

**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	RECOMMENDED FINDINGS OF
)	FACT, CONCLUSIONS OF LAW,
PD-17-00001)	DECISION AND CONDITIONS
CU-17-00001)	OF APPROVAL
LP-17-00001)	

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on October 12, 2017, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. This application from Martens Enterprises, LLC is for multiple permits for a development. The requested permits include a Planned Unit Development (PUD), and Conditional Use (CU) a Plat (LP) and include 17 parcels, located approximately seven miles northwest of Roslyn. A Development Agreement is also to be entered into with the County, but is not a part of this Recommended Decision.
2. The subject parcels consist of 17 parcels, located approximately seven miles northwest of Roslyn in portions of Sections 1 and 12, Township 20, Range 13 E, WM in Kittitas County, bearing Assessor's map numbers 20-13-01000-0012, 20-13-12000-0013, 20-13-01000-0004, 20-13-01000-0013, 20-13-01051-0018, 20-13-01051-0014, 20-13-01051-0015, 20-13-01051-0013, 20-13-01051-0012, 20-13-01051-0008, 20-13-01051-0007, 20-13-01051-0006, 20-13-01051-0002, 20-13-01051-0001, 20-13-01051-0016, 20-13-01000-0011, 20-13-01051-0017.
3. Site Information:

Total Property Size:	445.42 acres
Number of Lots:	17, to be rezoned to a PUD and platted into 89 lots
Domestic Water:	Easton Water District, Public Water System
Sewage Disposal:	Individual onsite septic (LOSS), shared septic, and large onsite septic as needed
Power/Electricity:	Puget Sound Energy
Fire Protection:	Kittitas County Fire District # 3
Irrigation District:	N/A
4. Site Characteristics:

<u>North:</u>	Steep slopes and forest cover.
<u>South:</u>	Gentle inclines, forest cover, Bonneville Power Easement.
<u>East:</u>	Steep slopes, forest cover.
<u>West:</u>	Area of proposed subdivision, and current quarry operation.
5. The site is accessed off of East Sparks Road.

6. The subject property is located approximately seven miles northwest of Roslyn off of East Sparks Road, and is zoned Rural-5.
7. The purpose of Rural-5 zones is to provide areas where residential development may occur on a low density basis.
8. A primary goal and intent in siting Rural-5 zones is to minimize adverse effects on adjacent natural resource lands.
9. The applicant seeks a rezone from the Rural-5 zone to a PUD. The purpose of the PUD zone is to provide for departures from strict compliance with the zoning standards outlined in other sections of the Kittitas County Code for projects that can demonstrate that such departures will protect the public interest and accomplish one or more of the following objectives:
 - 9.1 To encourage more innovative design than is generally possible under conventional zoning and subdivision regulations;
 - 9.2 To encourage more economical and efficient use of land, streets, and public services;
 - 9.3 To preserve and create usable open space and other amenities superior to conventional developments;
 - 9.4. To preserve important natural features of the land, including topography, natural vegetation, and views;
 - 9.5 To encourage development of a variety of housing types and densities;
 - 9.6 To encourage energy conservation, including the use of passive solar energy in project design and development to the extent possible;
 - 9.7 To encourage development of areas or site characterized by special features of geography, topography, size, shape;
 - 9.8 To permit flexibility of design that will create desirable public and private open space; to vary the type, design and layout of buildings,; and to utilize the potentials of individual sites and alternative energy services to the extent possible.
10. Applications for a Planned Unit Development, a Conditional Use Permit and a preliminary plat were submitted to Kittitas County Community Development Services (CDS) on December 22, 2016. The application was deemed incomplete on January 13, 2017. Additional information was submitted, and the application was deemed complete on June 19, 2017. On June 21, 2017 a Notice of Application and a Notice of SEPA were mailed to all state and local agencies/departments with potential interest in the project and as required by SEPA, as well as to adjacent landowners located within five hundred (500) feet of any portion of the boundary of the proposal's tax parcel. On June 20, 2017 Notice to the Daily Record was posted. The site was posted with a sign for Notice. An error was discovered in the Notice, and the Notice of Application was re-issued to adjacent landowners on June 14, 2017. The Notice of SEPA Action and Public Hearing was issued on September 26, 2017.

11. Applicable agencies, adjacent property owners and interested parties were given the opportunity to review the proposal. The following agencies and individuals provided comments:

11.1 **Washington Department of Fish and Wildlife (WDFW)**

11.1.1 In a comment letter dated July 20th, 2017, WDFW makes reference to its comments on Draft EIS related to the original proposal in a letter dated April 2nd, 2010, and provides additional comment on the revised proposal. In the original comment letter, WDFW identified several concerns. These included:

11.1.1.1 The number of lots was excessive considering the terrain.

11.1.1.2 Elimination of mountain goat habitat.

11.1.1.3 Habitat connectivity.

11.1.1.4 Impacts to Silver Creek, a fish bearing stream.

11.1.1.5 Habitat impacts on the steep slopes to the east of the development.

11.1.1.6 Alluvial fans and debris flow hazards.

11.1.1.7 Firefighting issues.

The comment letter identified Alternative 5 of the DEIS as the least harmful alternative.

In its comment letter on the revised proposal, WDFW provides additional concerns. These include:

11.1.1.8 Wildlife connectivity and use;

11.1.1.9 Alterations to streams;

11.1.1.10 Increased fire risk;

11.1.1.11 General habitat impacts related to development;

11.1.2 WDFW Recommendations

In the two comment letters, the following mitigation measures are recommended:

11.1.2.1 Adoption of the least harmful alternative, Alternative 5 in the DEIS.

11.1.2.2 Exclusion of proposed parcels on the steeper, eastern portion of the site.

- 11.1.2.3 Dedication of the entire area east of the transmission lines as open space with an easement, and development of a management plan for the open space easement.
 - 11.1.2.4 Avoidance of fencing that blocks animal movement.
 - 11.1.2.5 Establishment of travel corridors.
 - 11.1.2.6 Reassessment of streams during high spring flows in order determine appropriate setbacks.
 - 11.1.2.7 Implementation of a Fire Management Plan.
 - 11.1.2.8 Use of lighting that reduces glare and outward light.
 - 11.1.2.9 Landscaping with native plants.
 - 11.1.2.10 Limitations on the amount of clearing and grading to the minimum necessary.
 - 11.1.2.11 Employing speed limits to reduce wildlife collisions;
 - 11.1.2.12 Restrictions on leaving food sources and other attractants outside of homes.
- 11.1.3 County Response
- As described in the SEPA Addendum, the reduced density to the east of the development, along with the corridor in the revised proposal, will provide sufficient open space. The following are recommended as conditions of approval:
- 11.1.3.1 Reassessment of a non-fish stream mapped at the southern portion of the site during high spring flows to determine necessary setbacks under KCC 17A.07 to be incorporated into a stormwater management plan.
 - 11.1.3.2 A fire management plan shall be prepared and implemented, with building covenants to ensure that homes are built with fire prevention measures.
 - 11.1.3.3 Use of lighting that reduces glare and outward light that may affect nocturnal wildlife such as migrating birds.
 - 11.1.3.4 Landscaping with native plants to reduce overall habitat loss.
 - 11.1.3.5 Limit amount of clearing and grading to only the amount needed for a footprint, existing habitat structures such as shrubs, logs and snags can and do provide immense wildlife benefit even in developed settings.

11.1.3.6 Employing speed limits to reduce wildlife collisions on roads.

11.1.3.7 Restricting residents from leaving food sources and other attractants outside of homes that will encourage large wildlife (such as bears) near homes where human/wildlife conflict can arise.

11.2 **Washington Department of Transportation (WSDOT)**

11.2.1 In a comment letter dated July 31, 2017, the WSDOT identified a concern related to the proposal. The agency identified the proposal as incompatible with its Airport Land Use Compatibility program, with densities within Airport Safety Zones (ASZs) higher than is recommended under the Program.

11.2.2 County Response

Kittitas County Public Works has reviewed the proposal for compliance with KCC 17.58 Airport Zone. In addition, the Applicant is encouraged to contact the WSDOT Aviation Division to explore opportunities for mitigation measures to allow increased density within the Airport Safety Zones. Such discussion and agreement will be a condition in the Development Agreement.

11.3 **Kittitas County Public Works**

In a comment letter dated July 28th, 2017 Kittitas County Public Works lists the following recommended conditions of approval:

11.3.1 The following conditions apply and must be completed prior to final approval of this project. A performance guarantee may be used, in lieu of the required improvements per the conditions outlined in KCC 12.01.150.

11.3.2 The division of land is vested, and shall conform to the current Kittitas County Code Chapter 12 Road and Bridge Standards dated December 15, 2015.

11.3.3 The number of units associated with the campsites and RVs shall be identified in order to determine road standards.

11.3.4 The Traffic Impact Analysis dated December 19, 2016 will suffice for this proposal.

11.3.5 Loop roads will satisfy the second access requirement as long as both connecting points loop back to a road built to a Public Road Standard. Loop Roads are required to have two separate accesses to a Public Road. Public Roads are not capped by number of lots/units that can access.

11.3.6 The face of the plat shall show how lot 19 will be accessed.

- 11.3.7 Plans for on-site stormwater and construction stormwater shall be submitted in accordance with current Kittitas County Road and Bridge Standards dated December 15, 2015.
- 11.3.8 Road plans shall be submitted in accordance with Kittitas County Road and Bridge Standards dated December 15, 2015.
- 11.3.9 Locations identified for snow storage shall be designed to accommodate storage for 84 inches of annual accumulation for the square footage of all roadways and parking areas. Snow storage areas accommodating public roadways shall be included in the public right of way dedication.
- 11.3.10 Roadways brought on the system by the County, following the process as outlined in Kittitas County Code Chapter 12, shall have said right of way dedicated to the county on the plat.
- 11.3.11 Road naming applications for all new roadways will need to be completed prior to final approval. The new established road names will need to be shown on the face of the plat.
- 11.3.12 Plat notes shall reflect the following:
 - 11.3.12.1 Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards and formally adopted by the Kittitas County Board of County Commissioners.
 - 11.3.12.2 Maintenance of access is the responsibility of property owners who benefit from its use.
 - 11.3.12.3 An approved access permit will 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.
 - 11.3.12.4 Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
 - 11.3.12.5 A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided 5 feet on each side of interior lot lines. Said easement shall also be used for irrigation.
- 11.3.13 All plats must show the acceptance signature block of the Public Works Director. The acceptance block shall be as follows:

EXAMINED AND APPROVED

This ___ day of ___, A.D., 20 ___.

Kittitas County Public Works Director

- 11.3.14 The approach surfaces listing in the current Bowers Field Airport Layout Plan inaccurately impose Bowers Field runway protection zones on Easton Airport. The relatively short runoff length of 2,571 feet supports a threshold siting surface of 15:1, at 2000 lineal feet from the end of the runway, a structure must be less than 133 feet above the elevation of the airport (2,221 MSL). At 2,000 lineal feet from the end of the runway, a structure must be less than 100 feet above 2,221 MSL supporting the runway approach surface. In summary, no structure shall perforate the following surfaces: 15:1 for existing threshold siting surface and 20:1 for approach surface.
- 11.3.15 Electrical interference with navigational signals or radio communication between the airport and aircraft is prohibited and will be regulated in accordance with rules and regulations promulgated and enforced by the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations.
- 11.3.16 Activities or uses that create lighting which make it difficult for pilots to distinguish between airport lights and non-airport lights or that create glare in the eyes of pilots using the airport are prohibited. All outdoor lighting fixtures shall be arranged and shielded so that area lighting shall not shine into the sky.
- 11.3.17 Activities or uses that create excessive amounts of dust, smoke, or other emissions that may result in impairment of visibility in the vicinity of the airport are discouraged and will be regulated in accordance with rules and regulations promulgated and enforced by the Washington State Department of Ecology under the Clean Air Act and other state and federal regulations.
- 11.3.18 Following review of title documents, any access to the multitude of access easements through Section 1, shall not be inhibited by a gate or similar structure.
- 11.4 **Easton School District**
- 11.4.1 In a comment letter dated June 13th, 2017, the Easton School District identifies concerns related to capital costs and inadequate school impact fees collectable under RCW 82.02.050. Using the maximum impact projected in the FEIS, the District's calculations project a \$100,000 budget deficit. The District expressed concerns that the District's currently low levy rates will have to be increased to cover the shortfall.
- 11.4.2 County Analysis
- On page 139 of the FEIS, mitigation measures are proposed. These include:

11.4.2.1 Dedication of land to site school facilities.

11.4.2.2 Financial contributions for site acquisition and building construction.

11.4.2.3 Financial contributions to fund transportation facilities expansion.

11.4.3 The School District's analysis used the maximum impact projections of homes associated with the proposal, Alternative 1 and 2 within the FEIS, with 443 units and a maximum student addition of (pg. 135). Impacts to schools are addressed. Alternatives 3D and 5 are most similar to the Revised Proposal in terms of school impacts, with 113 units. At that development level, the additional student population ranges between 21 and 67 students over the course of a 10 year build out.

11.4.4 The applicant shall contact the School District to enter into discussions to develop acceptable mitigation measures to accommodate the increased student population. Mitigation measures shall be included in the Development Agreement.

11.5 **Washington Department of Health (DOH)**

11.5.1 DOH submitted comments on July 20, 2017 stating that the Easton Water District system can serve the expected number of additional connections. DOH requires the following:

11.5.1.1 Marian Meadows/Easton Water District shall confirm an intended connection to the Easton Water District, and then submit estimated water usage quantities, so that DOH can determine whether the precise number of new connections that are proposed for Marian Meadows can be served by the existing system, or apply for a new Group A Community public water system with the DOH Office of Drinking Water.

11.5.1.2 Marian Meadows shall identify how wastewater will be managed.

11.5.1.3 The Applicant shall submit documentation and engineering design for proposed water extension to DOH for the review and approval.

11.5.1.4 County Analysis

The County has no further analysis in relation to State DOH requirements.

11.6 **Kittitas County Environmental Health**

11.6.1 In order to satisfy Environmental Health requirements the applicant must provide written documentation from the water purveyor indicating the water district commits the appropriate number of connections for the entire project (made therefore unavailable to any other lots) prior to final signoff. Additionally the design approval of the large onsite septic system must be submitted to Washington State Department of Health for approval through the state LOSS process.

11.6.2 County Analysis

No further analysis is required in regard to these requirements.

11.7 **Kittitas County Fire District # 3**

11.7.1 In a comment letter dated July 17th, 2017, The Kittitas County Fire District #3 listed several concerns. These concerns include updrafts on slopes, and excessive density allowing wildfires to spread, and congestion associated with a single access which may prevent firefighter access to the development. The Fire District also states that construction of the town houses may necessitate a ladder engine the District currently does not possess, along with the infrastructure to store it.

11.7.2 County Analysis

Mitigation measures are listed in the FEIS. They include:

11.7.2.1 Avoid residential lots in the steep forested portion of the site.

11.7.2.2 Provide secondary access via bridge over Yakima River or from the north and connecting to Silver Creek Road.

11.7.2.3 Maintain road grades no greater than 10%.

11.7.2.4 Support a single station to co-locate facilities by providing a site and contribute proportional share to fund a new fire truck.

11.7.2.5 Built in fire suppression.

11.7.2.6 Require non-combustible areas immediately adjacent to buildings, and reduce and irrigate vegetation in the 30- to 50-foot circumference of buildings.

11.7.2.7 Public fire safety education.

11.7.2.8 Hospital District: A combination of regular levies and capital facility levies would be required; project contribution to a share of equipment costs would be required.

11.7.2.8 Fire District: Additional equipment would likely require voter approved levies.

11.7.3 The project shall comply with KCC Title 12 Roads and Bridges, Title 13 Water and Sewers, 13.35.020 Water Availability, and Title 20 Fire and Life Safety.

11.8 **Bonneville Power Administration (BPA)**

11.8.1 The Bonneville Power Administration provided a comment letter dated July 5, 2017. In the letter, BPA expressed the following concerns related to

development in and near its right of way.

11.8.2 County Analysis

To mitigate these impacts, the following conditions are required:

11.8.2.1 The plat map shall include the following note:

“The Bonneville Power Administration imposed certain conditions on the portions of these lots encumbered by its high voltage transmission line right-of-way. BPA does not allow structures to be built within the right-of-way, nor does it allow access to be blocked to any transmission facilities. Any activity that is to occur within the right-of way may be addressed to BPA real Estate Field Services at (877) -417-9454”.

11.8.2.2 BPA shall be allowed the opportunity to review the location of proposed roads, use of existing access roads, snow storage, utilities, etc. to ascertain whether or not the uses can be permitted.

11.8.2.3 The owner shall submit a land use application, the associated \$250 application fee, and acquire a Land Use Agreement from BPA in addition to the County’s building permit for any portion of the owner’s development plans that lie within BPA’s right-of-way.

11.9 **Kittitas County Building Official**

11.9.1 The Kittitas County Building Department commented on the proposal on June 23rd, 2017, stating that “All construction of buildings shall conform to most current adopted edition of the IBC, IFC, IRC and Washington State Amendments as well as any other building codes adopted by Washington State at the time of building permit submittal.”

11.9.2 County Analysis

Compliance with these codes will be required at the time of building permit submittal. No further analysis is required for these recommendations.

11.10 **Public Comments**

Public comments are shown in Exhibit # 65. Comments received included the following concerns:

11.10.1 **Rural Density and Character**

Several comments raised concerns over the density of the proposed development and maintenance of rural character. Density and rural character related issues are examined in Sections VI and VII.

11.10.2 **Police Service**

Mitigation for impacts to police services is discussed in the FEIS (pg. 3-158). Fair share contributions can be made from the project to provide resources

for additional personnel as well as equipment or facilities to accommodate police response.

11.10.3 Wildlife Habitat

Applicant is required to develop a Wildlife Habitat Management Plan in coordination with WDFW and to provide an updated wetland report with site reconnaissance to occur in the wet season / spring high flows. Additional mitigation measures are discussed in the FEIS, and include:

11.10.3.1 A Fire Management Plan be developed and implemented.

11.10.3.2 Outdoor lighting restrictions.

11.10.3.3 Native landscaping.

11.10.3.4 Retain native vegetation where clear & grade is not required for roads, utilities, and structures.

11.10.3.5 Traffic slowing measures. Outdoor food waste management plan for homeowners.

11.10.4 Mail Service

Mitigation measures proposed in the EIS will address these concerns, including potential acquisition of a new post office or rural mail delivery service.

11.10.5 East Acres Plat CC&Rs

The CC&Rs on the East Acres plat are a civil matter to be sorted out between the relevant parties.

11.10.6 Roads

Mitigation measures proposed in the EIS will address transportation concerns, which included:

11.10.6.1 Simple change from one-way stop control to an all-way stop control would improve the LOS from LOS F to LOS C.

11.10.6.2 Widening the off-ramp (I-90 West/Railroad Street) approach to include a left-turn pocket would improve from LOS D to LOS C.

11.10.6.3 Widening northbound approach (Railroad St) to include a left-turn lane and eliminating the stop signs on the eastbound approach (Sparks) and northbound approach to allow through movement from Railroad to Sparks would improve to LOS C.

11.10.6.4 Alternatively, a roundabout would improve from LOS F to LOS A.

11.10.6.5 Addition of a median refuge (merging area) for southbound left movements from Pit Way onto Sparks would improve from LOS E to LOS C.

11.10.7 All-Terrain Vehicles (ATVs)

ATVs are regulated under KCC 10.24 and under RCW 46.09 with the additional requirement that wheeled all-terrain vehicles have head lights that are utilized at all times, shall be allowed on county maintained roads that have posted speed limits of 35 miles per hour or less. All ATV use within the Marian Meadows PUD will conform to these provisions.

11.10.8 Air Quality

Mitigation measures proposed in the EIS will address concerns, which included:

11.10.8.1 Construction maintenance and operations requirements.

11.10.8.2 Restriction on wood burning stoves.

11.10.8.3 HOA materials for safe operations of BBQs, pesticides, smoking, combustible engines, and fireworks.

11.10.9 Lot Size

The County's PUD Ordinance provides for smaller lot sizes. The project's consistency with KCC Title 16 Subdivisions, and Title 17 Zoning, and Chapter 17.36 will be addressed in Section VI.

11.10.10 Permanent Residency

The proposal is for single-family attached and detached residential units, as well as RV storage and camp sites. The County cannot mandate that home owners be full-time residents.

11.10.11 Impacts to schools

Impacts to schools are addressed in the FEIS, starting on pg. 124. Mitigation measures are discussed on pg. 139, and are further discussed on pg. 30 of the SEPA Addendum.

11.10.12 Airport Safety

Mitigation measures are discussed within the FEIS on pg. 106. Measures listed include:

11.10.12.1 Avoidance of building within the ASZ.

11.10.12.2 Develop with 1 du/3 acres.

11.10.12.3 Develop with 1 du/5 acres.

11.10.12.4 Require outdoor lights be shielded.

11.11 Kittitas County Public Works

- 11.11.1 Kittitas County Public Works has reviewed the proposal for consistency with KCC Title 12 Roads and Bridges, and has recommended preliminary approval with conditions outlined in its comment letter. According to Public Works comments, the proposed development would reduce Level of Service from LOS A to LOS B, which would still provide service levels above the county's adopted LOS C standard.
- 11.11.2 Further, Kittitas County Public Works has reviewed the proposal for consistency with KCC Title 19, and has recommended preliminary approval, subject to conditions within its comment letter.
12. The applicant applied for a similar use to Kittitas County Community Development Services (CDS) in 2006 at which time SEPA review was performed and a Determination of Significance was issued (April 30, 2007) and the applicant appealed. The Kittitas County Board of County Commissioners voted to deny the appeal on July 11, 2007. Subsequently, a Final Environmental Impact Statement (FEIS) was prepared, and was finalized on June 11, 2011 (Exhibit # 120). WAC 197-11-600 provides for the adoption of existing environmental documents. Kittitas County found that the use applied for in this instance represents a diminished environmental impact from the one originally applied for in 2006 and therefore it utilized the provisions allowed for in the citation above to adopt the existing FEIS.
13. The Kittitas County Community Development Services recommended approval of this preliminary plat planned unit development and conditional use permit, subject to the recommended conditions of approval.
14. An open record public hearing after due legal notice was held on October 12, 2017.
15. Admitted into the record were the following Exhibits:
- 15.1 Exhibit 1. Record of Survey;
 - 15.2 Exhibit 2. Record of Survey;
 - 15.3 Exhibit 3. Legal Description;
 - 15.4 Exhibit 4. ROW Grant;
 - 15.5 Exhibit 5. Access Road Easement;
 - 15.6 Exhibit 6. Warranty Deed;
 - 15.7 Exhibit 7. BLA 2003;
 - 15.8 Exhibit 8. Easton Flats Short Plat;
 - 15.9 Exhibit 9. Recorded Easements;
 - 15.10 Exhibit 10. Water Main Easement;
 - 15.11 Exhibit 11. Land Lease Agreement;
 - 15.12 Exhibit 12. Easton Acres CC&Rs;
 - 15.13 Exhibit 13. Quit Claim Deed, Easements, Leases, Etc.;

- 15.14 Exhibit 14. Letter of Transmittal;
- 15.15 Exhibit 15. Subdivision Guarantee;
- 15.16 Exhibit 16. Stream and Wildlife Assessment;
- 15.17 Exhibit 17. Stormwater Report;
- 15.18 Exhibit 18. Preliminary V;
- 15.19 Exhibit 19. Preliminary IV;
- 15.20 Exhibit 20. Preliminary Plat III;
- 15.21 Exhibit 21. Preliminary Plat II;
- 15.22 Exhibit 22. Preliminary Plat;
- 15.23 Exhibit 23. Preliminary Development Plan IV;
- 15.24 Exhibit 24. Preliminary Development Plan III;
- 15.25 Exhibit 25. Preliminary Development Plan II;
- 15.26 Exhibit 26. Preliminary Development Plan;
- 15.27 Exhibit 27. Easton Drinking Water DOH Permit;
- 15.28 Exhibit 28. Drinking Water Permit Letter Easton;
- 15.29 Exhibit 29. On Site Sewage;
- 15.30 Exhibit 30. Site Plan III;
- 15.31 Exhibit 31. Site Plan II;
- 15.32 Exhibit 32. Site Plan;
- 15.33 Exhibit 33. Zone Illustrations;
- 15.34 Exhibit 34. Example Homes;
- 15.35 Exhibit 35. SEPA Compliance Document;
- 15.36 Exhibit 36. Phasing Illustration;
- 15.37 Exhibit 37. Development Agreement Application;
- 15.38 Exhibit 38. CUP Application;
- 15.39 Exhibit 39. Long Plat Application;
- 15.40 Exhibit 40. PUD Application;
- 15.41 Exhibit 41. Funding Agreement Unsigned;
- 15.42 Exhibit 42. Narrative;
- 15.43 Exhibit 43. Deemed Incomplete Response;
- 15.44 Exhibit 44. Land Use Projects;
- 15.45 Exhibit 45. Zoning Map;
- 15.46 Exhibit 46. Vicinity Map;

- 15.47 Exhibit 47. Seismic Category;
- 15.48 Exhibit 48. Priority Habitats;
- 15.49 Exhibit 49. Fire and School Districts;
- 15.50 Exhibit 50. Hazardous Slopes Map;
- 15.51 Exhibit 51. Critical Areas Map;
- 15.52 Exhibit 52. BPA Row;
- 15.53 Exhibit 53. Aerial Photo;
- 15.54 Exhibit 54. 500 Foot Buffer Parcels;
- 15.55 Exhibit 55. Site Plat with Critical Areas;
- 15.56 Exhibit 56. Deemed Complete Letter;
- 15.57 Exhibit 57. Affidavit of Posting;
- 15.58 Exhibit 58. NOA Memo and Corrected NOA;
- 15.59 Exhibit 59. NOA Legal;
- 15.60 Exhibit 60. Mailing Labels;
- 15.61 Exhibit 61. NOA Legal Proof;
- 15.62 Exhibit 62. Daily Record Legal Proof;
- 15.63 Exhibit 63. Critical Areas Checklist;
- 15.64 Exhibit 64. Preliminary Plat High Resolution Image;
- 15.65 Exhibit 65. Public Comments;
- 15.66 Exhibit 66. Easton School District Comments;
- 15.67 Exhibit 67. KC PW Comments;
- 15.68 Exhibit 68. BPA Comments;
- 15.69 Exhibit 69. DOH Comments;
- 15.70 Exhibit 70. EH Comments;
- 15.71 Exhibit 71. WDFW 2010 Comment Letter;
- 15.72 Exhibit 72. WDFW Comments;
- 15.73 Exhibit 73. DOH Comments;
- 15.74 Exhibit 74. WSDOT Comments;
- 15.75 Exhibit 75. Soils Report;
- 15.76 Exhibit 76. Pre-Application;
- 15.77 Exhibit 77. Development Agreement Application Revised;
- 15.78 Exhibit 78. Conditional Use Permit Application Revised;
- 15.79 Exhibit 79. Long Plat Application Revised;

- 15.80 Exhibit 80. PUD Application Revised;
- 15.81 Exhibit 81. Traffic Impact Statement;
- 15.82 Exhibit 82. LOSS Feasibility Letter;
- 15.83 Exhibit 83. Well Log Change Form;
- 15.84 Exhibit 84. Water Well Report;
- 15.85 Exhibit 85. Well Log Facilities Form;
- 15.86 Exhibit 86. Water Resolution and Annex;
- 15.87 Exhibit 87. Water Mitigation Summary;
- 15.88 Exhibit 88. Commercial Element;
- 15.89 Exhibit 89. RV Complex;
- 15.90 Exhibit 90. Lot Illustration;
- 15.91 Exhibit 91. Zoning Illustration Index;
- 15.92 Exhibit 92. RCW Citation;
- 15.93 Exhibit 93. Maps SEPA Index;
- 15.94 Exhibit 94. Airport Mitigations;
- 15.95 Exhibit 95. SEPA Mitigations Geologic Map;
- 15.96 Exhibit 96. SEPA Mitigation Matrix;
- 15.97 Exhibit 97. SEPA Addendum Proposed;
- 15.98 Exhibit 98. Project Code and Policy Support;
- 15.99 Exhibit 99. CC & Rs;
- 15.100 Exhibit 100. Title Report and Guarantee;
- 15.101 Exhibit 101. Goals and Objectives;
- 15.102 Exhibit 102. Ownership and Alternatives Studied;
- 15.103 Exhibit 103. Site Characteristics;
- 15.104 Exhibit 104. Vicinity Location Information;
- 15.105 Exhibit 105. Plat Introduction;
- 15.106 Exhibit 106. Funding Agreement Unsigned;
- 15.107 Exhibit 107. Response to WSDOT;
- 15.108 Exhibit 108. Response to WDWF;
- 15.109 Exhibit 109. Response to KC Fire District;
- 15.110 Exhibit 110. Certificate of Water Availability;
- 15.111 Exhibit 111. Applicant Response to Comments;
- 15.112 Exhibit 112. Additional Public Comments;

- 15.113 Exhibit 113. Easton Short Plat High Resolution Image;
 - 15.114 Exhibit 114. FEIS Mitigation Measures and Applicant Responses;
 - 15.115 Exhibit 115. Notice of SEPA Action and Public Hearing Legal;
 - 15.116 Exhibit 116. Notice of SEPA Action and Public Hearing;
 - 15.117 Exhibit 117. SEPA Addendum;
 - 15.118 Exhibit 118. SEPA Adoption Form;
 - 15.119 Exhibit 119. Emails;
 - 15.120 Exhibit 120. Final Environmental Impact Statement;
 - 15.121 Exhibit 121. Staff Report;
 - 15.122 Exhibit 122. October 12, 2017 Memorandum from Dan Carlson, AICP, Community Development Services Director;
 - 15.123 Exhibit 123. Applicant's narrative with six photographs;
 - 15.124 Exhibit 124. Proposed Modification of Condition relating to decommissioning of Quarry;
 - 15.125 Exhibit 125. October 12, 2017 Letter from Jan Sharar;
 - 15.126 Exhibit 126. October 11, 2017 Letter from John R. Jensen with attachments;
 - 15.127 Exhibit 127. June 13, 2017 Letter from Easton School District No. 28;
 - 15.128 Exhibit 128. October 12, 2017 letter from Easton School District No. 28;
 - 15.129 Exhibit 129. SEPA referenced to increased students;
 - 15.130 Exhibit 130. October 12, 2017 Letter from Lynn Lopez;
 - 15.131 Exhibit 131. October 12, 2017 Letter from Marge Brandsrud;
 - 15.132 Exhibit 132. Written comments from Eugene Mansel.
- 16. Appearing and testifying on behalf of the applicant was Jerry Martens. Mr. Martens testified that he was an agent authorized to appear and speak on behalf of the property owner and applicant. Mr. Martens provided testimony consistent with Exhibit 123.
 - 17. Also testifying on behalf of the applicant was Mark Kirkpatrick. Mr. Kirkpatrick also testified that he was appearing and testifying on behalf of the applicant and property owner. Mr. Kirkpatrick testified regarding the interior roads and the snow management plan.
 - 18. Also appearing and speaking on behalf of the applicant was attorney, Duana Kolouskova.
 - 19. The following individuals testified at the hearing:
 - 19.1 Myrna Jensen.
 - 19.2 John Jensen.
 - 19.3 Kent Shoop.
 - 19.4 Patrick Dehuff.
 - 19.5 Lynn Lopez.

- 19.6 Marge Brandsrud.
- 19.7 Debbie Ogura.
- 19.8 Eugene Mansel.
- 19.9 Barbara Lowrey.
- 19.10 Jason B. Moulton.
- 19.11 Terri Campbell.
- 19.12 Cynthia McLaughlin.
- 19.13 Barbara Davidson.
20. The testimony from the public convincingly set forth facts that the ability to travel through East Sparks Road in winter months, especially after heavy snowfall, is significantly impaired. This is especially true when Interstate 90 is closed westbound from Easton. Vehicles exiting the highway, including semi-tractors and trailers, mistakenly believe that East Sparks Road provides a way to either return to the freeway traveling eastbound or otherwise provides sufficient space for tractors and trailers to turn around. Solutions to this problem should be addressed in the Development Agreement.
21. Staff indicated that the four large lots created by this plat are not eligible for future development or division (lots 1-4, Exhibit 90).
22. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
23. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
24. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
25. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
4. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Kittitas County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the zoning code and other land use regulations, and SEPA.

7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMENNDED DECISION

Based on the above Findings of Fact and Conclusions of Law, Application PD-17-00001, CU-17-00001, LP-17-00001 is hereby recommended to be **APPROVED** subject to the following Recommended Conditions of Approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
 - 1) The applicant shall enter into a development agreement with Kittitas County that mitigates impacts to Easton School District, Kittitas Valley Fire District #3, parks and recreation, and police service. These impacts shall be mitigated to the satisfaction of Kittitas County.
 - 2) The applicant shall submit to Kittitas County a final PUD development plan in accordance with KCC 17.36. The final PUD development plan shall not be approved until a development agreement has been approved in accordance with Condition #1.
 - 3) All development shall conform substantially to the application and accompanying materials submitted on December 22nd, 2016.
 - 4) The non-fish stream mapped at the southern portion of the site shall be reassessed during high spring flows to determine necessary setbacks under KCC 17A.07 to be incorporated into a stormwater management plan.
 - 5) A fire management plan shall be prepared and implemented, with building covenants to ensure that homes are built with fire prevention measures consistent with County WUIC and in compliance with Easton Water District standards.
 - 6) Lighting that reduces glare and outward light that may affect nocturnal wildlife such as migrating birds shall be used.
 - 7) Whenever feasible, landscaping with native plants to reduce overall habitat loss shall be employed.
 - 8) Clear and grading shall be limited to only the amount needed for a footprint of structures and required defensible space.

- 9) Speed limits shall be used to reduce wildlife collisions on roads.
- 10) Homeowners Association restrictions on residents from leaving food sources and other attractants outside of homes that will encourage large wildlife (such as bears) near homes where human/wildlife conflict can arise shall be included in project CC&Rs.
- 11) The following Public Works conditions (#12-27) apply and must be completed prior to final approval of this project. A performance guarantee may be used, in lieu of the required improvements per the conditions outlined in KCC 12.01150.
- 12) The division of land is vested, and shall conform to the Current Kittitas County Code Chapter 12 Road and Bridge Standards dated December 15, 2015.
- 13) The number of units associated with the campsites and RVs shall be identified in the development agreement and final PUD development plan in order to determine road standards.
- 14) Connecting points for loop roads shall loop back to a road built to a Public Road Standard. Loop Roads shall have two separate accesses to a Public Road. Public Roads are not capped by number of lots/units that can access.
- 15) Access to lot 19 shall be shown on the face of the final plat.
- 16) Plans for on-site stormwater and construction stormwater shall be submitted in accordance with Current Kittitas County Road and Bridge Standards dated December 15th, 2015.
- 17) Road plans shall be submitted in accordance with Kittitas County Road and Bridge Standards dated December 15, 2015.
- 18) Locations identified for snow storage shall be designed to accommodate storage for 84 inches of annual accumulation for the square footage of all roadways and parking areas. Snow storage areas accommodating public roadways shall be included in the public right of way dedication.
- 19) Roadways brought on the system by the County, following the process as outlined in Kittitas County Code Chapter 12, shall have said right of way dedicated to the county on the plat.
- 20) Road Naming Applications for all new roadways will need to be completed prior to final plat approval. The new established road names will need to be shown on the face of the plat.
- 21) Plat Notes shall reflect the following:
 - 21.1 Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards and formally adopted by the Kittitas County Board of County Commissioners.

- 21.2 Maintenance of access is the responsibility of property owners who benefit from its use.
- 21.3 An approved access permit will 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.
- 21.4 Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
- 21.5 A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided 5 feet on each side of interior lot lines. Said easement shall also be used for irrigation.
- 22) All plats shall include the acceptance signature block of the Public Works Director. The acceptance block shall be as follows (per KCC 16.24.170):

EXAMINED AND APPROVED

This ___ day of ___, A.D., 20___.

Kittitas County Public Works Director

- 23) The relatively short runoff length of 2,571 feet for Easton Airport supports a threshold siting surface of 15:1, No structure shall perforate the following surfaces: 15:1 for existing threshold siting surface and 20:1 for approach surface.
- 24) Electrical interference with navigational signals or radio communication between the airport and aircraft is prohibited and will be regulated in accordance with rules and regulations promulgated and enforced by the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations.
- 25) Activities or uses that create lighting which make it difficult for pilots to distinguish between airport lights and non-airport lights or that create glare in the eyes of pilots using the airport are prohibited. All outdoor lighting fixtures shall be arranged and shielded so that area lighting shall not shine into the sky.
- 26) Activities or uses that create excessive amounts of dust, smoke, or other emissions that may result in impairment of visibility in the vicinity of the airport are discouraged and will be regulated in accordance with rules and regulations promulgated and enforced by the Washington State Department of Ecology under the Clean Air Act and other state and federal regulations.
- 27) Access easements on the subject property that benefit other properties shall not be inhibited by gates or similar structures.

28) Transportation

28.1 Roads

- 28.1.1 The original proposal identified in the FEIS examined a 443 lot alternative. Kittitas County Public Works has determined that the current proposal will allow a Level of Service change from A to B, above the minimum standard of C. Mitigations proposed in the FEIS will not be required for the revised proposal.

28.2 Airports

Much of the proposed plat falls within the Easton Airport's Airport Safety Zones.

- 28.2.1 The approach surfaces listing in the current Bowers Field Airport Layout Plan inaccurately impose Bowers Field runway protection zones on Easton Airport. The relatively short runoff length of 2,571 feet supports a threshold siting surface of 15:1, at 2000 lineal feet from the end of the runway, a structure must be less than 133 feet above the elevation of the airport (2,221 MSL). At 2,000 lineal feet from the end of the runway, a structure must be less than 100 feet above 2,221 MSL supporting the runway approach surface. No structure shall perforate the following surfaces: 15:1 for existing threshold siting surface and 20:1 for approach surface.
- 28.2.2 Electrical interference with navigational signals or radio communication between the airport and aircraft is prohibited and will be regulated in accordance with rules and regulations promulgated and enforced by the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations.
- 28.2.3 Activities or uses that create lighting which make it difficult for pilots to distinguish between airport lights and non-airport lights or that create glare in the eyes of pilots using the airport are prohibited. All outdoor lighting fixtures shall be arranged and shielded so that area lighting shall not shine into the sky.
- 28.2.4 Activities or uses that create excessive amounts of dust, smoke, or other emissions that may result in impairment of visibility in the vicinity of the airport are discouraged and will be regulated in accordance with rules and regulations promulgated and enforced by the Washington State Department of Ecology under the Clean Air Act and other state and federal regulations.

29) Parks and Recreation

Mitigations for impacts to Park and Recreation facilities are discussed in the FEIS, (pg. 3-124). Mitigations listed in the FEIS include:

- 29.1 Provision by the project of such facilities, or proportional contribution to the cost of such facilities
- 29.2 Providing facilities for Off-Road Vehicle Use.
- 29.3 Maintenance of facilities on site through a Homeowners Association.
- 29.4 Provision of such facilities through the Kittitas County Park and Recreation District No. 1 by means of voter approved tax assessments.
- 29.5 The applicant seeks to enter into a Development Agreement with the County. Mitigations for Parks and Recreation can be determined through the Development Agreement process.

The applicant shall enter a development agreement with Kittitas County that mitigates park and recreation impacts to the satisfaction of Kittitas County.

30) Public Services

30.1 Police Service

The FEIS examines mitigations for impacts to police services. Mitigation measures include a fair share contribution from the project to provide additional resources, including personnel, equipment, and facilities. Specific contribution amounts shall be determined through the Development Agreement process.

30.2 Fire Safety/Medical Response

The FEIS includes mitigation requirements. The following mitigation measures are recommended conditions of approval:

- 30.2.1 A Fire Management Plan shall be developed and implemented.
- 30.2.2 Fire hydrants shall be included as per fire district design standards.
- 30.2.3 Development shall comply with KCC Title 20 Fire and Life Safety, including the International WUI Code defensible space requirements.
- 30.2.4 Non- combustible areas immediately adjacent to buildings shall be required.
- 30.2.5 The FEIS identified public fire education programs, and additional equipment to mitigate Fire and Medical Response impacts associated with the project. Project contribution to these measures is identified in the FEIS. Such contributions can be made a condition of a Development Agreement, with amounts identified appropriate to the 89 unit current proposal. The applicant shall to contact the Kittitas Valley Fire District to determine appropriate mitigation measures. Mitigation measures shall be included in the development agreement.

30.2.6 Automated fire suppression systems shall be installed.

30.3 **Schools**

The FEIS examines impacts to the Easton School District. Impacts of the current proposal are most similar to those identified in Alternatives 3D and 5. The FEIS suggests project contribution to increased District costs. Such contributions can be made a condition of a Development Agreement. The applicant shall contact Easton School District and develop mitigation measures. Mitigation measures shall be included in the development agreement.

31) **Utilities**

31.1 **Sewer**

31.1.1 Residential lots will be served by an On-site septic system.

31.1.2 The RV Complex shall be served with a Large On-Site Septic System designed to DOH standards with oversight by DOH /Satellite Management.

31.1.3 Prior to any development on the steeper eastern slopes, a sewage disposal master plan shall be submitted to Kittitas County Environmental Health.

31.2 **Stormwater Management**

31.2.1 Stormwater plans submitted to CDS shall depict design standards showing pervious construction methods with a focus on retention and infiltration.

31.2.2 Development shall comply with the Ecology Stormwater Management module Eastern Washington.

31.3 **Electric Utilities**

31.3.1 The plat map shall include the following note:
“The Bonneville Power Administration imposed certain conditions on the portions of these lots encumbered by its high voltage transmission line right-of-way. BPA does not allow structures to be built within the right-of-way, nor does it allow access to be blocked to any transmission facilities. Any activity that is to occur within the right-of way may be addressed to BPA real Estate Field Services at (877) 417-9454”.

31.3.2 BPA shall be allowed the opportunity to review the location of proposed roads, use of existing access roads, snow storage, utilities, etc. to ascertain whether or not the uses can be permitted. The owner shall submit a land use application, the associated \$250 application fee, and acquire a Land Use Agreement from BPA in addition to the County’s building permit for any

portion of the owner's development plans that lie within BPA's right-of-way.

32) Visual Quality, Light and Glare

As described in the FEIS, visual impacts can be mitigated through the following methods, and such methods are recommended as conditions of approval:

32.1 Road cuts shall be revegetated with native coniferous trees.

32.2 outdoor lighting shall be shielded and directed downward.

33) Noise

Noise impacts are discussed on pg. 3-227 of the FEIS.

33.1 When possible, construction activities shall be limited to daylight hours.

33.2 KCC 9.45.040 exempts construction from noise ordinances between the hours of 6:00 am and 10:00 pm. Should circumstances require work outside of these hours, the applicant shall apply for a variance with the Board of County Commissioners pursuant to KCC 9.45.070.

34) Air Quality

34.1 The project shall comply with all applicable local, state and federal laws regulating air quality.

34.2 Current quarry work will impact air quality. Quarry operations will be amended as the development moves north. Quarry operations will continue and provide resource materials needed for the development. Once residential vertical build out is within 250' of quarry operations, operations will cease and reclamation will commence.

35) Hazardous Materials

Mitigation measures related to hazardous materials are discussed on pg. 3-238 of the FEIS.

35.1 A control and response plan shall be developed deal with hazardous material related to construction.

35.2 Convenient means of safe disposal of any household hazardous materials shall be provided.

36) Historic, Cultural, and Archeological Resources

Mitigation measures related to Historic and Cultural Preservation are discussed on pg. 3-241 of the FEIS.

36.1 The applicant shall formulate a plan for limited subsurface testing in any areas of

high probability for containing pre contact and historic resources.

- 36.2 The applicant shall prepare an inadvertent discovery plan which states applicable state laws and proper procedures that is to be followed if archaeological resources are identified. A contact list of appropriate parties shall be included.
- 36.3 Should ground disturbing or other activities related to the proposed plat result in the inadvertent discovery of cultural or archaeological materials, work shall be stopped in the immediate area and contact be made with the Washington State Department of Archeology and Historic Preservation. 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 or local law enforcement the most expeditious manner possible.

37) Geology, Topology, and Soils

The FEIS examines impacts related to geologic hazards, and proposes mitigation measures (3-265).

- 37.1 Development on the steep, eastern portion of the site shall require geotechnical analysis prior to, and during construction.
- 37.2 The alluvial fan area in the northwest corner of the project will be private property with restrictions on for the removal of foliage or land clearing, along with the alluvial fan located in the southern portion of the property.
- 37.3 After decommissioning, the rock quarry area shall be reclaimed and repurposed into the 100,000 gallon water storage facility required under Water District Resolution 30906.2.

38) Surface Water Resources

- 38.1 Surface water mitigations are examined in the FEIS (pg. 3-277). Development shall comply with all stormwater related state, local and federal regulations.
- 39) The large lots designated on the site plan as lots 1 through 4 (Exhibit 90) are not eligible for future development and shall not be further divided.
 - 40) The recreational vehicles storage units shall be for the exclusive use of the recreational vehicle storage unit owner and shall not be rented to, or used by, any other person for any amount of time.
 - 41) The recreational storage units shall not be used for human overnight occupation at any time. The Development Agreement shall set forth sufficient provisions to ensure that the recreational vehicles storage units are not used for human residency, either within the unit or within vehicles stored within the units. Failure to set forth sufficient provisions shall result in the CUP approval for the RV storage units being deemed null and void.

- 42) The recreational vehicle park and the campground shall not be for public use.
- 43) Recreational vehicle stays within the recreational vehicle park shall not exceed the time limits set forth in the Kittitas County Code.
- 44) Stays within the campground shall not exceed the time limits set forth in the Kittitas County Code.
- 45) The Development Agreement shall set forth adequate reporting requirements between the applicant and the county as to member vehicle stays within the recreational vehicle campground park and the campground. If satisfactory reporting provisions are not set forth within the Development Agreement, then stays within the recreational vehicle park and campground shall be limited to April 1 through September 30 each year. In the alternative, if said reporting procedures cannot be agreed upon in the Developer Agreement, then the portion of the conditional use permit related to recreational vehicle storage should be denied.
- 46) All approvals for the Planned Unit Development, plat and conditional use shall be considered null and void in the event a Developer Agreement satisfactory to the county is not timely finalized.

Dated this 24th day of October, 2017.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp