



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

Kittitas County
Community Development Services
ATTENTION: Dan Valoff
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

Friday, October 29, 2010

RE: Number 5 Canyon PUD Rezone and Long Plat (RZ-09-00001 & PD-09-00001)

I appreciate the opportunity to provide comments on the Notice of Application (NOA) and State Environmental Policy Act (SEPA) review to Kittitas County regarding the proposed Number 5 Canyon PUD (RZ-09-00001 & PD-09-00001).

The Confederated Tribes and Bands of the Yakama Nation is a federally recognized Indian tribe under the Treaty of June 9, 1855 (12 Stat. 951). Under Article III of the Treaty, the Yakama Nation reserved rights to fish at all usual and accustomed places, together with the privilege of hunting and gathering roots and berries, both within and outside of its Reservation.

Please find attached correspondence to me from my staff. I concur with the findings of the report for fish and wildlife protection. As you may know, substantial funding is being invested in the Yakima River Basin, to allow it to once again support a viable salmonid and resident fish population, in addition to a sustainable wildlife population. The proposed development may provide for significant adverse environmental impacts that result in a degraded watershed.

I request that all future decisions and additional notices concerning this proposal be forwarded to Kristina Proszek, Yakama Nation Environmental Review Coordinator at P.O. Box 151, Toppenish, WA, 98948.

Please contact my staff regarding your response to any of the mitigation measures noted in the attached memo. John Marvin can be reached at 509-966-7406.

Sincerely,

Phil Rigdon
Deputy Director of Natural Resources
Yakama Nation

CC Yakama Nation Office of Legal Council
File

Post Office Box 151, Fort Road, Toppenish, WA 98948 (509) 865-5121

MEMORANDUM

TO: Phil Rigdon, Deputy Director, DNR
THROUGH: Scott Nicolai, Yakima Subbasin Habitat Coordinator, YKFP
FROM: John Marvin, Habitat Biologist, YKFP
DATE: Tuesday, October 26, 2010
RE: Number 5 Canyon PUD Rezone and Long Plat
(RZ-09-00001 & PD-09-00001)

Kittitas County is accepting public comments on a Notice of Application and State Environmental Policy Act (SEPA) review for the Number 5 Canyon Planned Unit Development (PUD) Rezone and Long Plat (RZ-09-00001 & PD-09-00001).

The proponent is proposing to rezone 296.42 acres from Rural-3 to Planned Unit Development (PUD) for a multi phased development of 509 multifamily residential units and 536 single-family units, 96 acres of open space and parks, and 30 acres of neighborhood services. Phase 1 is a 10 single-family residential subdivision. The project is proposed to be served by a group water system and individual and community onsite septic systems.

Number 5 Canyon Creek runs north to south along the eastern portion of the proposal. There is an additional un-named surface water system just east of Number 5 Canyon Creek not identified in the application materials. Number 5 Canyon Creek and the un-named tributary are tributaries to Crystal Creek, which is a tributary to the Yakima River.

The proponents should be commended for their progressive utilization of clustering and open space retention; however, there are numerous issues of significance regarding the proposals impact on the environment that should be evaluated in an environmental impact statement (EIS). There is no correlation in the application materials to the location of open space areas and the use of best available science in the designation and protection of critical areas. If Kittitas County determines non-significance with regards to environmental impacts implementing mitigation, the mitigating provisions below should be included.

State Environmental Policy Act (SEPA) Checklist Comments

- The checklist states that the development will be accessed by SR 903, Alliance Rd and Whitehead Road. The Washington Department of Fish and Wildlife (WDFW) has informed Yakama Nation Fisheries that there is an existing Hydraulic Code (RCW 77.55) violation for an unpermitted stream crossing on the property. The Hydraulics Code violation is from an access road off Whitehead Road. The proposal should not be approved until the existing Hydraulic Code violation is resolved.
- The checklist fails to identify the additional surface water drainage east of Number 5 Canyon Creek. A Critical Areas report for streams, wetlands and riparian habitat should be required as mitigation under SEPA.

- The checklist states that “*sewer service will be provided by on-site individual and or community septic systems and drain fields or a reclaimed wastewater treatment facility*”; which is it? The environmental impacts of the three options are significantly different. The density of development proposed does not appear capable of supporting individual, on-site septic systems. It also does not appear that the proposal currently has access to wastewater services from the City of Roslyn. A wastewater treatment plan should be required as mitigation under SEPA.
- The checklist states that domestic water will be provided by a group water system for which water rights will be acquired. Information concerning existing water rights cannot be found in the application materials and it is therefore assumed that there are no existing water rights. A group system well is not subject to the current Washington Department of Ecology (WDOE) moratorium on exempt groundwater wells in the Upper Yakima Basin, but a recent United States Geological Survey (USGS) groundwater study in the Yakima Basin found that groundwater pumping has a significant impact on surface water supplies. While the USGS report does not cover the Upper Yakima, the WDOE is in the process of a similar study on groundwater in the Upper Yakima Basin. Until the WDOE report is available, the proponent should be required to provide an analysis of impacts to groundwater and surface water supplies as mitigation under SEPA.
- The checklist states that 25% to 30% of the site could be covered with impervious surfaces and that flows naturally drain southerly toward Crystal Creek. The checklist also states that erosion control will be handled in accordance with the Eastern Washington Stormwater Manual without any specifics. With some slopes reaching 30% and numerous surface water features onsite, a stormwater plan should be required as mitigation under SEPA.
- The checklist makes no mention of coal mine hazard areas even though the area has been previously mined. If the proposal lies within an area of potential coal mine hazards, a geologic hazards assessment should be required as mitigation under SEPA.
- The checklist states that CC&Rs and a landscaping plan will “encourage” native vegetation and xeriscaping. The CC&Rs and the landscaping plan should “require” the use of native vegetation and xeriscaping.
- The proposal may provide for significant adverse environmental impacts to wildlife; a wildlife use analysis and mitigation plan should be required as mitigation under SEPA.

c: file
Yakama Nation Office of Legal Council