

Lindsey Ozbolt

From: Traci Shallbetter <traci@shallbetterlaw.com>
Sent: Monday, February 22, 2016 9:17 AM
To: Lindsey Ozbolt
Subject: Comment on CU-15-00002 and SD-15-00001

Lindsey,

Regarding the Yakima River Campground applications, the applicant suggests that "foundations are still there" for 8 cabins even though such cabins were destroyed (burned down) in a fire training exercise. Ostensibly, the other 10 cabins that were contemplated in the 1985 CUP were never constructed.

First, were actual building permits obtained for the 8 cabins that were constructed and were they constructed on actual foundations? (Anecdotal comments suggested these structures did not have actual cement foundations).

Second, is the applicant seeking some sort of nonconforming use/grandfathered status for any of the structures or prior use? It would seem to me that no such nonconforming/grandfathered rights exist under the 1985 CUP. Apart from common law on nonconforming uses (which provides that nonconforming uses that have been abandoned cannot be reestablished without complying with the new/current laws), the County's Code provides that nonconforming uses and structures (i.e. uses and structures under the 1985 CUP insofar as such uses are no longer permitted outright under current regulations, including zoning, health/safety (i.e. septic, etc.) that have been abandoned or destroyed cannot be rebuilt or reestablished.

Specifically—as you probably know even better than I—KCC 17.80.020 provides that buildings that have been destroyed cannot be rebuilt without conforming to all requirements (which would include septic siting and zoning restrictions on location). Similarly, buildings requiring expenditures for repair in excess of one-half of their assessed value would be subject to the same standard. As for prior uses for campground-related use, activity center and the like that may have been permitted under the 1985 CUP, it would seem such use has been abandoned for more than 3 years and hence no longer entitled to any nonconforming status per KCC 17.80.030 (as well as common law). It was not apparent to me from the applicant what the intent of the applicant was with respect to the 1985 CUP and whether it was seeking any exemption or "grandfathering" based on the 1985 CUP. Based on my understanding of the past history of the facility, it has not been used consistent with the 1985 CUP for well over 3 years and, as such, the purposes of nonconforming use provisions (i.e. due process prevents the abrupt termination of what one had been doing lawfully, "but the protection does not generally extend beyond this purpose." *Meridian Minerals Co. v. King County*, [61 Wash.App. 195](#), 212, [810 P.2d 31](#) (1991)). So, can you confirm—or will you evaluate—whether the entirety of the application/Project is being subjected to review under, and compliance with, the current code?

Traci Shallbetter

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From: Traci Shallbetter <traci@shallbetterlaw.com>
Sent: Monday, February 22, 2016 10:33 AM
To: Lindsey Ozbolt
Subject: Yakima River Campground

Lindsey,

I'm trying to do a rough calculation on what might be an estimate of the number of lots that could be done on the 85.98 acres that are the subject on the Yakima River Campground CUP/SDP/Plat application. I know that a time bit is in R-5, but assuming for simplicity sake that it is all FR zoning and Rural Working Comp Plan—I'm wondering what the cluster platting would allow (if allowed). A quick glance at the code suggests that you can conservation plat in Rural Working (Non-Lamird) FR-zoning to a minimum lot size of ½ acre on a 40 acre tract, but you are still subject to the maximum FR density of 1 per 20—so wouldn't that suggest that even with the conservation plat you would only be entitled to 4 dwellings over the 86 site?

I guess I'm just trying to get a sense as to what might be the maximum density that this roughly 86 acres could be developed at for single family residences (particularly in light of the floodway—albeit, if I'm reading the FR zoning correctly with a 20 acre minimum, it appears that the floodway isn't going to be that much of an impediment, as the maximum is looking like 4 units—floodway or no floodway). Thoughts? (Bear with me—I haven't done much work or analysis under the new(er) code!)

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