

BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS STATE OF WASHINGTON

ORDINANCE NO. 2006 - 59

RANCH ON SWAUK CREEK REZONE (Z-06-27) AND PRELIMINARY PLAT (P-06-27)

IN THE MATTER OF AMENDING THE KITTITAS COUNTY ZONING ATLAS FOR PORTIONS OF SECTIONS 27, 28, 33, AND 34 OF TOWNSHIP 20 N., RANGE 17 E., FROM FOREST AND RANGE-20, AGRICULTURE-5, AND AGRICULTURE-3 TO PLANNED UNIT DEVELOPMENT AND DIVISION OF A PORTION OF THE PLANNED UNIT DEVELOPMENT LOCATED IN THE SE 1/4 OF SECTION 28, TOWNSHIP 20N., RANGE 17E., INTO 14 LOTS RANGING IN SIZE FROM 0.34 TO 0.79 ACRES REFERED TO AS PHASE #1 DIVISION 1 OF THE PLANNED UNIT DEVELOPMENT

WHEREAS, according to Kittitas County Code Titles 15A & 17, relating to general rezones, adopted pursuant to RCW 36.70B & 36.70 respectively, and according to Kittitas County Code Title 16, relating to Subdivision of Land, adopted pursuant to RCW 58.17, an open record hearing was held by the Kittitas County Planning Commission on September 26, 2006 for the purpose of considering a zone change consisting of approximately 487.43 acres from Forest and Range-20, Agriculture-5 and Agriculture-3 to Planned Unit Development (PUD), and a preliminary plat known as Phase #1 Division 1 of the Planned Unit Development and described as follows:

ALL OF AND PORTIONS OF PARCELS LYING WEST OF US HIGHWAY 97 AND SOUTH OF RANCH ROAD AND BURKE ROAD AT 980 BURKE ROAD, CLE ELUM, WA 98922 WITHIN SECTIONS 27, 28, 33, AND 34, described as being portions of sections 27, 28, 33 and 34 of T.20N., R.17E., W.M., in the County of Kittitas, State of Washington; all of map numbers 20-17-28000-0007, 20-17-28000-0006, 20-17-28000-0001, 20-17-28000-0004, 20-17-28000-0003, 20-17-28000-0002, 20-17-28000-0005, 20-17-33000-0001, 20-17-33000-0008, 20-17-33000-0023, 20-17-33000-0025, 20-17-33000-0019, 20-17-28030-0010, 20-17-28030-0011, 20-17-33000-0024, 20-17-33000-0026 and portions of map numbers 20-17-27030-0005, 20-17-27030-0007, 20-17-34000-0002, 20-17-34000-0006, 20-17-27030-0002, 20-17-27030-0009, 20-17-27030-0006, 20-17-27030-0003. And,

WHEREAS, testimony was taken from those persons present who wished to be heard during said open record hearing before the Planning Commission; and,

WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such zone change; and,

WHEREAS, the Planning Commission recommended approval of said proposed rezone and preliminary plat in a 4-0 decision; and,

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on November 7, 2006 to consider the Planning Commission's recommendation on this matter; and,

WHEREAS, the November 7th hearing was continued to November 13th, 2006 where the Board of County Commissioners approved said rezone and preliminary plat with a 3-0 vote and directed staff to prepare enabling documents for Board consideration during the December 5th, 2006 agenda; and,

WHEREAS, the following FINDINGS OF FACT and CONCLUSIONS AT LAW have been made concerning said proposed rezone and preliminary plat:

1. Chad Bala of the Terra Design Group, authorized agent for Ranch on Swauk Creek LLC and Cle Elum Pines LCC, landowners has submitted applications for the following: 1. Ranch on Swauk Creek Rezone, Z-06-27, from Forest&Range-20, Agriculture-5 and Agriculture-3 to Planned Unit Development (PUD) and 2. Ranch on Swauk Creek Preliminary Plat Phase #1 Division 1, P-06-27, which is a 14-lot subdivision.
 2. The subject property is approximately a total of 487.43 acres and is located west of US HWY 97, and south of Ranch Road and Burke Roads of sections 27, 28, 33, 34 all within T 20N., R 17E., W.M. in Kittitas County. Parcel numbers 20-17-28000-0007, -0006, -0001, -0004, -0003, -0002, -0005, 20-17-33000-0001, -0008, -0023, -0025, -0019, -0024, -0026, 20-17-28030-0010, -0011, 20-17-27030-0005, -0007, -0002, -0009, -0006, -0003, and 20-17-34000-0002, -0006.
 3. Pursuant to KCC 17.36: Planned Unit Development any persons or corporation applying for a planned unit development zone shall file a preliminary development plan with an application for zone change. The total acreage for the proposed PUD is **487.43** acres with a total of **243** units being proposed. The submitted application is proposing a phased approach and is as follows:
 - Phase #1:
 - A total of 81 lots divided into two segments (divisions)
 - Phase #1 Division 1: 14 lots, Group B and Community Septic (*application for preliminary plat submitted*)
 - Phase #1 Division 2: 67 lots, Group A Water System and Community Septic
 - Phase #2
 - A total of 81 lots, Group A Water System and Community Septic
 - Phase #3
 - A total of 81 lots, Group A Water System and Community Septic/Class A Reclaimed Water System
- Open Space Element for PUD:
The applicant has proposed a total of 146 acres of open space. The proposed open space is to protect the shoreline area of Swauk Creek, include fish enhancement measures on Swauk Creek will be used for continued Agricultural use which includes production of hay, grass and pasture lands. In addition, it is proposed that the open space will include passive and active recreational activities. These recreational activities include: a trail system, picnic sites, wildlife and bird watching. In addition, a community center is being proposed for use by the residents.

4. Pursuant to KCC 17.36.040: final development plan for Planned Unit Development, following approval of the preliminary development plan by the county and before lot sales or building construction commences, the developer (owner) shall submit a final development plan for approval by the Board of County Commissioners.
5. The subject property is currently being used as a ranch with agricultural and grazing activities occurring on site, along with some timber use. Currently on-site are structures related to the original homestead and associated accessory structures. Zoning to the north, west and south is Ag-3 and to the west is Ag-5 and Forest and Range-20.
6. A Notice of Application was issued on August 1, 2006 by Kittitas County Community Development Services. 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.
7. Written comments were solicited and the final date to submit written comments was on August 31, 2006 by 5:00pm. Comments were received and have been made part of the project record.
8. Based on the review of the submitted application materials (including an environmental checklist), correspondence received during the 30 day comment period and other information on file with our office, a SEPA Mitigated Determination of Non-Significance (MDNS) was issued by Kittitas County Community Development Services on September 8, 2006. The SEPA appeal period ended on September 25, 2006 at 5:00 pm. No SEPA Appeals were received.
9. The following are the mitigations contained with the MDNS:

I. Transportation

- A. Access to US-97 for these properties will be via the Burke Road and Bettas Road intersections. No direct access to US-97 will be allowed.
- B. A Traffic Impact Analysis shall be completed prior to Phase II of the development and shall be submitted, reviewed and approved by appropriate regulating agencies. The scope of the analysis shall include, but shall not be limited to US97/SR970, US97/Burke Road, and US 97/Bettas Road intersections. Mitigations to offset any identified impacts shall be provided for in the traffic study/analysis.
- C. The traveled 60-foot access right of way off of Ranch Road will be surfaced and maintained with crushed rock to minimize dust migration to neighboring properties.

II. Light and Glare

- A. Any proposed lighting should be shaded and directed down towards the site, and away from US-97.

III. Water and Septic

- A. All work done on Swauk Creek shall obtain the appropriate permits and be in conformance with the Riparian Management Plan.
- B. The applicant shall develop a Riparian Management Plan for Swauk Creek within 24 months of the final approval of Phase I.
- C. All development shall comply with the Kittitas County Shoreline Master Program.
- D. Per the Kittitas County Shoreline Master Program, a minimum of 100 feet buffer for structures shall be maintained along Swauk Creek. The buffer shall be maintained by the owner or applicable maintenance associations.
- E. A 100 foot structural setback and 200 foot setback per the Kittitas County Shoreline Master Program from the Ordinary High Water Mark of Swauk Creek shall be shown

on the final mylars.

- F. The 100 year-floodplain and determined wetlands shall be shown on the final mylars.
- G. Proper signage and CC&R's shall be incorporated on-site to encourage the maintenance of the buffer and natural condition of Swauk Creek.
- H. Storm water and surface runoff generated by this project must be retained and treated on-site in accordance with regulating agencies' standards.
- I. Storm water and surface runoff generated by this project shall not be allowed to flow onto WSDOT rights-of-way.
- J. The project shall comply with the requirements of the Department of Ecology Storm Water Manual for Eastern Washington for storm water generated by this project and shall be collected, retained and disposed of on-site accordingly as approved by DOE.
- K. The project shall comply with Kittitas County Code 17A: Critical Areas and 14.08: Flood Damage Prevention. Pond locations and bridge crossings shall be identified and reviewed pursuant to these codes and shown on final mylars for each phase of development.
- L. Pond locations shall remain outside of Critical Areas.
- M. On-site drainage features associated with construction shall be designed such that wetlands are not dewatered or impacted.
- N. The applicant will develop a Group "B" water system for Division one of Phase 1 of the project. The Group "B" water system's delivery facilities, limited to the piping and valves will be designed to the Group "A" Water System specifications as approved by the Washington State Department of Health for the Group "A" water systems owned and operated by LCU, Inc. This will be done to provide a seamless transition from the Group "B" water system developed for Division 1 of Phase 1 to the Group "A" water system that will provide water for future divisions and phases of the development.
- O. A Group "A" water system will be planned and constructed as approved, by the Washington State Department of Health for each future division of each phase of the development prior to final approval for said Division.
- P. The applicant will provide community septic systems for the initial phases of the project. The community septic systems will be designed by a license septic designer and approved by the Kittitas County Environmental Health Department. These community septic systems will be designed for a seamless transition into a Class A Reclaimed Water System Facility to be planned, approved and constructed for future phases of the project.
- Q. A Class "A" Reclaimed Water Facility will be developed and approved by the WA State Dept. of Ecology and the WA State Dept. of Health. The system shall be constructed when the volume of sewage to be treated reaches a volume that allows for the successful operation of the Class "A" Reclaimed Water Facility as approved by the Washington State Department of Health and the Washington State Department of Ecology.
- R. Withdrawals of groundwater on the subject property will be subject to the rules and regulations adopted and administrated by the Washington State Department of Ecology.
- S. Site grading shall comply with Kittitas County Code 14.08.

IV. Noise

- A. All county noise ordinances shall apply to the project.
- B. Construction activities shall comply with KCC 9.45 (Noise). Construction for the

project hours shall be 7:30am to sunset.

- C. It shall not be the responsibility of WSDOT to create noise dampening facilities or structures within this development.

V. Land Use and Recreation

- A. A final development plan pursuant to Kittitas County Code 17.36.040 shall be submitted for approval by the Board of County Commissioners.
- B. All proposals of the applicant included within their application that are not in conflict with these mitigations shall be conditions of approval and shall be considered as mitigations.
- C. The applicant will place a minimum of 30% of the land, 146 acres, in Open Space for perpetuity and will be designated on the final Mylar.
- D. The use of the open space area will be for passive and active recreational uses as allowed in KCC 16.09 along with the continued existing ranching and farming (agricultural) activities.
- E. Pursuant to Kittitas County Code 17.74.060A, a Plat Note regarding the Right to Farm Ordinance is required. The note shall read as follows: "The subject property is within or near land used for agriculture on which a variety of commercial activities may occur that are 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).
- F. The applicant will complete a wetland and wildlife study. The applicant shall be responsible for implementing the recommendations contained within the studies.
- G. The applicant shall develop CC&Rs for the development addressing roads, water/septic systems, open space, management of Swauk Creek, trail and recreation systems.

VII. Utilities and Services

- A. Mail routes shall be approved by the postmaster. The postmaster shall also approve mailbox locations. Mailbox locations shall not create sight obstructions.
 - B. The applicant shall work with the local school district to provide for a safe location and passageway for a school bus stop. This location shall be delineated on the final mylar.
 - C. The Group "A" Water System will abide by the requirements of the KC Fire Marshall for fire flow and placement of fire hydrants.
 - D. Portion of parcels within Section 34 that are included within this development shall be requested by the developer to be annexed into Fire District 7 during the development of this proposal.
 - E. Location and amount of fire hydrants on-site shall meet local fire jurisdiction requirements.
 - F. All parcels located outside of a fire district shall be subject to the International Urban Wildland Interface Code.
 - G. There shall be no parking on all access roadways for the project.
 - H. All development shall comply with the International Fire Code (IFC) and Appendices.
 - I. All private roadways/ shall meet the minimum requirements of a fire department apparatus access road with a minimum width of twenty feet.
10. An administrative site analysis was completed by the staff planner in compliance with Title 17A. The subject property is within the Swauk Prairie Deer and Ellensburg Mule Deer

Winter Range, and is impacted by shorelines of the state (Swauk Creek), floodplains and wetlands. The following are findings from the review: **Shorelines of the State:** Swauk Creek a shoreline of the state is located on the subject property and it is within the Rural Shoreline Environment per the Kittitas County Shoreline Master Plan. All development will need to comply with the Kittitas County Shoreline Master Plan and KCC 17A: Critical Areas. **100 year flood plain and Wetlands:** Floodplains and Wetlands are located within the subject property, particularly in relation to Swauk Creek. All development will need to comply with the Kittitas County Shoreline Master Plan, KCC 17A: Critical Areas, KCC 14.08: Flood Damage Prevention and SEPA mitigations.

11. An open record hearing was held by the Planning Commission on September 26, 2006 to consider this matter and testimony was taken from those persons who wished to be heard.
12. The proposed rezone is consistent with the underlying Comprehensive Plan designation of Rural.
13. The proposed rezone does meet all seven criteria of Kittitas County Code 17.98.020(E) as outlined below:
 - A. *The proposed amendment is compatible with the comprehensive plan. The proposed Planned Unit Development zone is compatible with the land use designation of rural.*
 - B. *The proposed amendment bears a substantial relation to the public health, safety or welfare. The proposal includes the construction and development of a Group B Well, Community Septic and development of a Class "A" Water and a Class "A" Reclaimed Water Facility to serve the proposed project. All proposed infrastructure shall be constructed and approved by appropriate government entities.*
 - C. *The proposed amendment has merit and value for Kittitas County or a sub-area of the county. It provides for a potential for an increased tax revenue/tax base and allows for a mixture of densities in the Rural land use designation and it is recognized that different zones are allowed.*
 - 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. Zoning to the north, west and south is Ag-3 and to the west is Ag-5 and Forest and Range-20. The Rural land use designation allows for a mixture of densities and zones.*
 - E. *The subject property is suitable for development in general conformance with zoning standards for the proposed zone. The subject property is currently being used as a ranch with agricultural and grazing activities occurring on site, along with some timber use. Currently on-site are structures related to the original homestead and associated accessory structures. Zoning to the north, west and south is Ag-3 and to the west is Ag-5 and Forest and Range-20. The Planned Unit Development allows for development in conformance for the zone and creation of open space for continuing use in Agriculture and preservation of areas affected by critical areas.*
 - F. *The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property. Zoning to the north, west and south is Ag-3 and to the west is Ag-5 and Forest and Range-20. The surrounding area includes a mixture of uses which includes residential, agriculture and natural resource.*

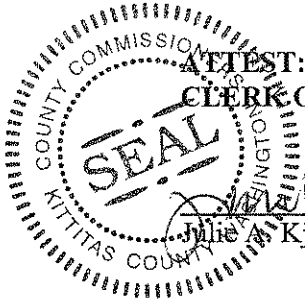
- G. *The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties. Irrigation deliveries will not be impacted and the project will conform with existing adjudication requirements to ensure that downstream delivery is not impacted. Irrigation deliveries will not be impacted.*
14. Additional conditions are necessary to protect the public's interest.
15. All mitigations contained as part of the issued SEPA MDNS shall be conditions of approval.
16. The following conditions shall apply for the Phase #1 Division 1 preliminary plat:
- A. On Site Sewage: Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in your plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and do not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
 - B. Proof of potable water must be shown prior to final plat approval.
 - C. For final approval of a Group "B" Public Well, Kittitas County Environmental Health Department must first perform a source site inspection to approve the location of the proposed well or if the well exists to ensure that it meets the criteria for approval. The well must be drilled and/or located within the subdivision boundaries, all infrastructure completed and within the utility corridors, the workbook and all related documentation including testing and satisfactory results must be submitted, reviewed and approved. Concurrence from the State Department of Health and issuance of a well ID number will complete the requirement.
 - D. The project shall provide adequate road access to the site and will conform to all Kittitas County Road Standards.
 - E. The project shall comply with the requirements of Kittitas County Code 16.18: Irrigation and Sprinkling.
 - F. Both sheets shall reflect: Ranch on Swauk Creek Planned Unit Development Phase #1 Division 1, P-06-27.
 - G. Full year's taxes must be paid on applicable tax parcels per Kittitas County Treasurer's requirements.
 - H. Pursuant to Kittitas County Code 17.74.060A, a Plat Note regarding the Right to Farm Ordinance is required. The note shall read as follows: "The subject property is within or near land used for agriculture on which a variety of commercial activities may occur that are 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).
 - I. All mitigations contained as part of the issued SEPA MDNS shall be conditions of approval.
17. Public testimony was heard.

NOW THEREFORE,

BE IT HEREBY ORDAINED by the Board of County Commissioners of Kittitas County, Washington, after due deliberation and in the best interest of the public, does hereby approve said zone change consisting of approximately 487.43 acres from Forest and Range-20, Agriculture-5 and Agriculture-3 to

Planned Unit Development (PUD) known as the Ranch on Swauk Creek Rezone (Z-06-27), and a preliminary plat designated as Phase 1 Division 1 of the Planned Unit Development, known as the Ranch on Swauk Creek Preliminary Plat (P-06-27), and does hereby authorize the amendment of the Kittitas County Zoning Map as set forth in attached Exhibit A and B and does hereby approve the proposed development configuration for the preliminary plat as set forth in attached Exhibit C and D.

DATED this 5th day of December, 2006 at Ellensburg, Washington.



ATTEST:
CLERK OF THE BOARD

Julie A. Kjorsvik
Julie A. Kjorsvik

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

David B. Bowen
David B. Bowen, Chairman

Alan A. Crankovich
Alan A. Crankovich, Vice-Chairman

APPROVED AS TO FORM:

Greg Zempel WSBA #19125

Perry D. Huston
Perry D. Huston, Commissioner

Exhibit A: Ranch on Swauk Creek Rezone (Z-06-27) and Preliminary Plat (P-06-27), Rezone Maps
1

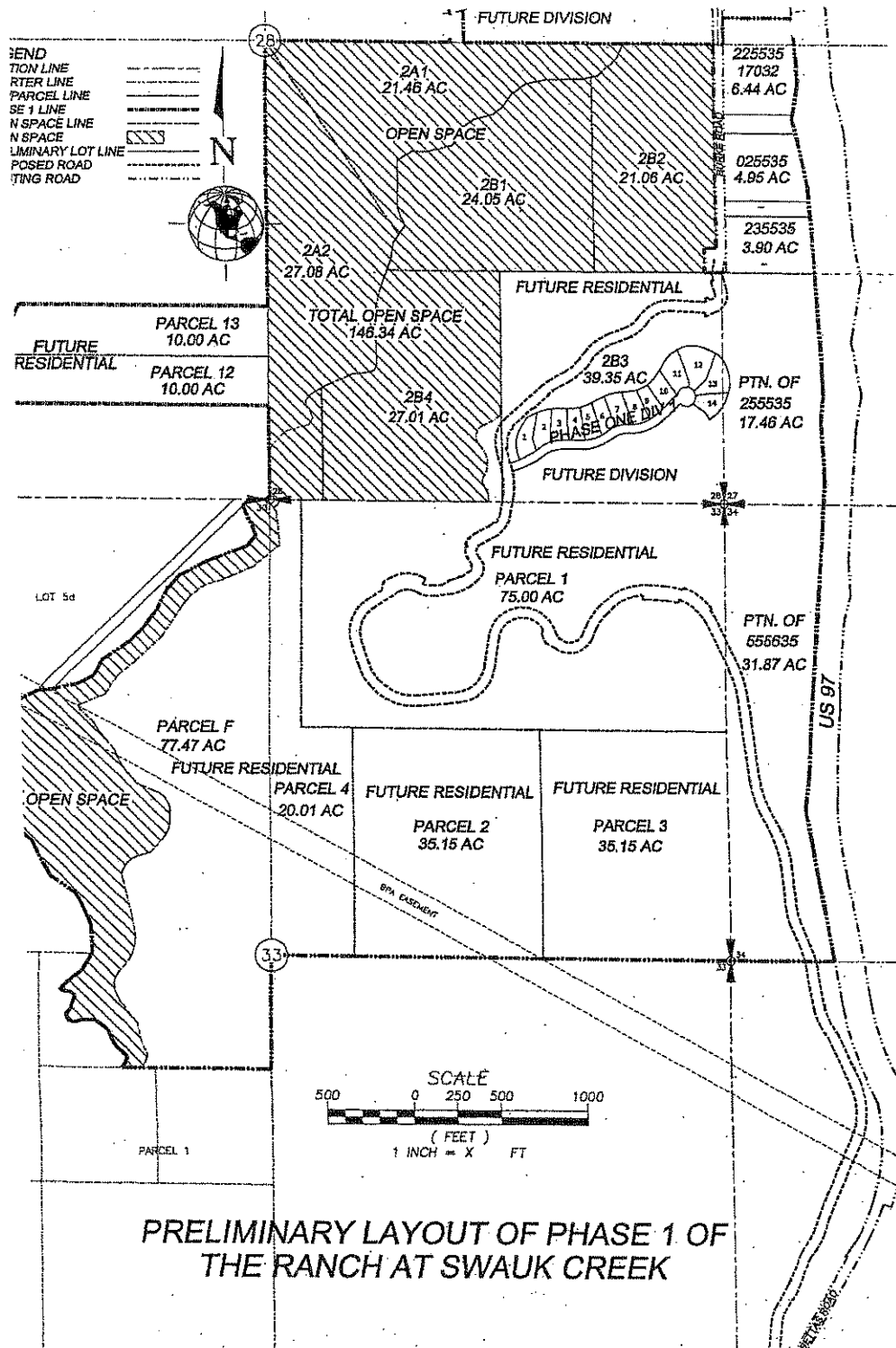


Exhibit B: Ranch on Swauk Creek Rezone (Z-06-27) and Preliminary Plat (P-06-27), Rezone Maps
2

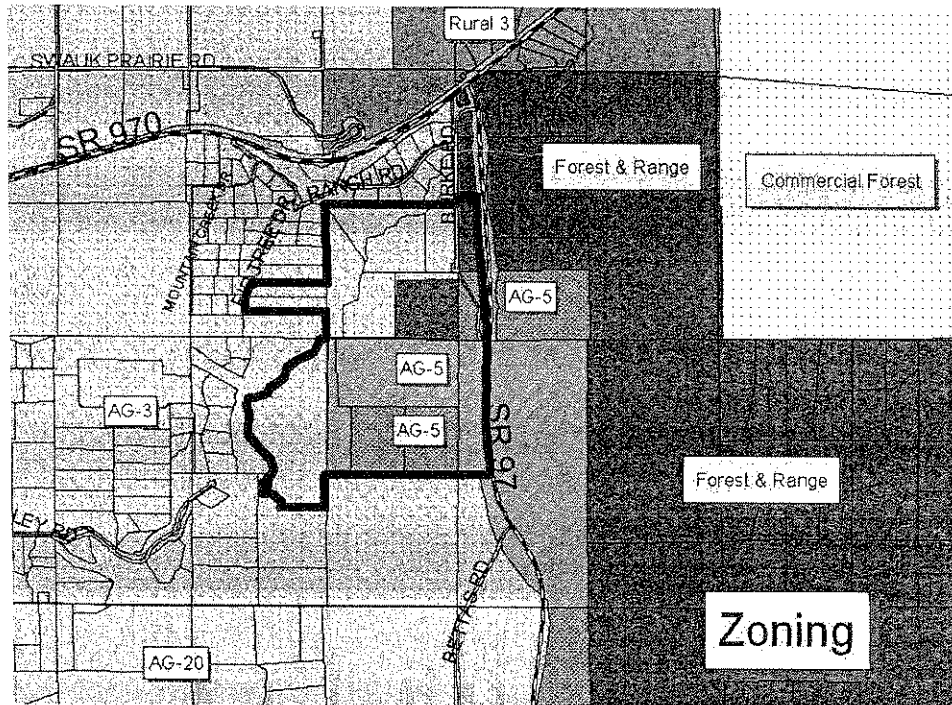
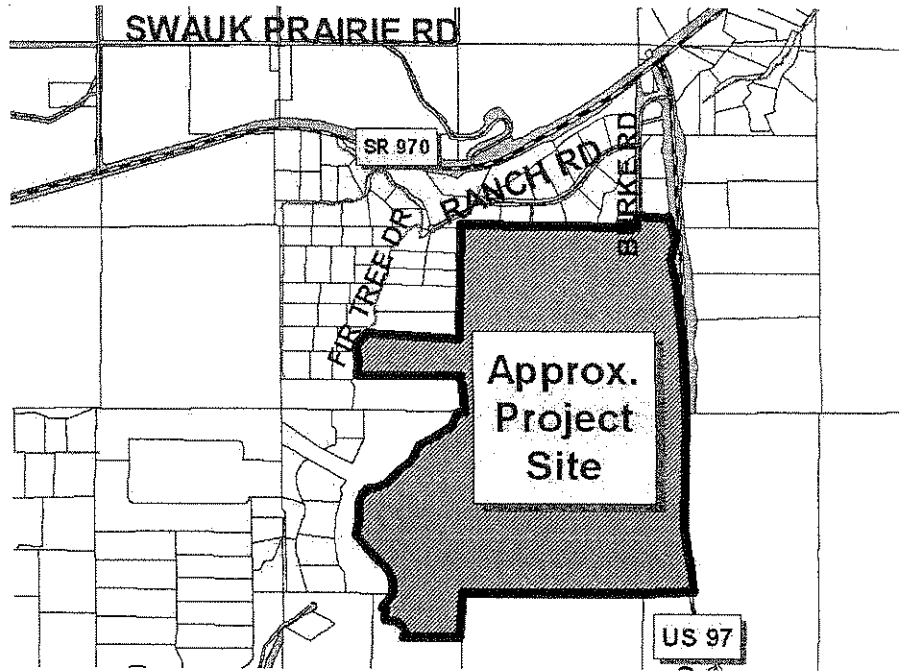


Exhibit C: Ranch on Swauk Creek Rezone (Z-06-27) and Preliminary Plat (P-06-27), Preliminary Plat Map 1

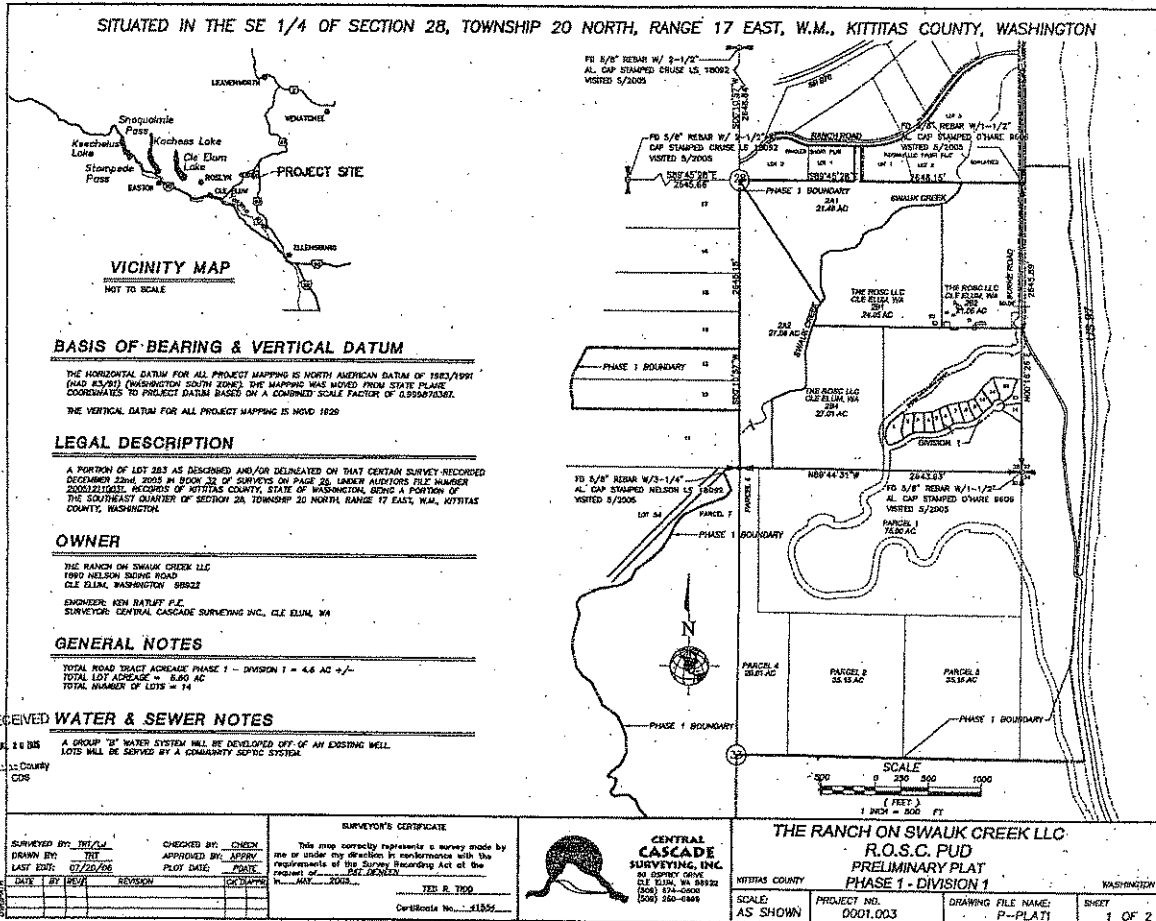


Exhibit D: Ranch on Swauk Creek Rezone (Z-06-27) and Preliminary Plat (P-06-27), Preliminary Plat Map 2

