

KOTTKAMP & YEDINAK

435 Orondo Ave. | Wenatchee, WA 98801
PO Box 1667 | Wenatchee, WA 98807

Attorneys

Andrew L. Kottkamp

Nicholas A. Yedinak

Robert W. Grim

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JUL 31 2014

KITITAS COUNTY
GDS

July 30, 2014

Ms. Mandy Weed
Kittitas County Community
Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA 98926

Re: RZ-14-00001 Butler

Dear Mandy:

Enclosed please find the original Recommended Decisions regarding the above-referenced.

Should you have any questions, please do not hesitate to call me.

Sincerely,

ANDREW L. KOTTKAMP

ALK:dn
Enclosures

*435 Orondo, Post Office Box 1667, Wenatchee, WA 98807-1667
(509) 667-8667 / (509) 667-8837 Fax*

www.wenatcheelaw.com

Toll-Free **866-441-1444** | Local **509-667-8667** | Fax **509-667-8837**

**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

RECEIVED

AUG 01 2014

KITTITAS COUNTY
CDS

IN THE MATTER OF)
)
RZ-14-00001)
Butler)
**RECOMMENDED
FINDINGS OF FACT,
RECOMMENDED
CONCLUSIONS OF LAW,
RECOMMENDED
DECISION AND
RECOMMENDED
CONDITIONS OF APPROVAL**

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on July 24, 2014, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Recommended Conclusions of Law, Recommended Decision and Recommended Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. Vicki Butler has submitted a rezone application with associated site plan and project narrative to change the current zoning from Highway Commercial to Light Industrial in the Cle Elum Urban Growth Area, and to construct mini-storage units in three (3) phases. This proposed use is an allowed use in the light industrial zone per KCC 17.15.080.1.D – mini-warehouse.
2. The subject property consists of one (1) parcel, located just east of the City of Cle Elum in the Cle Elum Urban Growth Area between Airport Road and SR 970, in a portion of Section 36, T20N, R15E, WM in Kittitas County, bearing Assessor's map number 20-15-36058-0003.
3. Total Project Size: 2.51 acres
Number of Lots: 1 (no new lots being proposed)
Domestic Water: None requested/proposed at this time.
Sewage Disposal: Proposing to use sani-can(s) if necessary.
Power/Electricity: Kittitas County PUD
Fire Protection: Fire District 7 (Cle Elum)
Irrigation District: N/A
4. Surrounding Property:

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Butler
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North: Residential/Agriculture
South: undeveloped and state highways
East: Residential/Agriculture
West: Cle Elum Urban Growth Area/Light Industrial/Cle Elum City Limits

5. Site Characteristics: The site is a relatively flat vacant land located within the Cle Elum UGA. The area is comprised of commercial, industrial, agricultural, and residential uses.
6. The Comprehensive Plan designation is Urban.
7. The subject property is zoned "Highway Commercial". The applicant is proposing to change the zoning to "Light Industrial," which allows for mini-warehouses as a permitted use.
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. A complete application for a rezone from Highway Commercial to Light Industrial with associated site plan was received on January 9, 2014. The application was deemed complete on March 25, 2014. A Notice of Application was issued on April 14, 2014. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners within 500 feet and other interested parties.
9. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 30 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on July 3, 2014. The appeal period ended on July 18, 2014 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. As referenced in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: GPO 2.30A; 2.32A; 2.32B; 2.34 (b, d, f, & g); 2.44; and 2.45. This proposal is consistent with the intent of the Urban Growth Areas of Kittitas County.
11. As conditioned, this proposal is consistent with the provisions of Kittitas County Roads and Bridges Title 12.
12. As conditioned, this proposal is consistent with the provisions of KCC 13 Water and Sewers Code.

13. This proposal, as conditioned, is consistent with Kittitas County Code Title 14 Building and Construction.
14. This proposal is consistent with the Kittitas County Zoning Code Title 17, more specifically KCC 17.48.
15. This proposal is consistent with Kittitas County Code Title 17A Critical Areas.
16. This proposal, as conditioned, is consistent with Kittitas County Code Title 20 Fire Life Safety.
17. This proposal is a project specific rezone and will require that the mini-storage units be constructed in substantial conformance with the plans and application materials (RZ-14-00001 Butler Rezone) on file dated January 9, 2014 prior to the rezone on the County map taking effect.
18. Upon review of KCC 17.13 Transfer of Development Rights, it has been determined that the request to rezone from Highway Commercial to Light Industrial is outside of the scope of consideration and the legislative intent of KCC 17.13 when it was adopted in 2009 and further amended in 2010 and 2011. Therefore, TDRs are not required for this rezone proposal.
19. The following agencies provided comments during the comment period: Washington State Department of Transportation, Washington State Department of Health, Washington State Department of Ecology, Kittitas County Environmental Health, and Kittitas County Public Works. Additional comments were provided during the pre-application meeting held on December 18, 2013 from Kittitas County Fire Marshal and Building Department. These comments have been integrated into the SEPA MDNS and the recommended conditions of approval. No comments have been received from the public.
20. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
21. An open record public hearing after due legal notice was held on July 24, 2014.
22. The entire Planning Staff file was admitted into the record at the public hearing.
23. The Kittitas County Community Development Services recommended approval of this zone change, subject to the recommended conditions of approval.

24. The following exhibits were admitted into the record:
- 24.1 Exhibit 1: Pre application materials – 12/18/13
 - 24.2 Exhibit 2: KC application fees receipt – 1/9/14
 - 24.3 Exhibit 3: Rezone application submittal packet – 1/9/14
 - 24.4 Exhibit 4: Updated Site Plan from designer – 1/9/14
 - 24.5 Exhibit 5: Updated phasing drawings – 3/13/14
 - 24.6 Exhibit 6: Deem Complete Letter – 3/25/14
 - 24.7 Exhibit 7: Affidavit of Posting – 3/26/14
 - 24.8 Exhibit 8: Staff review info
 - 24.9 Exhibit 9: Notice of Application – 4/14/14
 - 24.10 Exhibit 10: Affidavit of Mailing & Publication – Notice of Application – 4/14/14
 - 24.11 Exhibit 11: Returned Mail –Notice of Application and Corrected Notice of Application – 4/21/14
 - 24.12 Exhibit 12: Comment email from WSDOT – 4/14/14
 - 24.13 Exhibit 13: Comment email from DOH – 4/14/14
 - 24.14 Exhibit 14: Comment email from KC Env. Health – 4/15/14
 - 24.15 Exhibit 15: Comment memo from KC Public Works – 5/2/14
 - 24.16 Exhibit 16: Comment letter from WSDOT – 5/7/14
 - 24.17 Exhibit 17: Comment letter from DOE – 5/7/14
 - 24.18 Exhibit 18: Email between applicant and CDS – 5/21/14
 - 24.19 Exhibit 19: Transmittal of comments letter – 5/22/14
 - 24.20 Exhibit 20: Copy of legal Notice of Application publishing in Daily Record
 - 24.21 Exhibit 21: Email between applicant and CDS – 5/22/14
 - 24.22 Exhibit 22: Affidavit of published Notice of SEPA action and Hearing in Daily Record & NKC Tribune (with memo/legal) – 7/3/14
 - 24.23 Exhibit 23: SEPA MDNS – 7/3/14
 - 24.24 Exhibit 24: Second publishing of Notice of SEPA action and Hearing in Daily Record – 7/9/14
 - 24.25 Exhibit 25: Email between applicant and county – 7/14/14
 - 24.26 Exhibit 26: Email between applicant and CDS – 7/17/14
 - 24.27 Exhibit 27: Agenda for Hearing Examiner Hearing – 7/24/14 [Hearing Date]
 - 24.28 Exhibit 28: Kittitas County Community Development Services staff report
 - 24.29 Exhibit 29: Kittitas County Community Development Services power point presentation
 - 24.30 Exhibit 30: Determination of Concurrency Finding -7/24/14
25. Appearing and testifying on behalf of the applicant was Vicki Butler. Ms. Butler testified that she was an agent authorized to appear and speak on behalf of the property owner. Ms. Butler testified that she had reviewed all of the proposed conditions of approval and that neither she nor the property owner had any objections to any of the proposed conditions of approval.

26. No member of the public testified at the hearing.
27. Supplemental materials were submitted by Staff at the hearing. Those items were Exhibits 28, 29 and 30.
29. 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.
30. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
31. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
32. 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 recommended decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 12 Roads and Bridges, Title 13 Water and Sewer, Title 14 Building and Construction, Title 15 Environmental Policy, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire Life Safety.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

Based on the above Findings of Fact and Conclusions of Law, the Hearing Examiner hereby recommends that Application RZ-1400001 Butler, be **APPROVED** subject to the following 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. The project shall proceed in substantial conformance with the plans and application materials (RZ-14-00001 Butler Rezone) on file dated January 9, 2014, 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 rezone from Highway Commercial to Light Industrial does not become effective until such time that the final occupancy permit is issued by Kittitas County Building Department on phase one of this proposal.
4. Based on comments received during the public comment period and other information submitted with this project permit application, A SEPA Mitigation Determination of Non-Significance (MDNS) was issued by Community Development Services on October 31, 2013. The following are the mitigation contained within the MDNS and shall be conditions of approval:

I. Transportation

- A. Access: This project proposes to change the use of the existing access from the county road. The access must be improved to meet commercial standards. An access permit must be applied for and issued prior to beginning any work within the county right of way. Access must be completed prior to issuance of an occupancy or final approval.
- B. The Subject property has frontage along both Airport Road and the State Highway 903 Spur (SR 903_Spur). SR 903 Spur is a Class 3 access managed highway with a posted speed limit of 45 miles per hour. The applicant proposes all access from Airport Road; WSDOT is in agreement. For the safety and security of the highway, no direct access to the SR 903 Spur will be allowed.
 - i. Future access to the SR 903 Spur will only be allowed when a two-

way left turn lane is built on the spur between the SR 903 and SR 970 intersections. There is no State funding for this improvement and the cost is anticipated to be paid for by the developer(s).

- C. All loads transported on WSDOT right-of-ways must be within the legal size and load limits, or have a valid oversize and/or overweight permit.

II. Water

- A. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require a 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.
- B. On-site stormwater management that conforms to the specifications of the most current version of the Stormwater management Manual for Eastern Washington is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The stormwater system design shall be presented to Public Works and reviewed by the County Engineer prior to issuance of a building permit. The stormwater system construction shall be certified by a licensed engineer prior to issuance of an occupancy permit.
- C. 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.
- D. 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.
- E. Prior to receiving any type of building permit in Kittitas County, applicants shall be required to make appropriate provisions 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 (see attached).
- F. The Washington State Department of Health, Office of Drinking Water requires an approved water system for this project.

III. Air

- A. 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.
- B. 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.

IV. Septic

- A. As of the date of this determination, there are no permitted septic systems for this proposed project. The applicant will need to follow WAC 246-272A to comply with state and local regulations. Please contact the Kittitas County Public Health Department for assistance. Septic permits must be issued prior to issuance of any building permits.

V. Fire & Life Safety

- A. "No Parking" Signage will be required for apparatus access. If such signage is not posted, an additional 15' in width will be required for the roads.
- B. All future development must comply with the International Fire Code.
- C. A Knox key or switch is required on gate entrance for emergency services.
- D. 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.
- E. Addresses of all new residences shall be clearly visible from both directions at the county road.

VI. Irrigation Services

- A. The subject property is not within the boundaries of Irrigation.
- B. 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.

VII. Light and Aesthetics

- A. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.
- B. 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.
- C. All landscaping in the development area and its immediate surroundings shall follow the landscaping plan submitted with the Rezone application.

VIII. Noise

- A. Development and construction practices for this project shall only occur between the hours of 7:00 am and 7:00 pm to minimize the effect of construction noise on nearby residential properties.

IX. Historic and Cultural Preservation


- A. Should ground disturbing or other activities related to the proposed conditional use permit 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 Archaeology and Historic Preservation (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.

X. Building

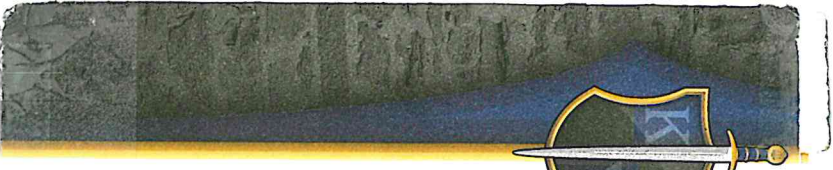
- A. Certificate of Occupancy must be granted by Kittitas County Building Department prior to final of Rezone.
- B. All structures will require full Washington State Engineering.
- C. All restrooms on site must meet ADA requirements.

Dated this 30th day of July, 2014.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp



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& YEDINAK**
435 Orondo Ave. | Wenatchee, WA 98801
PO Box 1667 | Wenatchee, WA 98807

Ms. Mandy Weed
Kititas County Community
Development Services
411 N. Ruby Street, Suite 2
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