



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

STAFF REPORT ZENTZ REZONE AND SHORT PLAT

TO: Kittitas County Hearing Examiner
FROM: Kittitas County Community Development Services Staff
RE: Zentz Rezone and Short Plat (RZ-13-00001 and SP-13-00003)
DATE: August 8, 2013
PLANNER: Jeff Watson

I. GENERAL INFORMATION

Requested Action: Teresa Zentz, landowner, has submitted an application for a rezone from Agriculture 3 to Agriculture 5 along with a 2 lot Preliminary Short Plat to subdivide one existing parcel totaling ten acres into two five acre lots. The project is proposed to be served by individual wells and individual on-site septic systems.

Location: The subject property is located approximately 4 miles northwest of Ellensburg at 430 Klocke Road, in a portion of Section 20, T18N, R18E, WM in Kittitas County, bearing Assessor's map number 18-18-20020-0004.

II. SITE INFORMATION

Total Project Size: 10 acres
Number of Lots: 2
Domestic Water: Individual wells
Sewage Disposal: Individual on-site septic system
Power/Electricity: Puget Sound Energy
Fire Protection: Kittitas Valley Fire and Rescue (Fire District 2)
Irrigation District: Ellensburg Water Company

Site Characteristics: The site is a relatively flat pasture with one existing residence and associated outbuildings. The property was permitted for an accessory dwelling unit (as approved by KCCDS 7/22/2011 AU-11-00002 Hansen); a manufactured home is on site but has not been fully installed.

Surrounding Property:

North: Undeveloped Forest/Shrub

South: Agriculture

East: Agriculture

West: Residential

Access: The proposed project will have access from Klocke Road; a determination of transportation concurrency was issued by Kittitas County Public Works on April 18, 2013.

Zoning and Development Standards: The subject property is currently located within the Agriculture 20 zoning district. At the time of application (March 27, 2013) the subject property was zoned Agriculture 3and as such the application is vested to that zone. The applicant is proposing a rezone to Agriculture-5. The purpose and intent of the Agricultural-5 zone is to provide for an area where various agricultural activities and low density residential developments co-exist compatibly. Agriculture-5 zones are predominately agricultural-oriented lands and it is not the intent of the Kittitas County Code to impose further restrictions on continued agricultural activities therein.

III. ADMINISTRATIVE REVIEW

Rezone and Preliminary Plat Application: Application for a rezone from Agriculture 3 to Agriculture 5 was received on March 27, 2013. The application was deemed complete on March 29, 2013. A Notice of Application was issued on April 19, 2013. Said notice was mailed to all neighbors within 500 feet and to interested state agencies.

Posting of Site: The signed Affidavit of Posting was returned to CDS on April 17, 2013 indicating that the site had been accurately posted with the "Land Use Action" sign as provided by CDS and required per KCC 15A.03.110.

IV. COMPREHENSIVE PLAN

The current land use designation is **Rural Working**. The Kittitas County Comprehensive Plan at the time of application (March 27, 2013) designated the subject property as **Rural** and as such the application is vested to the Comprehensive Plan and all of its designations in place at that time. Under the 2012 Comprehensive Plan Kittitas County has established the following goals and policies to guide future housing developments. These goals and policies were developed in response to existing housing conditions and identified needs within the county, and support the County Wide Planning Policies:

GPO 2.49 Residential: Residential subdivisions should be consigned (1) so as to adequately protect and/or to improve the area's aesthetic qualities and characteristics of the water and shoreline areas; and (2) at a level of density of site coverage and of occupancy compatible with the physical capabilities of the shoreline and water.

GPO 2.5 Kittitas County should encourage residential and economic growth that will minimize the costs of providing public utilities and services.

GPO 2.56 Kittitas County should encourage the development of a regulatory program for wetlands protection that is both sufficiently flexible to allow reasonable use and enjoyment of private property and generally consistent with the requirements of the Growth Management Act (GMA).

GPO 2.73 All submitted preliminary plats must clearly delineate the 100-year Floodplain boundary.

GPO 3.1 Provide a sufficient number of housing units for future populations in rural areas of Kittitas County.

GPO 3.6 Provide for future populations while protecting individual property rights.

GPO 3.17 Provide a sufficient number of housing units for future populations while maintaining the rural character of Kittitas County.

GPO 3.18 Provide sufficient housing units while maintaining environmental quality.

GPO 8.30 Look at solutions to the problems of needing to sell house lots without selling farm ground.

GPO 8.46 Residential development on rural lands must be in areas that can support adequate private water and sewer systems.

GPO 8.47 Insofar as residences are situated where farming, mining, and forestry exists, particular precaution should be taken to minimize the conflict between new residential developments and farm operations. Farming, forestry and mining cannot be expected to curtail normal operation in the interest of residential development.

GPO 8.5 Kittitas County recognizes and agrees with the need for continued diversity in densities and uses on Rural Lands.

GPO 8.52 Existing lots of record are vested with the right to construct a single-family dwelling, subject to all applicable requirements in effect at the time of building permit application.

GPO 8.46 Residential development in rural lands must be in areas that can support adequate private water and sewer systems.

V. REZONE CRITERIA

The applicant must demonstrate that the following criteria are met

- A. The proposed amendment is compatible with the comprehensive plan.
- B. The proposed amendment bears a substantial relation to the public health, safety or welfare.
- C. The proposed amendment has merit and value for Kittitas County or a sub-area of the county.
- D. The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property.
- E. The subject property is suitable for development in general conformance with zoning standards for the proposed zone.
- F. The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property.
- G. The proposed change in use of the subject property shall not adversely impact irrigation water deliveries to other properties.
- H. The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.

The applicant responds to the above criteria with the following:

- A. The proposed amendment is compatible with the comprehensive plan.

“This proposal is rural category and is compatible with the comprehensive plan.”

- B. The proposed amendment bears a substantial relation to the public health, safety or welfare.

“This proposal does not violate public health, safety or welfare.”

- C. The proposed amendment has merit and value for Kittitas County or a sub-area of the county.

“This proposal will provide additional residence.”

- D. The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property.

“R3 Zones have been found non-compliant with Growth Management Act which has changed circumstances.”

- E. The subject property is suitable for development in general conformance with zoning standards for the proposed zone.

“The subject property is suitable for development and has adequate water and adequate access.”

F. The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property.

“Rural residences adjacent and near property.”

G. The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties.

“Not near irrigation water”

H. The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.

“N/A”

V. ENVIRONMENTAL REVIEW

Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on July 30, 2013. The appeal period ended on August 14, 2013 at 5:00 p.m. No appeals were filed.

VI. AGENCY AND PUBLIC COMMENTS

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

VII. PROJECT ANALYSIS

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

Comprehensive Plan Consistency:

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan in place at the time of application. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by individual wells (in place) and private septic systems (one in place, one to be constructed). Staff has conducted an administrative critical area review in accordance with KCC 17A and found some critical areas which include wetlands and floodplain.

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

All roads are required to meet all Kittitas County Road Standards as outlined in the December 6, 2011 memorandum issued by the Department of Public Works. As conditioned, the proposal is consistent with the provisions of KCC Title 12.

Consistency with the provisions of KCC 13 Water and Sewers Code:

This proposal with the recommended conditions is consistent with the Kittitas County Subdivision Code for Water and Sewers.

Consistency with the provisions of KCC Title 14 Buildings and Construction:

This proposal with the recommended conditions is consistent with the Kittitas County Subdivision Code for

Building and Construction.

Consistency with the provisions of KCC 16 Subdivision Code:

This proposal is consistent with the Kittitas County Subdivision Code.

Consistency with the provisions of KCC 17 Zoning Code:

This proposal is consistent with the Kittitas County Subdivision Code for Zoning.

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

This proposal with the recommended conditions is consistent with the Kittitas County Subdivision Code for Critical Areas.

Consistency with the provisions of KCC 20 Fire and Life Safety Code:

This proposal with the recommended conditions is consistent with the Kittitas County Code for Fire Life Safety.

Consistency with the Shoreline Master Program:

This proposal with the recommended conditions is consistent with the Shoreline Master Program.

Agency Comments:

The following agencies provided comments during the comment period: Department of Ecology, Kittitas County Fire Marshal, Kittitas County Department of Public Works and Kittitas County Public Health. These comments have been integrated into the SEPA MDNS and the recommended conditions of approval.

Public Comments:

No comments were received from adjacent property owners or the public at large.

VIII. RECOMMENDATION

As conditioned below, the application is not detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Titles 12, 13, 14, 16, 17, 17A, and 20 of the Kittitas County Code, the Kittitas County Shoreline Master Program, and the Kittitas County Comprehensive Plan. Staff recommends approval of the Zentz Rezone (RZ-13-00001) and Short Plat (SP-13-00003), subject to the following findings of fact and conditions:

Suggested Findings of Fact

1. Teresa Zentz, landowners, have submitted an application for a rezone from Agriculture 3 to Agriculture 5 along with a 2 lot Preliminary Short Plat to subdivide one existing parcel totaling ten acres into two five acre lots. The project is proposed to be served by individual wells and individual on-site septic systems.
2. The subject property is located approximately 4 miles northwest of Ellensburg at 430 Klocke Road, in a portion of Section 20, T18N, R18E, WM in Kittitas County, bearing Assessor's map number 18-18-20020-0004.
3. Total Project Size: 10 acres
Number of Lots: 2
Domestic Water: Individual wells
Sewage Disposal: Individual on-site septic system
Power/Electricity: Puget Sound Energy
Fire Protection: Kittitas Valley Fire and Rescue (Fire District 2)
Irrigation District: Ellensburg Water Company

4. Surrounding Property:

North: Undeveloped Forest/Shrub

South: Agriculture

East: Agriculture

West: Residential

5. Site Characteristics: The site is a relatively flat pasture with one existing residence and is permitted for an accessory dwelling unit (as approved by KCCDS 7/22/2011 AU-11-00002 Hansen) and associated outbuildings on the property. The site contains a PUBH wetland; a zone A (100 year) floodplain designation; falls under the provisions of the Shoreline Master Program Rural designation; and is located in the Ellensburg Water Company irrigation entity boundary.
6. The Comprehensive Plan designation is Rural.
7. The subject property's vested zoning is zoned agriculture 3 and proposes a downzone to Agriculture 5. The minimum residential lot size for the proposed zoning classification shall be five acres in the Agriculture 5 zone. The overall density of any residential development shall not exceed one dwelling for each five acres.
8. A complete Rezone and Short Plat application was submitted to Community Development Services on March 27, 2013. A Notice of Application for said applications was issued on April 19, 2013. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties.
9. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on July 30, 2013. The appeal period ended on August 14, 2013 at 5:00 p.m. No appeals were filed.
10. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by individual wells and private septic systems. Staff has conducted an administrative critical area review in accordance with KCC 17A and found critical areas which include a wetland, floodplain, and Shoreline Master Program designation.
11. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.32 Short Plats.
12. This proposal is consistent with the Kittitas County Subdivision Code for Preliminary Plats.
13. All roads are required to meet all Kittitas County Road Standards as outlined in the December 6, 2011 memorandum issued by the Department of Public Works. As conditioned, the proposal is consistent with the provisions of KCC Title 12.
14. The following agencies provided comments during the comment period: Department of Ecology, Department of Archaeology & Historic Preservation, Fire District 7, Kittitas County Fire Marshal, Kittitas County Department of Public Works and Environmental Health, Washington Department of Fish and Wildlife, Bonneville Power Administration. These comments have been included as conditions of approval to address these agency concerns.

Suggested Conclusions:

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interest will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 12 Roads and Bridges, Title 14 Building and Construction, Title 15 Environmental Policy, Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire Life Safety.

Suggested Conditions of Approval:

1. The project shall proceed in conformance with the plans and application materials (RZ-13-00001 Zentz and SP-13-00001 Zentz) on file dated March 27, 2013, and all submitted revisions except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. The applicant will be required to obtain 1 (one) Transfer of Development Right Credit as per KCC 13.13.030 prior to final approval.
4. The applicant shall be responsible for meeting or exceeding all conditions and requirements set forth by the Department of Public Works.
5. Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
 - a. Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
 - b. The surface requirement is for a minimum gravel surface depth of 6".
 - c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - d. Any further subdivision or lots to be served by proposed access may result in further access requirements.
6. Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
 - a. The roadway shall be a minimum of 8' wide with gravel surface.
 - b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - c. Any further subdivision or lots to be served by proposed access may result in further access requirements.
7. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
8. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
9. Access Permit: An approved access permit shall be required from the Department of Public Works prior to

creating any new driveway access or performing work within the county road right of way.

10. Addressing: Contact the Kittitas County Rural Addressing Coordinator at (509) 962-7523 to obtain addresses prior to obtaining a building permit. A parcel cannot receive a building permit or utilities until such parcel is identified with a 911 address.
11. Mailbox Placement: Mailboxes must be approved by U.S. Postal Service. Mailbox locations are site specific. Contact your local Post Office for location and design standards before beginning construction.
12. If the applicant plans to burn trees or debris from the property, the applicant shall obtain a burn permit from the Department of Ecology. Only natural unprocessed vegetation may be burned in an outdoor fire. It is the applicant's responsibility to contact the Department of Ecology regarding this permit.
13. Washington Administrative Code (WAC) 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the project site. Additionally, dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts or damaging property or business. As a result, the applicant shall be responsible for creating a site-specific Fugitive Dust Control Plan (FDCP) before starting this project. The plan shall be followed throughout the duration of any activity and construction of the project.
14. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require an NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan. It is the applicant's responsibility to contact the Department of Ecology.
15. If any structures are constructed within the 100-year floodplain, current location at time of development, base flood elevations must be determined for the entire Zone A within the property boundaries as required by KCC 14.08.220(4).
16. The subject parcel is completely under the Rural designation of the Shoreline Master Program (SMP). The subdivision as proposed meets the minimum parcel size and dimension requirements for the subject designation. All future development of the site must comply with the provisions of the SMP.
17. Lot 1 of the Zentz Short Plat contains a PUBH wetland within its boundaries. The Final mylars shall reflect the location of this wetland and a statement on the plat shall read as follows: "Future development of lots may require a study by a certified wetland biologist to determine wetland classification and for buffer requirements pursuant to KCC Critical Areas Code."
18. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply industrial purposes or for the irrigation of up to one-half acre of lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology.
19. Withdrawals of groundwater on the subject property are subject to the rules and regulations adopted and administrated by the Washington State Department of Ecology; this includes the use of water for irrigation. Legally obtained water must be used on-site.
20. The RCW 90.44.050 permit exemption does not apply where a developer of a residential subdivision proposes multiple wells to serve each lot in the development if in combination the withdrawal will exceed the exemption criteria.
21. Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in an area becomes limited, use could be curtailed by those with senior water rights.
22. All water wells constructed shall be in accordance with the provisions of Chapter 173-160 WAC by a driller licensed in the State of Washington. All wells must be located a minimum of 100 feet from any known, suspected, or potential source of contamination and shall not be located within 1,000 feet of the property

boundary of solid waste landfills. A well report must be submitted to the Department of Ecology within thirty days after the completion of a well.

23. Prior to receiving final approval for subdivisions in Kittitas County, applicants shall be required to make appropriate provision for potable water supplies per RCW 58.17.110 which includes, but is not limited to, the minimum requirements outlined in the Kittitas County Board of Commissioners Resolution 2012-027.
24. Applicants shall submit a well log(s) and four hour draw down test from each proposed parcel within a subdivision, water budget neutrality determination(s) from DOE referencing the relevant subdivision and proposed parcels within the subdivision (if required by Chapter 173-539A WAC), and passing bacteriological and nitrate water quality test from each well. If the proposed subdivision does not have an existing well within the boundaries of each lot, a well must be drilled and the above information shall be provided to KCPHD prior to recommendation by KCPHD for final plat approval. If shared wells are proposed, in addition to the above requirements a copy of a shared well user's agreement shall be recorded at the Kittitas County Auditor's Office for each proposed parcel that proposes to utilize a 2-party shared water system.
25. RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds. Accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds.
26. Should ground disturbing or other activities related to the proposed short plat result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State DAHP. Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be inadvertently discovered, as dictated by Washington State RCW 27.44.055, work shall be immediately halted in the area and contact made with the coroner and local law enforcement in the most expeditious manner possible.
27. The subject property is within the boundaries of the Ellensburg Water Company (EWC) Irrigation Entity. The applicant will need to comply with the requirements set forth in the EWC General Guidelines during all phases of development and construction.
28. Irrigation delivery shall not be impaired at any time to the surrounding farming practices and all costs associated with any potential relocation of irrigation delivery routes shall be the burden of the developer and not that of the surrounding landowners.
29. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.
30. Development and construction practices for this project shall only occur between the hours of 7:00 am to 7:00 pm to minimize the effect of construction noise on nearby residential properties.
31. Addresses of all new residences shall be clearly visible from both directions at the county road.
32. The driveway for the new property must comply with Kittitas County Code, i.e. any driveway greater in length than 150' shall be no less than 16 feet in width.
33. All future development must comply with the International Fire Code.
34. The subject property is within or near land used for agriculture on which a variety of commercial activities may occur that is not compatible with residential development for periods of varying duration. (RCW 36.70A.060(1)) Commercial natural resource activities performed in accordance with county, state and federal laws are not subject to legal action as public nuisances. (RCW 7.48.305).
35. This property is located inside of the Kittitas County Stock Restricted Area; it shall be the responsibility of the property owner to fence in their grazing livestock.
36. The final plat shall be in conformance with KCC 16.20.040 and 16.20.020