



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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September 16, 2008

Mackenzie Moynihan
Kittitas County Community Development
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

Dear Ms. Moynihan:

Thank you for the opportunity to comment during the optional determination of nonsignificance process for the rezoning of approximately 27.16 acres from forest and range to Rural 3, proposed by Walter Darrow [RZ 08-00008, LP 08-00025]. We have reviewed the documents and have the following comments.

Water Resources

Environmental review of a zone designation should analyze the likely impacts of the development allowed within that zone. The more specific the analysis is at the non-project stage, the less environmental review needed when a project permit application is submitted. Since the Local Project Review Act prohibits reconsideration of the type of land use allowed in the development regulations and/or comprehensive plan, this will be the only opportunity to evaluate the appropriateness of the proposed zoning at a specific site.

Rezoning a piece of property is often the first step in a proposed development. Water availability is essential for development. Ecology encourages the development of public water supply systems, whether publicly or privately owned, to provide water to regional areas and developments. The submitted checklist does not contain sufficient information to evaluate water availability or the adequacy of water rights.

An approved rezone often results in the property value significantly increasing in anticipation of future subdivision(s). If this rezone is approved, prospective buyers may purchase the property with the intent to subdivide and develop residential lots. Ecology believes water availability



should be addressed by the county and the project proponent in the threshold determination for this rezone.

Any ground water withdrawals in excess of 5,000 gallons per day or for the irrigation of more than ½ acre of lawn or noncommercial garden will require a permit from the Department of Ecology.

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 your area becomes limited your use could be curtailed by those with senior water rights.

The Attorney General's Opinion, (AGO 1997 No. 6) regarding the status of exempt ground water withdrawals, states that a group of wells drilled by the same person or group of persons, at or about the same time, in the same area, for the same purpose or project should be considered a single withdrawal and would not be exempt from the permitting requirement contained in RCW 90.44.050, if the total amount withdrawn for domestic use exceeds 5,000 gallons per day or if a total of more than .5 acre of lawn and garden are irrigated.

The Attorney General's opinion suggests that caution should be used in finding developments to be exempt from needing a water right permit if the possibility exists that the development of the project will result in the ultimate withdrawal of water in excess of 5,000 gallons per day or the irrigation of more than .5 acre of lawn and garden.

With the Supreme Court's guidance on the limitations of groundwater exemptions, all lots within this proposed subdivision would be covered by a single groundwater exemption provided this development is not part of a larger project.

To comply with the 5,000 gallon per day limit, Ecology recommends metering the wells for this development. Water use data should be recorded by the property owner of the well monthly. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions. For metering information, please contact Ken Schuster at (509) 454-4263.

To comply with irrigating up to 0.5 acre of lawn and garden, Ecology recommends requiring property covenants for each lot to limit the amount of the lawn and garden to be irrigated so it adds up to the maximum allowable acreage.

If you have any questions concerning the Water Resources comments, please contact Trevor Hutton at (509) 454-4240.

Water Quality

Forest conversion and rezoning applications are typically the first step for a proposed development in forested areas. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements **may require an NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction.** This permit requires submitting an application, the preparation of a Stormwater Pollution Prevention Plan and a 38 day public notice process. Please contact Bryan Neet with the Department of Ecology, (509) 575-2808, with questions about this permit.

Project Greater-Than 1 Acre with Potential to Discharge Off-Site

An NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with more than one acre of disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.

The permit requires that Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading or construction.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. Please submit an application or contact Lynda Jamison at the Dept. of Ecology, (509) 575-2434, with questions about this permit.

Sincerely,



Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012