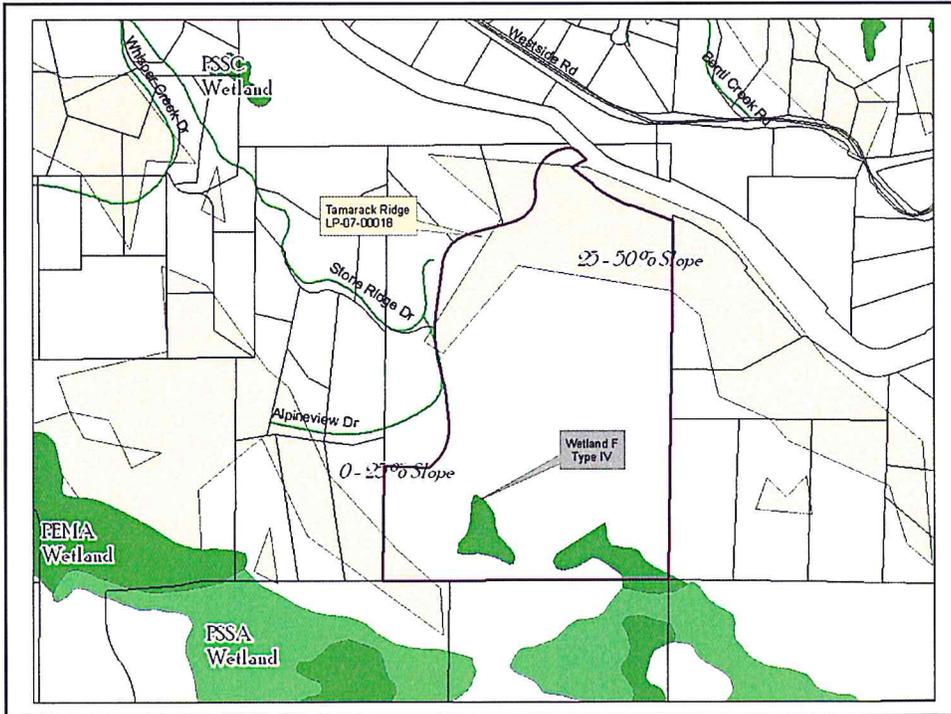
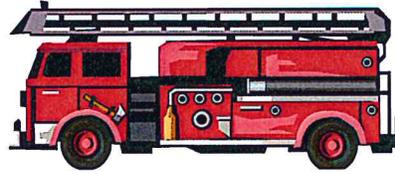
- Group A water system and individual septic systems and/or community drainfields are proposed.
- As a condition of approval, the Public Health Department will require:
 - Completion of soil logs which meet the septic availability requirement;
 - Documentation from DOE verifying that the quantity of water required for the plat has been transferred;
 - Placement of all proposed wells and submittal of well logs showing yields consistent with the requirement above and the require nitrate and bacteriological tests showing potability of that water.



Cle Elum – Roslyn School District



Fire District 7





Access

- Primary access will be from Stone Ridge Drive, a 60-foot private access easement.
- Secondary access will connect with Pasco Road, a county road.

Notices

- Application was submitted: Apr. 10, 2007.
- Notice of Application: Oct. 31, 2007
- Re-notice of application: Nov. 8, 2007
 - The original NOA contained an error.
 - Comment period ended: Nov. 26, 2007
 - Numerous comments were received from the public. The following agencies provided comment: WA Dept. of Ecology, Dept. of Archaeology & Historic Preservation, KC Fire District 7, Kittitas County Fire Marshal, KC Dept. of Public Works, KC Dept. of Environmental Health, WA Dept. of Fish & Wildlife, and BPA.
- SEPA MDNS was issued on Oct. 30, 2009
 - Appeal period ended on Nov. 13, 2009 at 5:00 pm. No appeals were filed.

Notices cont.

- Based on revised information, a new SEPA MDNS was issued on Dec. 21, 2012.
 - Appeal period ended on Jan. 7, 2013 at 5:00 pm. No appeals were filed

Project Analysis

- Consistent with Comprehensive Plan.
- Consistent with KCC 16.09 Performance Based Cluster Platting
 - KCC 16.09 requires 40% of the project area to be placed in open space. This equals 31.60 acres. Proposed open space is 33.09 acres

OPEN SPACE TABLE	
GROSS SITE AREA	79.00 AC. (3,441,455 S.F.)
REQUIRED OPEN SPACE (40% OF PROJECT AREA)	31.60 AC.
PROPOSED OPEN SPACE:	33.09 AC.
TRACT A LESS ROAD:	31.96 AC.
TRACT B LESS ROAD:	1.13 AC.
PROPOSED OPEN SPACE % OF PROJECT AREA	41.9 PERCENT

PBCP Rating System

PBCP BONUS POINTS	
TRANSPORTATION CONNECTIVITY	25 POINTS
OPEN SPACE	0 POINTS
WILDLIFE HABITAT	15 POINTS
HEALTH/SAFETY (GROUP A WELL)	50 POINTS
RECREATION (PASSIVE/ACTIVE)	15 POINTS
TOTAL POINTS	105 POINTS

78.49 ac. / 3 ac. zone = 26 units

26 units x 2 (100% bonus) = 52 units

Project proposes 37 units

Project Analysis cont.

- Consistent with KCC 17.30 - Rural 3 Zoning
- Not consistent with KCC 16.12 Preliminary Plat Subdivision Code
 - Prelim. Plat page size is too large, KCC 16.12 requires 18 x 24 rather than the submitted 24 x 36 inches.
- Consistent with KCC 12 Roads and Bridges

To the Honorable Andrew Kottkamp, Hearings Examiner,

10 January, 2013

Please accept these comments regarding the Sasse Ridge Preliminary Plat (LP-11-00002). Application is for a Preliminary Plat totaling 10 three acre single-family residential lots on 30.61 acres. The subject property is located approximately 7 miles northwest of the city of Roslyn, east of Salmon La Sac Road and north of Hex Mountain Drive, Ronald WA in a portion of Section 21, T. 21 N., R. 14 E., W.M., in Kittitas County, Washington. Assessor's map number: 21-14-21000-0016

*SEPA Checklist on groundwater accepted by county:

The applicant submitted that "...approval of an application from the Department of Ecology for mitigated water may need to be applied for." This is clearly an inadequate response for the following reasons:

Attached is a copy of adjoining properties to the Sasse Ridge project that are part of previously created subdivisions - ***by the same owner***. The fact that this 30 acre parcel, adjacent to Commercial Forest Land and between the other projects (among the large number of projects in the general vicinity), demonstrates the need to evaluate this "Long Plat" as part of a much bigger project.

Based on previous encounters with this developer, the applicant is well aware that this location does not allow new, unmitigated water withdrawals. The answer that mitigation "may be" required underscores the applicant's historical approach to irresponsible development in Kittitas County and belies the fact that this is an extremely serious issue. Surely the applicant is not pleading a lack of understanding about the status of water withdrawals in this area. It was exactly this type of development/developer that forced the water issue to ultimately end up in the Supreme Court, detailed below.

Excerpts from the Supreme Court Decision #84187-0:

"RIDGE challenged whether provisions of the County's subdivision code, Title 16 KCC, violated the water protection requirements of the GMA. Primarily relying on the water protection provisions of the GMA and Campbell & Gwinn, the Board concluded that chapter 16.04 KCC fails to assure that authorized subdivisions do not contravene or evade water permitting requirements."

"Petitioners argue that the Board misinterpreted the relevant law. We disagree and hold that the Board correctly interpreted and applied the law when it found that the County's subdivision regulation violates the GMA by failing to protect water resources."

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"RCW 90.44.040, which provides:

Subject to existing rights, all natural groundwaters . . . are hereby declared to be public groundwaters and to belong to the public and to be subject to appropriation for beneficial use under the terms of this chapter and not otherwise.(Emphasis added.) While this provision preempts the County from separately appropriating groundwaters, it does not prevent the County from protecting public groundwaters from detrimental land uses.

Petitioners argue that the Board misinterpreted the relevant law. We disagree and hold that the Board correctly interpreted and applied the law when it found that the County's subdivision regulation violates the GMA by failing to protect water resources."

While the Supreme Court specifically addressed the lack of consideration of other proposed developments, in effect avoiding the issues addressed in Ecology vs. Campbell Gwinn, it went on to say in several places noted here, the county has failed to protect the public water resources in its subdivision code.

Another example of this from the decision follows:

While Ecology is responsible for appropriation of groundwater by permit under RCW 90.44.050, the County is responsible for land use decisions that affect groundwater resources, including subdivision, at least to the extent required by law. The GMA requires that counties provide for the protection of groundwater resources and that county development regulations comply with the GMA. The Board properly interpreted the GMA's mandate to protect water to at least require that the County's subdivision regulations conform to statutory requirements by not permitting subdivision applications that effectively evade compliance with water permitting requirements. We affirm this Board decision."

It is the responsibility of a Hearings Examiner to interpret whether an application adequately addresses the requirements and concerns of a project. The fact that the Supreme Court decision was made in July of 2011 and yet the county, to date, has not demonstrated any real protection of the water resource. This should be cause for serious legal concern, which could encompass professional decisions rendered by you in the projects presented before the Hearings Examiner.

No resource could be considered truly protected if not adequately evaluated. Best scientific practices mean that the rezone is the realistic stage to make the best determinations. To await a building permit prior to requiring a water right is to assume that water will always be available regardless of the type or location of development. This is a dangerous assumption in this basin.

Finally, and most critically, EVEN IF this applicant was to admit that development would ONLY be possible if senior water rights were to be obtained to offset the new uses, this is not a location where mitigation water is guaranteed. In fact, the opposite may be true. This is an area that was overdeveloped based on exempt wells (many as part of bigger, illegal, subdivisions). The Suncadia water banks *may* have applicable mitigation water available, but this would take in-depth investigation by the experts at Ecology. The entire project, by necessity, revolves around water availability. It is distressing that the staff comment section of the SEPA is blank regarding the legal availability of water requirement, nor is there acknowledgment that the surrounding parcels have the same owners. Both in violation of the Growth Management Board and Supreme Court rulings.

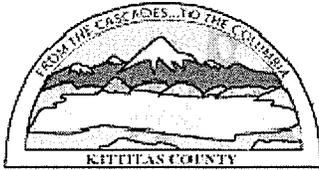
That the applicant appears unwilling to acknowledge water as the limiting factor, coupled with Kittitas County deliberately flouting the Supreme Court's ruling, indicates that achieving real protection of the resource may hinge on further legal action and a more rigorous examination of the development process in Kittitas County. We can only achieve these goals through transparency, yet seem to be mired in the same opacities of previous years.

The Sasse Ridge project must be shelved until and unless a legitimate water right can be secured, at which time the other aspects of the development can then be examined in the proper context.

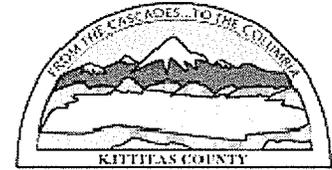
Sincerely, Melissa Bates

Melissa Bates
120 Elk Haven Rd.
Cle Elum, WA 98922

CC;
RIDGE: Doug Kilgore
KCCC: Marge Bransrud, Jan Sharar
CELP: Rachael Pascal Osborn, Suzanne Skinner
Furturewise: Tim Trohimovich
Dept. Ecology: G. Tom Tebb, Ted Sturdevant
Kittitas County: Paul Jewell, Gary Berndt, Obie O'Brien, Greg Zemple, Neil Caulkins



Kittitas County Assessor



Marsha Weyand
Assessor

205 W 5th Ave Suite 101
Ellensburg, WA 98926
Phone: (509)962-7501
Fax: (509)962-7666

Property Summary (Appraisal Details)

Parcel Information

Parcel Number: 951660
Map Number: 21-14-21050-0011
Situs: VANNA BELL DR RONALD
Legal: ACRES 3.12; ANNA BELL PLAT, LOT 11; SEC 21; TWP 21; RGE 14~

Ownership Information

Current Owner: NEWPORT HILLS LAND CO INC
Address: PO BOX 687
City, State: ROSLYN WA
Zipcode: 98941

Assessment Data

Tax District: 43
Land Use/DOR Code: 91
Open Space: Open Space
Date:
Senior Exemption:
Deeded Acres: 3.12
Last Revaluation {Reval} for Tax Year:

Market Value

Land: 125,440
Imp: 7,500
Perm Crop: 0
Total: 132,940

Taxable Value

Land: 125,440
Imp: 7,500
Perm Crop: 0
Total: 132,940

Sales History

NO SALES HISTORY RECORDS FOUND

Building Permits

NO ACTIVE PERMITS

5 Year Valuation Information

Year	Billed Owner	Land	Impr.	PermCrop Value	Total	Exempt	Taxable	Taxes
2012	NEWPORT HILLS LAND CO INC	125,440	7,500	0	132,940	0	132,940	View Taxes
2011	NEWPORT HILLS LAND CO INC	125,440	7,500	0	132,940	0	132,940	View Taxes
2010	NEWPORT HILLS LAND CO INC	146,360	0	0	146,360	0	146,360	View Taxes
2009	NEWPORT HILLS LAND CO INC	146,360	0	0	146,360	0	146,360	View Taxes
2008	NEWPORT HILLS LAND CO INC	146,360	0	0	146,360	0	146,360	View Taxes

Parcel Comments

Number	Comment
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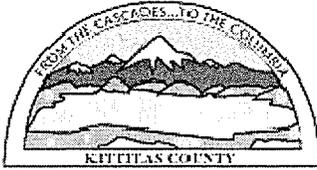
- 1 SENT CHANGE OF VALUE NOTICE, 11/19/2010; 10 FOR 11~
- 2 CHANGE TAXING DISTRICT FROM 31 TO 43 PER RESOLUTION NO. 2009-83.~ANNEXING REAL PROPERTY INTO KC
FIRE DISTRICT NO. 7, 09 FOR 10~
- 3 VALUE CHANGE; BOE AGREEMENT '07 FOR '08~
- 4 SENT CHANGE OF VALUE NOTICE 11/20/2007; 07 FOR 08~
- 5 SENT CHANGE OF VALUE NOTICE 11/29/06; 06 FOR 07~
- 6 CHANGE WD DISTRICT FROM 8 TO 9; 06 FOR 07~
- 7 CREATE ANNA BELL PLAT FROM 21-14-21000-0015; 06 FOR 07~~



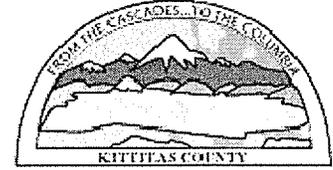
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Kittitas County Assessor



Marsha Weyand
Assessor

205 W 5th Ave Suite 101
Ellensburg, WA 98926
Phone: (509)962-7501
Fax: (509)962-7666

Property Summary (Appraisal Details)

Parcel Information

Parcel Number: 956692
Map Number: 21-14-21052-0001
Situs:
Legal: ACRES 3.03; HEX MOUNTAIN PLAT, LOT 1; SEC 21, TWP 21, RGE 14~

Ownership Information

Current Owner: NEWPORT HILLS LAND CO INC
Address: PO BOX 687
City, State: ROSLYN WA
Zipcode: 98941

Assessment Data

Tax District: 43
Land Use/DOR Code: 88
Open Space: YES
Open Space Date: 1/1/1975
Senior Exemption:
Deeded Acres: 3.03
Last Revaluation for Tax Year: 2011

Market Value

Land: 100
Imp: 0
Perm Crop: 0
Total: 100

Taxable Value

Land: 100
Imp: 0
Perm Crop: 0
Total: 100

Sales History

NO SALES HISTORY RECORDS FOUND

Building Permits

NO ACTIVE PERMITS

5 Year Valuation Information

Year	Billed Owner	Land	Impr.	PermCrop Value	Total	Exempt	Taxable	Taxes
2012	NEWPORT HILLS LAND CO INC	110	0	0	110	0	110	View Taxes
2011	NEWPORT HILLS LAND CO INC	110	0	0	110	0	110	View Taxes

Parcel Comments

Number	Comment
1	CREATE NEW PLAT FROM PARENT PARCEL 21-14-21000-0018, (~.01 ACRES PER SURVEY), 10 FOR 11~

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no sketch on file

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