

**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	RECOMMENDED FINDINGS OF
)	FACT, CONCLUSIONS OF LAW,
SD – 15-00002)	DECISION AND
Big Creek Trails)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on February 9, 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. D.K. Professional Consultants, Inc., submitted and received conditional approval for a rezone application to change the current Rural Recreation/Rural 5 zoning on eleven parcels of land to Planned Unit Development allowing the development of 58 single family homes over 290 acres.
2. In Ordinance 2016-024, the Kittitas County Commissioners issued its decision approving this Rezone and Planned Unit Development subject to conditions of approval.
3. One of those conditions of approval was that the applicant receive a shoreline substantial development permit.
4. A shoreline substantial development permit is required because portions of the boundary of the subject property touch Big Creek and Little Creek.
5. The 1975 Kittitas County Shoreline Master Program is applicable to this project.
6. The subject property definitely has conservancy shoreline environmental designations. There is a possibility that the rural shoreline environmental designation may apply. Accordingly, both conservancy and rural shoreline environmental designation criteria have been considered.
7. There is a 200 foot riparian buffer for both Big Creek and Little Creek. The applicant has stated that there would be no development within this 200 foot riparian buffer from both Big Creek and Little Creek.
8. The project location is described in Kittitas County Ordinance number 2016-024.

9. The application for a substantial development permit associated with the property for the Planned Unit Development was received on July 16, 2015. The application was deemed complete on August 13, 2015.
10. The Notice of Application was issued on October 12, 2015. This notice was also published in the official county paper of record and mailed to government agencies with jurisdiction, adjacent property owners within 500 feet and other interested parties.
11. Notice of this shoreline substantial development permit hearing was published in the Daily Record on January 23rd and January 30th, 2017.
12. The signed Affidavit of Posting was returned to CDS on September 30, 2015, indicating that the site had been accurately posted with the "Land Use Action" sign as provided by CDS and required per KCC 15A.03.110.
13. The application is consistent with the goals of the 1975 Kittitas County Shoreline Master Program because the proposal provides for primary or recreational residential use. As a Planned Unit Development, the proposal will allow preservation of large, open space and wild land tracts, and protect the shoreline because there will be no development within the riparian buffer area which is subject to the 1975 Kittitas County Shoreline Master Program.
14. Additionally, this project is consistent with the 1975 Kittitas County Shoreline Master Program because the proposed use is compatible with the area. Other single family residential uses exist to the south of the project in densities that either equal or exceed the residential densities within the Planned Unit Development. Keeping the development away from the regulated shoreline areas will protect existing natural surface water flows and wetland environments.
15. The project is consistent with the Shoreline Development Criteria set forth in the 1975 Kittitas County Shoreline Master Program because there will be no development in the designated shoreline riparian buffer area.
16. Pursuant to the 1975 Kittitas County Shoreline Master Program, the residential component of the Planned Unit Development is structured so that all lots will be located on just over 50 acres of the property, leaving the vast majority of the property as open space and buffers between regulated water areas and neighboring properties. No buildings or other development will be placed within the shoreline or wetland buffer areas. This Planned Unit Development clustering of homes renders this project compatible with the 1975 Kittitas County Shoreline Master Program as well as the policies set forth in the Comprehensive Plan.
17. An open record public hearing after due legal notice was held on February 9, 2017.
18. Admitted into the record was the staff report and staff report addendum prepared by CDS staff. Additionally, also admitted into the record was Kittitas County Ordinance number

2016-024 and the master file for Big Creek Trials rezone and short plat, index exhibits 1-53.

19. Appearing on behalf of the applicant was attorney, James Carmody. Mr. Carmody did not provide testimony. He did provide argument on behalf of the applicants. Mr. Carmody set forth arguments supporting the staff's recommendation of approval of this permit. Mr. Carmody reminded the Hearing Examiner that environmental review had already been provided for this matter as the MDNS for the underlying action and been adopted for this permit action.
20. Testifying from the public were the following individuals:
 - 20.1 Jerry Downing. Mr. Downing testified regarding access issues and easement maintenance issues.
 - 20.2 Tom Bettinger. Mr. Bettinger testified as to his concerns as to where the ordinary high water mark, begins as that will control where development starts and may impact his use and enjoyment of his property.
21. Admitted into the record was Exhibit A which is a letter from Mr. Bettinger presented at the open record public hearing.
22. At the conclusion of the hearing, the Hearing Examiner kept the public record open until 5 p.m., Friday, February 17, 2017. This is because at the time of the open record public hearing, the mountain passes were closed so that individuals on the west side of the state were not able to travel to attend this open record public hearing. However, this open record public hearing was video broadcast live by Kittitas County. The record was made available to those requesting record of the open record public hearing. Therefore, additional written comments were permitted thru February 17th, 2017. The Hearing Examiner's recommended decision will be issued on or before March 3, 2017.
23. The following additional comments were received by the Hearing Examiner:
 - 23.1 A February 16, 2017 email from Edward Staheli;
 - 23.2 A second email from Mr. Staheli with an attached easement document; and
 - 23.3 A February 17, 2017 email from David Lund.
24. The Hearing Examiner adopts all Findings of Facts as set forth in Kittitas County Ordinance number 2016-024.
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 given jurisdiction to make this recommended decision.
2. This project is consistent with the 1975 Kittitas County Shoreline Master Program, the Shoreline Management Act and the Kittitas County Comprehensive Plan.

III. RECOMMENDED DECISION

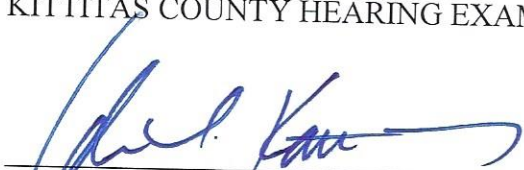
Based upon the above Findings of Facts and Conclusions of Law, the Kittitas County Hearing Examiner hereby recommends **APPROVAL** of SD 15-00002 subject to the following Conditions of Approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL

1. There shall be no development, as that term is defined in the 1975 Kittitas County Shoreline Master Program, and the Shoreline Management Act within 200 feet of Big Creek and Little Creek.
2. The applicant shall comply with all conditions set forth in Ordinance 2016-204 and the Mitigated Determination of Non- Significance.

Dated this 21st day of February, 2017.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp