

October 9, 2024

RECEIVED
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Kittitas County Community Development Services
Kittitas County
411 North Ruby Street, Suite 2
Ellensburg, WA 98926

Kittitas County CDS

Re: Notice of Appeal - File No. RZ-24-00001 (Gibson – SEPA MDNS)

To Whom it May Concern:

This firm represents Ellensburg Cement Products, Inc. (“Ellensburg Cement” or “Appellant”). Please accept this letter as a formal Notice of Appeal of the Kittitas County’s threshold determination and issuance of a Mitigated Determination of Non-Significance under File No. RZ-24-00001, together with the accompanying Notice of SEPA Action. A filing fee of \$1,670.00, accompanies this appeal.

1. The decision being appealed.

Appellant’s appeal Kittitas County’s Mitigated Determination of Non-Significance (“MDNS”) and Notice of SEPA Action issued under the State Environmental Policy Act, chapter 43.21C (“SEPA”), identified by File No. RZ-24-00001 and each dated October 1, 2024. The MDNS is associated with Applicant Kristen Gibson’s (“Gibson” or “Applicant”) application for a site-specific rezone of Tax Parcel No. 280533 (Kittitas County Parcel Map No. 17-20-08010-0006) located off Parke Creek Road. A copy of the MDNS and associated Notice of SEPA Action are attached hereto as Attachment 1 and Attachment 2, respectively.

2. The name and address of the appellant and his interest(s) in the matter.

Appellant is Ellensburg Cement Products, Inc. Appellant’s mailing address is 2121 US-97, Ellensburg, WA 98926. Appellant is represented by the undersigned counsel at Cascadia Law Group PLLC, located at 606 Columbia Street NW, Suite 212, Olympia, Washington 98501. All future correspondence pertaining to this appeal should be directed to the undersigned.

Appellant is interested, in and concerned by, Applicant’s rezone application and the lacking associated environmental review based on the evident intent of the proposal to evade thorough environmental review associated with the gravel mining and rock crushing operations that will be permitted and be directly facilitated by the proposed rezone. Appellant has property interests and

business operations in the immediate vicinity of the proposed rezone and would be impacted by the proposal. Without limitation, Appellant operates an existing rock quarry pursuant to a long-term lease at 930 Prater Road, and less than one mile from the subject property. Appellant's operations also require regular use of Parke Creek Road which would also be utilized by the subject property for the more intensive operations that would be permitted under the rezone. Further, Gibson's existing operations at the Parke Creek Road site already necessitate use of and truck traffic along Prater Road, adjacent to Ellensburg Cement's operations, which at times has led to complaints misdirected to Ellensburg Cement. Increased and intensified activities that would be permitted under the rezone of the subject property would lead to increased truck traffic and other impacts, none of which has been disclosed or evaluated.

Appellant, both independently and through counsel, timely submitted comments on the SEPA review associated with File No. RZ-24-00001.

3. The specific reason(s) why the appellant believes the decision to be wrong.

The County's threshold determination of an MDNS should be reversed and/or withdrawn because the County's review to date is not based upon information reasonably sufficient to evaluate the environmental impact of a proposal and fails to demonstrate that the County adequately considered relevant environmental factors before issuing the MDNS. Even as a non-project action, the SEPA review must disclose and evaluate the probable effects of the proposed rezone, including the short and long-term effects that may be occasioned by the differing land use regulations. To the point, Gibson requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining and excavation operations. The SEPA Checklist,¹ MDNS, and associated environmental review is entirely lacking in this regard and fails to meet *prima facie* SEPA compliance.

Without limitation, the SEPA checklist and application materials did not properly disclose, and the MDNS and County's environmental review did not meaningfully evaluate, the actual impacts of the rezone proposal, including the range of probable impacts, including short-term and long-term effects. The review by the County further constitutes improper deferral of environmental review and impermissible piecemealing under SEPA. Further, the SEPA Checklist and associated review is entirely devoid of any disclosure or analysis

¹ A copy of the SEPA Checklist is attached hereto as Attachment 3.

of the actual potential impacts of the newly permitted uses under the proposed rezone. Notably, this includes, without limitation, the following:

- Neither the SEPA Checklist nor any studies address noise and other impacts associated with blasting and vibration associated with the rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address dust control, emissions, or air quality impacts from rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential traffic impacts and safety associated with increased truck traffic and heavy machinery associated with uses that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential impacts to groundwater, hydraulic connectivity with surface water bodies,² or aquifer impacts.
- While the application materials note a lack of any water rights associated with the property, the SEPA Checklist does not address or evaluate how water supply would be made available to the property for dust control and operational issues, and the impact of the same.

Further, the conditions now included in the MDNS have no bearing on and fail to mitigate the probable impacts associated with the increased gravel and mining operations that would be permitted under the proposed spot rezone, let alone address the types of mitigating conditions imposed on similar operations in the existing zone when processed through the County's conditional use permit process, which the rezone is intended to now avoid.

For further specific reasons as to why the decision was wrong and the MDNS was improperly issued, Appellant directs the County's attention to the SEPA

² While the SEPA Checklist notes that Parke Creek is within 200 feet of the property in the southwest corner, see Checklist at § 3.a.1, it avoids any discussion of any impacts of the new uses authorized under the rezone, merely describing as "non-applicable." *Id.* at § 3.a.2.

comments on file from Appellant, which are further attached to this Notice of Appeal as Attachment 4,³ and fully incorporated herein by this reference.

Appellant further appeals the County's issuance of the Notice of SEPA Action dated October 1, 2024, and accompanying the MDNS, which is confusing, fails to describe the appropriate SEPA process and procedures, and was issued in error. The Notice of SEPA Action purports to provides notice as follows:

NOTICE IS HEREBY given that pursuant to WAC 197-11-355 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 1, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson.

WAC 197-11-355 is inapplicable. WAC 197-11-355, as cited by the County, describes only the "Optional DNS process" which was not followed here. RCW 43.21C.030(2)(c), as cited by the County, concerns detailed statements associated with recommendations or proposals for legislation and other major actions, and is similarly inapplicable.⁴

Appellant reserves the right to supplement the response to this item, and to add to, modify, or delete the bases of errors based on further discovery and investigation.

4. The desired outcome or change to the decision.

Reversal and/or withdrawal of Kittitas County's issued MDNS under File No. RZ-24-00001. This should be followed by further actual disclosure and evaluation of the environmental impacts of the proposal and, if an MDNS is reissued, appropriate additional mitigation conditions.

5. The appeal fee.

The appeal fee of \$1,670.00 accompanies this letter.

Thank you for your attention to this matter.

³ See *also* Email Comments from J. Hutchinson and Ellensburg Cement Products, Inc. to Kittitas County dated August 21, 2024 (on file); see *also* Letter from Cascadia Law Group to Kittitas County dated August 28, 2024 (on file).

⁴ To the extent the County intended to rely on the Notice of Action process in RCW 43.21C.080, the County's notice is deficient, does not properly identify the "action" taken by the governmental agency, and did not follow the statutory requirements.

Sincerely,



Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

JR:ha

Enclosures

Attachment 1 – Kittitas County Mitigated Determination of Non-Significance (MDNS), identified by File No. RZ-24-00001, and dated October 1, 2024

Attachment 2 – Kittitas County Notice of SEPA Action, identified by File No. RZ-24-00001, and dated October 1, 2024

Attachment 3 – SEPA Environmental Checklist prepared by Kristen Gibson dated June 28, 2024

Attachment 4 - Ellensburg Cement Products, Inc. SEPA comment letter dated August 28, 2024

cc: Jamey Ayling (jamey.ayling@co.kittitas.wa.us)
Kittitas County Community Development Services (cds@co.kittitas.wa.us)
Ellensburg Cement Products, Inc. (*via email*)

ATTACHMENT 1



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITITITAS.WA.US

Office (509) 962-7506

State Environmental Policy Act MITIGATED DETERMINATION OF NONSIGNIFICANCE

- Description:** A proposed rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. The rezone will allow the current use of the property to be consistent and compatible with the zoning code of Forest and Range, as well as allow future expansion of existing uses. A rezone application (RZ-24-00001), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2024 Annual Comprehensive Plan Docket process.
- Proponent:** Kristin Gibson, Applicant, authorized agent
- Location:** Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.
- Lead Agency:** Kittitas County Community Development Services

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030 (2) (c) and WAC 197-11. This decision was made after review of a SEPA environmental checklist and other information on file with the lead agency, after considering voluntary mitigation measures which the lead agency or the applicant will implement as part of the proposal, and after considering mitigation measures required by existing laws and regulations that will be implemented by the applicant as part of the Kittitas County permit process. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. This information is available to the public on request.

The lead agency has determined that certain mitigation measures are necessary in order to issue a Mitigated Determination of Non-Significance (MDNS) for this proposal. Failure to comply with the mitigation measures identified hereafter will result in the issuance of a Determination of Significance (DS) for this project. The mitigation measures include the following:

Earth

- 1) A fill and grade permit is required pursuant to Kittitas County Code 14.05.050 for any authorized use in the zone proposing grading that exceeds the thresholds for a permit.

Transportation

- 1) The applicant shall adhere to all applicable regulations as set forth in the current Kittitas County Road Standards.
- 2) The Kittitas County Grading Ordinance requires a permit if grading activity in excess of 100 cubic yards occurs pursuant to KCC 14.05. Contact Kittitas County Public Works for information relating to permitting at 509-962-7523.

Water and Waste Disposal

- 1) Adequate proof of water availability to serve proposed projects shall be provided to Kittitas County Water Resources to satisfy all requirements prior to or at the time of building permit submittal.

Building

- 1) All structures will meet Kittitas County Code Title 14

Fire

- 1) All structures must have adequate fire apparatus access.
- 2) All future development must comply with the International Fire Code (IFC) and Appendices

Critical Areas


- 1) A habitat management plan shall be developed in conjunction with Washington State Department of Fish and Wildlife for any further expansion of the site addressing impacts to the shrub steppe and also address plans for restoration once the current mining areas are completed.

Cultural Resources and Historic Preservation

- 1) Should ground disturbing or other activities related to the proposed project 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 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.

This MDNS is issued under WAC 197-11-350 and KCC Title 15. The lead agency will not act on this proposal for 15 days. Any action to set aside, enjoin, review, or otherwise challenge this administrative SEPA action's procedural compliance with the provision of Chapter 197-11 WAC shall be commenced within 10 working days (on or before 5:00 pm, October 15, 2024).

**Responsible
Official:**


Jamey Ayling

Title:

Planning Official

Address:

Kittitas County Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA. 98926
Phone: (509) 962-7506

Date:

October 1, 2024

Pursuant to Chapter 15A.07 KCC, this MDNS may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services office at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00 pm, October 15, 2024.

ATTACHMENT 2



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

NOTICE OF SEPA ACTION

To: Applicable Agencies
Parties of Record
Applicant

From: Jamey Ayling, Planning Manager

Date: October 1, 2024

Subject: **RZ-24-00001 Gibson – SEPA MDNS**

NOTICE IS HEREBY given that pursuant to WAC 197-11-355 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on October 1, 2024, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Kristin Gibson. The applicants are proposing a rezone of one tax parcel totaling 42.4 acres currently zoned Ag 20 with a Rural Working Land Use to Forest and Range Zoning. Parcel# 280533 located off Parke Creek Road north of Vantage Hwy consisting of approximately 42.4 acres in Section 8, T.17N, R.20E, W.M.; Kittitas County parcel map number 17-20-08010-0006 in Kittitas County.

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C and WAC 197-11-355. This decision was made after review of a SEPA environmental checklist, and other information on file with the lead agency. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. The complete application file is available to the public on request or may be viewed at Kittitas County Community Development Services at 411 North Ruby St, Suite 2 Ellensburg, WA 98926, or on the county website. <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> (rezones, View Active Applications, file number RZ-24-00001 Gibson).

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of non-compliance with the provisions of Chapter 43.21C RCW (State Environmental Policy Act) and pursuant to Chapter 15A.07.010 KCC, may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services, 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. **Timely appeals must be received no later than 5:00pm, October 15, 2024.**

Direct questions regarding this proposal to:

Jamey Ayling
411 N. Ruby St. Suite 2
Ellensburg, WA. 98926
509-962-7065
jamey.ayling@co.kittitas.wa.us

ATTACHMENT 3



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships – Building Communities"

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals: [\[help\]](#)

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

APPLICATION FEES:

\$600.00 Kittitas County Community Development Services (KCCDS)**

\$950.00* Kittitas County Department of Public Works**

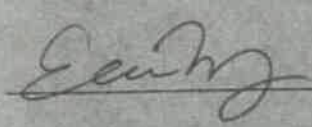
\$260.00 Kittitas County Public Health

\$1,810.00 Total fees due for this application (One check made payable to KCCDS)

*2 hours of review included in Public Works Fee. Additional review hours will be billed at \$243 per hour.

** Note:KCCDS and PW fees are waived if project is a VSP sponsored fish enhancement project.

FOR STAFF USE ONLY

Application Received by (CDS Staff Signature): 	DATE: <u>6/28/24</u>	RECEIPT# <u>0024-01627</u>	<div>RECEIVED JUN 28 2024 Kittitas County CDS DATE STAMP IN BOX</div>

A. Background

1. Name of proposed project, if applicable:

Gibson Rezone from AG20 to Forest & Range

2. Name of applicant:

Kristin and Kory Gibson, mother and son

3. Address, e-mail and phone number of applicant and contact person:

Kristin Gibson
c/o Kory Gibson
1221 South Thorp Highway
Ellensburg, WA 98926

KoryGibson@hotmail.com

509-201-1023

4. Date checklist prepared:

June 15, 2024

5. Agency requesting checklist:

Kittitas County Community Development Services Department

6. Proposed timing or schedule (including phasing, if applicable):

Docket applications are due by June 28, 2024.

The docket will be reviewed by staff beginning in July 2024, with adoption by the end of year.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

Unknown. The rezone is to align the property's existing natural characteristics and potential with the allowed uses in the zone. Since there is no irrigation or agricultural soil on site, Agriculture-20 (AG-20) zoning does not fit the existing conditions of the land. Forest and Range is the other potential zoning within the Rural Working designation in the Kittitas County Comprehensive Plan that applies to this area, and is a better fit for the natural conditions on the subject site.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Publicly available information from federal, state, and regional governmental and nongovernmental organizations was used to complete this checklist. Resources include USDA soils information; state fish and wildlife information; noxious weed board information; and Kittitas County COMPAS information including Lidar, existing features mapping, and the aerial photograph of the subject site.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None known. This AG-20 to Forest & Range Rezone application is the only known pending government approval relating to the subject site.

10. List any government approvals or permits that will be needed for your proposal, if known.

The applicant currently seeks only a AG-20 to Forest & Range rezone from Kittitas County for the subject site assigned parcel number 280533.

11. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The subject site is a 42-acre parcel with slopes, sparse scrub type vegetation, and rocky soils. Elevations range from 2000 feet above sea level, to 1940 feet above sea level. No water service currently exists on site, no wells exist, and no water rights are available for agricultural irrigation or animal husbandry. Since agricultural uses would not be supported under the natural conditions, and the necessary rights are not available to change the potential of the subject site, a Forest & Range zoning would better suit the property than the current Agricultural-20 (AG-20) zoning.

For example, the properties to the immediate southwest, and south across Parke Creek Rd, are in a river valley and adjacent to an existing river and irrigation system, providing a ready source for irrigation. In this area, the natural characteristics support agricultural uses. The hill to the north, on which the subject site is located, and the hill to the south on the other side of the river, share the same arid landscape without natural water sources.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The subject property is approximately 3 miles east of town of Kittitas and is accessed via Parke Creek Road.

Map number: 17-20-08010-0006

Parcel number: 280533

Section/Township/Range: S8 T17N R20E

Address: unaddressed, north of 4481, 5125, 5121, and 5123 Parke Creek Road

Driving directions: From the city of Kittitas, head east on Parke Creek Road for 3 miles. Turn left at 5125 Parke Creek Rd, and continue northwest for 1,000 feet.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site:

(circle one): Flat, rolling, hilly, **steep slopes**, mountainous, other _____

b. What is the steepest slope on the site (approximate percent slope)?

COMPAS notes the site as having slopes over 30% slope.

- See COMPAS property report, Exhibit A

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

The USDA web-based GIS mapping software lists the following soils for the subject property:

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
422	Clerf very cobbly loam, 30 to 45 percent slopes	24.6	57.9%
512	Vantage-Clerf complex, 3 to 15 percent slopes	6.8	16.0%
523	Terlan gravelly loam, 0 to 2 percent slopes	2.3	5.4%
532	Selah-Terlan complex, 10 to 15 percent slopes	2.4	5.6%
903	Maric-Zen-Laric complex, 3 to 15 percent slopes	6.4	15.1%
Totals for Area of Interest		42.5	100.0%

- See USDA soil map and table, Exhibit B

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

There is no known history of soil instability in the immediate vicinity.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Not applicable. This non-project action proposes only a zoning change.

- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not applicable. This non-project action does not propose any filling, excavation, or grading. Based on the soil types, it is unlikely that any future erosion would occur with implementation of best management practices, as required by Kittitas County Code.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Not applicable. This non-project action does not propose any sitework.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not applicable. This non-project action does not propose any sitework.

2. Air

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None known.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3. Water

- a. Surface Water:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

PARKER
Reecer Creek is 170 feet at its nearest point from the southwest corner of the subject property.

- See COMPAS aerial photograph, Exhibit C

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No, this site is not within a 100-year floodplain. FEMA lists this area as "minimal flood hazard" on FEMA's National Flood Hazard Layer (NFHL) Viewer, and cites study 53037C_STUDY1. Firmette 53037C1330D shows this area. The absence of symbology on the map shows the subject site is outside flood-rated areas.
- See Firmette 53037C1330D, Exhibit D

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the

number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable. This is a non-project action. Soils in this area are well-draining, allowing surface water to satisfactorily infiltrate. Additional stormwater intervention is not needed. Generally, stormwater makes its way to the river valley.

2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable. This is a non-project action. This non-project action does not propose any sitework.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

4) Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

4. Plants

a. Check the types of vegetation found on the site:

- ☐ deciduous tree: alder, maple, aspen, other
- ☐ evergreen tree: fir, cedar, pine, other
- ☐ **shrubs**
- ☐ grass
- ☐ pasture
- ☐ crop or grain
- ☐ orchards, vineyards, or other permanent crops.
- ☐ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- ☐ water plants: water lily, eelgrass, milfoil, other

☐ other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework.

c. List threatened and endangered species known to be on or near the site.

As reported on the Washington Department of Fish & Wildlife "Priority Habitats and Species: Maps" GIS interactive web-based software, there are no known threatened or endangered species on or near the subject site.

- See WDFW Priority Habitats and Species report, Exhibit E

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. List all noxious weeds and invasive species known to be on or near the site.

As mapped on the Washington State Noxious Weed Control Board's "Noxious Weed Data Viewer", no noxious weeds or invasive species are mapped on the subject site.

5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

Birds: hawk, heron, eagle, songbirds, other:

Mammals: **deer**, bear, elk, beaver, other:

Fish: bass, salmon, trout, herring, shellfish, other _____

b. List any threatened and endangered species known to be on or near the site.

As reported on the Washington Department of Fish & Wildlife "Priority Habitats and Species: Maps" GIS interactive web-based software, there are no known threatened or endangered species on or near the subject site.

c. Is the site part of a migration route? If so, explain.

None known. Generally, Washington State is within the Pacific Flyway, a migratory bird pattern along the west coast of the United States.

d. Proposed measures to preserve or enhance wildlife, if any:

Not applicable. This non-project action proposes only a zoning change. This non-project action does not propose any sitework. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. List any invasive animal species known to be on or near the site.

None known. The Washington Invasive Species Council does not list invasive animal species in Central Washington.

- See Washington Invasive Species Council plant map, Exhibit F

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Not applicable. This is a non-project action.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Not applicable. This is a non-project action.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.

1) Describe any known or possible contamination at the site from present or past uses.

None known.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

None known.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Not applicable. This is a non-project action.

4) Describe special emergency services that might be required.

Not applicable. This is a non-project action.

5) Proposed measures to reduce or control environmental health hazards, if any:

Not applicable. This is a non-project action to rezone the subject site. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Existing noise includes those typically associated with large property, low density, rural lifestyles including property maintenance equipment, recreation vehicles, and regional traffic noise.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3) Proposed measures to reduce or control noise impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

The site is currently vacant and is not suited to agricultural uses due its natural condition. Adjacent properties include residential and farming activities lower down in the river valley, to the west and south, and include vacant and residential activities to the east and north.

The proposal does not affect current land uses on nearby or adjacent properties.

The proposed zoning is consistent with the Rural Working land use designation and activities, which prioritizes management of farming, ranching, and rural lifestyles in the AG-20 zone, and prioritizes resource management in the Forest and Range zone.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

The subject site has not been used as working farmland or as working forest lands.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

c. Describe any structures on the site.

A temporary storage container is located on site and is the only structure.

d. Will any structures be demolished? If so, what?

Not applicable. This is a non-project action.

e. What is the current zoning classification of the site?

The subject site is currently zoned AG-20.

f. What is the current comprehensive plan designation of the site?

The current comprehensive plan designation is Rural Working.

g. If applicable, what is the current shoreline master program designation of the site?

Not applicable. No shorelines of the state are located on or near the subject site.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

Pursuant to Kittitas County Code 17A.01.010, regulated critical areas present within Kittitas County include: Critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands.

None of these occur on the subject site.

i. Approximately how many people would reside or work in the completed project?

Not applicable. This is a non-project action.

j. Approximately how many people would the completed project displace?

Not applicable. This is a non-project action.

k. Proposed measures to avoid or reduce displacement impacts, if any:

Not applicable. This is a non-project action.

L. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not applicable. This is a non-project action.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable. This is a non-project action.

c. Proposed measures to reduce or control housing impacts, if any:

Not applicable. This is a non-project action.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not applicable. This is a non-project action.

b. What views in the immediate vicinity would be altered or obstructed?

Not applicable. This is a non-project action.

c. Proposed measures to reduce or control aesthetic impacts, if any:

Not applicable. This is a non-project action.

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Not applicable. This is a non-project action.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not applicable. This is a non-project action.

c. What existing off-site sources of light or glare may affect your proposal?

Not applicable. This is a non-project action.

d. Proposed measures to reduce or control light and glare impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

According to Google maps, there are several state parks within driving distance of the subject site, including the Ginkgo Interpretive Trails to the north off Vantage Highway, the Green Gate WDFW Public Lands Access to the east, the John Wayne Trail to the southeast, and the Olmstead Place Historical State Park to west of the city of Kittitas.

b. Would the proposed project displace any existing recreational uses? If so, describe.

Not applicable. This is a non-project action.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

According to the National Register of Historic Places, the closest registered sites are the Kittitas Depot in downtown Kittitas, approximately 3 miles west of the subject site, and the Olmstead Place Historical State Park, roughly 6 miles west of the subject site.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

None known at or immediately adjacent to the subject site. The Department of Archeology and Historical Preservation's WISAARD mapping tool does not show the subject site mapped as a historical area. The closest areas are a historic bridge 3 miles southeast and a historic canal 2 miles west.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

For this non-project action, the Department of Archeology and Historical Preservation's WISAARD mapping tool was consulted along with the National Register of Historic Places web-based mapping tool, hosted by the U.S. Department of the Interior's National Park Service.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

The subject site is currently accessed from Parke Creek Road. This regional road that connects into the city of Kittitas, which has an exit off Interstate 90.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

None known. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No such transportation known in the area. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

f. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

No known impact. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

g. Proposed measures to reduce or control transportation impacts, if any:

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

b. Proposed measures to reduce or control direct impacts on public services, if any.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

16. Utilities

a. Circle utilities currently available at the site:

electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system,
other _____

None currently available.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable. This is a non-project action. Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Kristin Gibson
Name of signee: Kristin Gibson
Position and Agency/Organization: owner
Date Submitted: 6/28/24

D. supplemental sheet for nonproject actions

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Changing the zoning from AG-20 to Forest & Range would not increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise. Both zoning types are within the Rural Working land use designation, and have similar land experiences that include large property, a low density, rural lifestyle.

Proposed measures to avoid or reduce such increases are:

Any future permit actions would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The AG-20 zoning and Forest & Range zoning are both within the Rural Working land use designation. Changing the zoning from AG-20 to Forest & Range would not affect plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

3. How would the proposal be likely to deplete energy or natural resources?

Changing the zoning from AG-20 to Forest & Range would not deplete energy or natural resources. Both zoning types are within the Rural Working land use designation.

Proposed measures to protect or conserve energy and natural resources are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

4. How would the proposal be likely to use or affect environmentally sensitive areas or

areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

There are no known environmentally sensitive areas on the subject site. Changing the zoning of the site from AG-20 to Forest & Range will not impact environmentally sensitive areas.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Both AG-20 zoning, the current subject site zoning, and the Forest & Range zoning, the proposed zoning, are allowed within the current Rural Working land use designation in the Kittitas County Comprehensive Plan. There are no current shorelines or shoreline uses on the subject property. Changing the zoning from AG20 to Forest & Range would not affect land and shoreline use, nor would it be inconsistent with the existing plans.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Changing the zoning from AG-20 to Forest & Range would not increase demands on transportation or public services and utilities.

Proposed measures to reduce or respond to such demand(s) are:

Any future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

It is unlikely the proposal would conflict with local, state, or federal laws or requirements for the protection of the environment since the comprehensive plan land use designation would not change and has already been approved under the applicable local, state, or federal laws and requirements. The only change is to switch the zoning type from AG-20 to Forest & Range to reflect the site-specific characteristics that do not support agricultural uses but do support Forest & Range uses.



Property Report for Parcel#: 280533

Exhibit A

Wednesday, June 5, 2024

Parcel Information

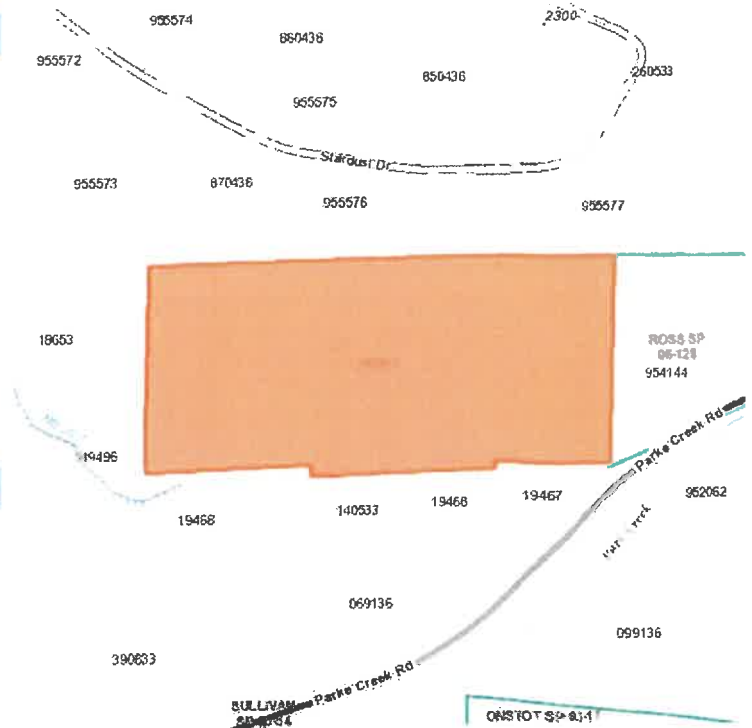
Address: PARKE CREEK RD ELLENSBURG
Tax Parcel ID: [280533](#)
Map Number: 17-20-08010-0006
Recorded Area: 42.41 a
Owner Name: GIBSON, KRISTIN A
Name Cont:
Mailing Address: 1221 THORP HWY S
City/State/Zip: ELLENSBURG WA 98926-8010

Critical Areas Information

Contains > 30% Slope: Yes
PHS Site Name: N/A
Roof Hazard: LOW_HAZARD RATING
Roof Class: CLASS C
Seismic Category: C
Shore Line: N/A
Wetland Code: N/A
DNR Water Type: N/A
FIRM Zone:
FEMA Flood Map: 53037C1330D
Coalmine Shaft: N/A
Airport Zone: N/A
BPA Right of Way: -1
Max Elevation: 2100
ISO: 0.019
PG: 40

Domestic Water Information

Over the Counter Water: Yes, [Suitability Map](#)
Qualifying Water Banks: Big Creek WR, Bourne, New Suncadia (Tillman Creek), KittitasCnty (Amerivest), KittitasCnty(Clennon), Reecer Creek, KittitasCnty(Roth), KittitasCnty(Williams), New Suncadia (Big Creek), New Suncadia (SwaukFirstCreeks), New Suncadia (TeawayRiver), Roan New Suncadia, SC_Aggregate, Swiftwater Ranch, Trailside, Western Water Partners, Yakima Mitigation Services, NGR
Sub Basin Watershed: Wilson-Cherry Creeks



Administrative Information

Zone and Allowed Uses: [Agriculture 20](#)
Land Use Category: Rural Working
Commissioner District: 0
Voter Precinct:
Hospital District: HOSPITAL DISTRICT 1
School District: Kittitas School District
Irrigation District: KRD
Weed District:
Fire District: Kittitas Valley Fire and Rescue (Fire District 2)
Cemetery District: N/A
Court District: Lower District Court
PUD Comm District: District 3
Parks and Rec District:
Wildland Urban Interface: [IR 1](#)
Stock Restricted Area: Stock Restricted
COE Gas Service Area: No

Custom Soil Resource Report
Soil Map



United States
Department of
Agriculture



Natural
Resources
Conservation
Service

Custom Soil Resource
Report for
Kittitas County
Area, Washington

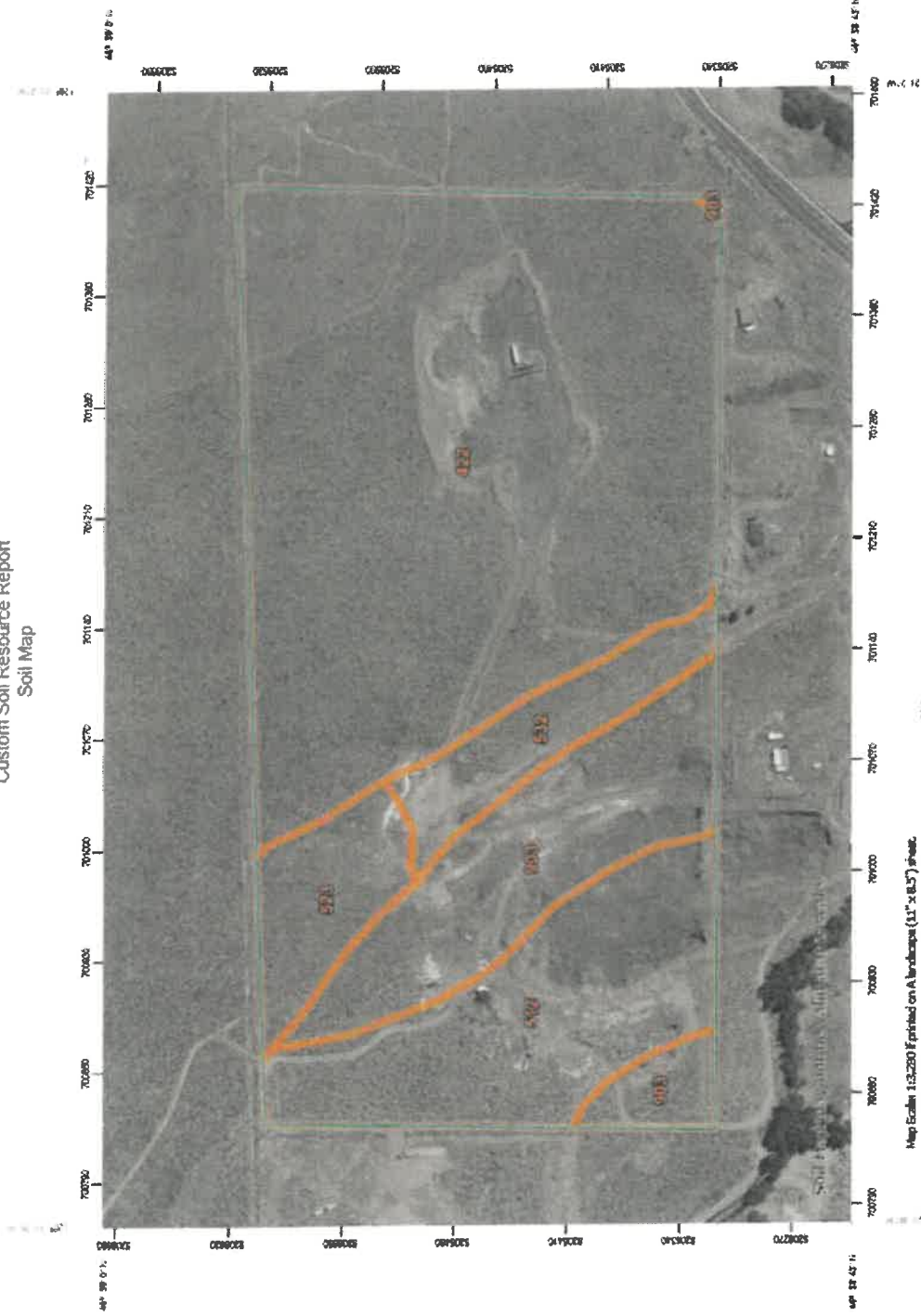


Exhibit B

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
422	Clerf very cobbly loam, 30 to 45 percent slopes	24.6	57.9%
512	Vantage-Clerf complex, 3 to 15 percent slopes	6.8	16.0%
523	Terlan gravelly loam, 0 to 2 percent slopes	2.3	5.4%
532	Selah-Terlan complex, 10 to 15 percent slopes	2.4	5.6%
903	Maric-Zen-Latic complex, 3 to 15 percent slopes	6.4	15.1%
Totals for Area of Interest		42.5	100.0%



Date: 6/10/2024

1 inch equals 3,029 feet

0 0.2 0.4 0.8 mi



Disclaimer:
Kittitas County makes every effort to produce and publish the most current and accurate information possible. No warranties, expressed or implied, are provided for the data, its use, or its interpretation. Kittitas County does not guarantee the accuracy of the material contained herein and is not responsible for any use, misuse or representations by others regarding this information or its derivatives.



National Flood Hazard Layer FIRMette

120°20'W 46°58'26"N



Legend

SEE THIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT



SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE)
Zone A, V, A99
- With BFE or Depth
Zone AE, AO, AH, IE, AR
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD

- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes, Zone X
- Area with Flood Risk due to Levee Zone D

OTHER AREAS

- NO SCREEN
- Area of Minimal Flood Hazard Zone X
- Effective LOMRS
- Area of Undetermined Flood Hazard Zone D

GENERAL STRUCTURES

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES

- Cross Sections with 1% Annual Chance
- Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS

- Digital Data Available
- No Digital Data Available
- Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

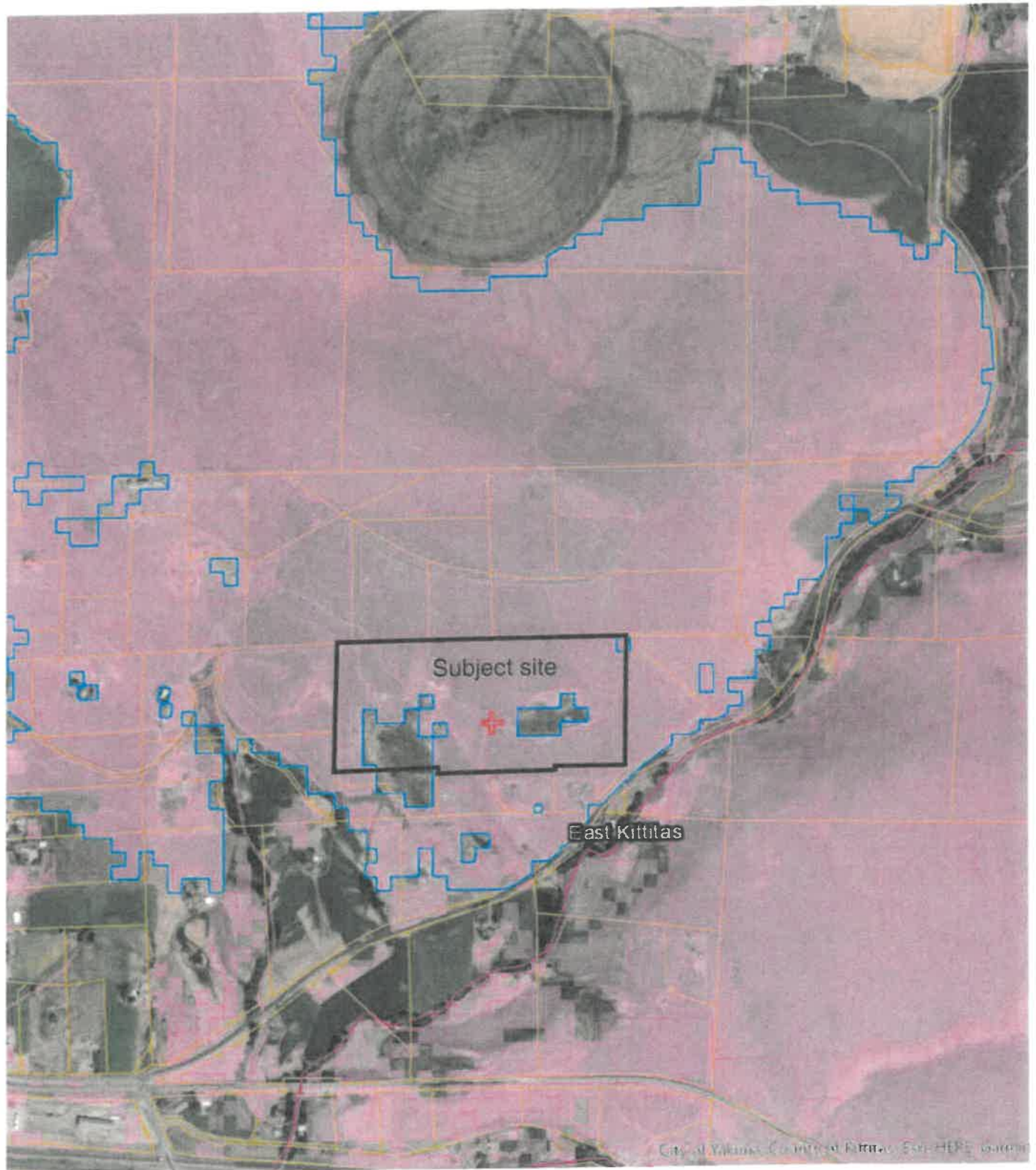
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 6/5/2024 at 10:14 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Exhibit D



Priority Habitats and Species on the Web



Report Date: 06/06/2024

PHS Species/Habitats Overview:

Occurrence Name	Federal Status	State Status	Sensitivity
Shrubsteppe	N/A	N/A	No

PHS Species/Habitats Details:

Shrubsteppe	
Priority Area	Habitat Feature
Site Name	Kittitas County Shrubsteppe
Accuracy	NA
Notes	General location of Shrubsteppe. Confirm or refute info. WDFW recommends using site-scale info to inform land use decisions. Expect that on-the-ground conditions (boundaries) will vary from the map.
Source Record	920871
Source Name	Keith Folkerts, WDFW
Source Entity	WA Dept. of Fish and Wildlife
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS LISTED OCCURRENCE
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
Geometry Type	Polygons

DISCLAIMER. This report includes information that the Washington Department of Fish and Wildlife (WDFW) maintains in a central computer database. It is not intended to be used as an official agency response as to the impacts of your project on fish and wildlife. This information only documents the location of fish and wildlife resources to the best of our knowledge. It is not a complete inventory and it is important to note that fish and wildlife resources may occur in areas not currently known to WDFW biologists, or in areas for which surveys have not been conducted. Site specific surveys are frequently necessary to rule out the presence of priority resources. Locations of fish and wildlife resources are subject to variation caused by disturbance, changes in season and weather, and other factors. WDFW does not recommend using reports more than six months old.



Legend:

☐ Subject site

Noxious weed sites as labeled

ATTACHMENT 4

August 28, 2024

VIA USPS AND EMAIL (jamey.ayling@co.kittitas.wa.us; cds@co.kittitas.wa.us)

Jayme Ayling
Planning Manager and Responsible Official
Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926

RE: *Gibson Rezone (RZ-24-00001)*
Ellensburg Cement Products, Inc. SEPA Comments

Dear Mr. Ayling:

Please consider this letter as formal comments on behalf of Ellensburg Cement Products, Inc. (Ellensburg Cement) on the State Environmental Policy Act (SEPA) Determination of Nonsignificance (DNS) issued by Kittitas County under File No. RZ-24-00001 on August 15, 2024.¹ These comments are provided pursuant to chapter 43.21C RCW, WAC 197-11-340, WAC 197-11-500, *et seq.*, and chapter 15.04 of the Kittitas County Code.

Based on the following comments, at this time, the DNS should be withdrawn and additional SEPA analysis should be conducted. A DNS should only issue “[i]f the responsible official determines there will be no probable significant adverse environmental impacts from a proposal.” WAC 197-11-340(1). The County’s DNS should be withdrawn because (a) neither the SEPA Checklist nor the County’s environmental review address, let alone evaluate, the probable impacts of any future development that would be occasioned by the rezone; (b) improperly postpones and defers such environmental analysis until the project stage; and (c) it fails to impose any mitigating conditions on the proposed rezone to address known probable environmental impacts. As such, Ellensburg Cement respectfully requests the County’s SEPA Responsible Official reconsider the DNS pursuant to WAC 197-11-340, and withdraw the determination at this time.

¹ Jeff Hutchinson, President of Ellensburg Cement Products, Inc., previously submitted written comments to the County by email dated August 21, 2024. Those additional comments should be considered as further written comments on the SEPA threshold determination and land use rezone proposal and are incorporated herein by this reference.

BACKGROUND

Founded in 1945, Ellensburg Cement, headquartered and doing business in Kittitas County, is a local and family-owned business specializing in ready-mix concrete and aggregates. Ellensburg Cement is committed to environmental compliance and stewardship in its business operations and has received the *Environmental Merit Award* from the Washington Aggregates and Concrete Association. Ellensburg Concrete has worked with the County on a number of sites, going through robust and detailed conditional use permitting and thorough environmental review associated with its operations.

Ellensburg Cement is interested in and concerned by Kristen Gibson's, of Gibson & Son ("Gibson"), pending rezone application and proposal based on the evident intent of the proposal to evade thorough environmental review associated with the understood proposed gravel mining and rock crushing operations envisioned for the site. Even as a non-project action, the SEPA review must disclose and evaluate the probable effects of the proposed rezone, including the short and long-term effects that may be occasioned by the differing land use regulations. To read the Checklist, one would be left with the impression that no such changes are occurring, and certainly would be left guessing at what those are. Yet, the proposal seeks to change the zoning designation for a singular parcel entirely encompassed within the Agriculture-20 (A-20) zone so that differing rules may apply. The remaining surrounding property would all remain A-20. To the point, Gibson requests a rezone of just one parcel to permit (where currently not allowed) rock crushing operations and to allow for mining and excavation operations as a matter of right, and without requiring a conditional use permit process for intensive mining and excavation operations. None of these changes or impacts are disclosed or analyzed.

Without disclosure of these facts and probable impacts by Gibson in the SEPA Checklist, and without any resulting review of these impacts by the County Responsible Official in making its SEPA threshold determination, the existing SEPA review is lacking. To the point, by not disclosing, analyzing, or quantifying the actual impact and probable effects of the rezone, it is impossible for the County to properly evaluate the environmental impacts based on the required SEPA factors and considerations.

The information provided by Gibson is presently not reasonably sufficient to evaluate the environmental impacts of the proposal.² Absent a complete review addressing these impacts, the current SEPA determination cannot be sustained.

SEPA CONSIDERATIONS

When reviewing proposals subject to environmental review, “SEPA demands a ‘thoughtful decision-making process’ where government agencies ‘conscientiously and systematically consider environmental values and consequences.’” *Wild Fish Conservancy v. Wash. Dep’t of Fish & Wildlife*, 198 Wn.2d 846, 873, 502 P.3d 359 (2022). A threshold determination (such as a DNS) “must indicate that the agency has taken a searching, realistic look at the potential hazards and, with reasoned thought and analysis, candidly and methodically addressed those concerns.” *Conservation Northwest v. Okanogan County*, 2016 Wash. App. LEXIS 1410, 88-89, 194 Wn. App. 1034 (June 16, 2016).

Moreover, while postured here as a non-project action in the form of a rezone only, even for such non-project actions, the County “must address the probable impacts of any future project action the proposal would allow.” *Spokane County v. E. Wash. Growth Mgmt. Hearings Bd.*, 176 Wn. App. 555, 579, 309 P.3d 673 (2013); see also WAC 197-11-060(4)(c)-(d). The express purpose of these rules is “to ensure an agency fully discloses and carefully considers a proposal’s environmental impacts before adopting it and ‘at the earliest possible stage.’” *Id.* (quoting *King County v. Wash. State Boundary Review Bd.*, 122 Wn.2d 648, 663-64, 666, 860 P.2d 1024 (1993)); see also WAC 197-11-060(5)(d)(i)-(ii).

Against this backdrop, Ellensburg Cement has concluded that the environmental disclosure and review is presently incomplete and lacking, and provides the following additional SEPA comments for the County’s consideration:

Lack of Disclosure and Analysis of Impacts of Rezone

The SEPA Checklist and associated review is lacking any disclosure or analysis of the probable impacts of the proposed rezone, in contravention of SEPA’s dictates.³ The SEPA rules expressly require consideration of “the range of

² See WAC 197-11-100 (“Further information may be required if the responsible official determines that the information initially supplied is not reasonably adequate to fulfill the purposes for which it is required.”)

³ For the vast majority of responses in the SEPA Checklist, the applicant merely responds “not applicable.”

probable impacts, including short-term and long-term effects” and that considered impacts “shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.” WAC 197-11-060(4)(c). Further, a proposal’s effects “include direct and indirect impacts caused by a proposal, including “those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions.” WAC 197-11-060(4)(d).

Despite the above, the SEPA Checklist does not disclose these impacts and is devoid of any analysis. For example, Section B.8 of the SEPA Checklist requires disclosure of the “proposal’s affect on current land uses or nearby adjacent properties.” Rather than addressing the actual impacts of the rezone, the Checklist includes a mere conclusory statement that the “proposal does not affect current land uses on nearby or adjacent properties.” See Checklist at § B.8.a. It then goes on to merely summarily state that the “proposed zoning is consistent with the Rural Working land designation and activities, which prioritizes management of farming, ranching, and rural lifestyles in the A-20 zone, and prioritizes resource management in the Forest and Range zone.” *Id.*⁴ Similarly, and even more glaring, in the non-project supplement sheet, the Checklist merely repeats these or similar statements, without analysis, and defers environmental review, asserting that “[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time of the permit action.” This type of non-disclosure and non-analysis expressly contradicts SEPA rules requiring current the

⁴ Further, the SEPA Checklist gives sparse attention to the appropriateness of the proposed rezone under existing land use plans. See, e.g., Checklist at § D.5. No disclosure or analysis is provided with respect to the proposed isolated spot zoning of a singular tract within the much larger A-20 zone, including without limitation, **RR-P6** (“Allow for lands which offer adequate supply of rock and gravel resources located in areas compatible for such uses and conditioned so that operation does not negatively impact rural character.”); **RR-P16** (“Land use development within the Rural area that is not compatible with Kittitas County rural character or agricultural activities as defined in RCW 90.58.065(2)(a) will not be allowed.”); **RR-P18** (“Buffer standards and regulations should continue to be developed that will be used between incompatible rural uses.”); **RR-P21** (“Functional separation and setbacks found necessary for the protection of water resources, rural character and/or visual compatibility with surrounding rural areas shall be required where development is proposed.”); **RR-G22** (“Provide preservation of agriculture activities where producers can live and work on their own lands separate from Resource Lands.”); and **RR-P45** (“Commercial/Industrial development in Rural Working lands shall be compatible to the rural environment, and must be developed as determined necessary to not significantly impact surface and groundwater.”).

consideration of the probable effects of changed land use occasioned by a rezone, including both its short-term and long-term effects.

Even a cursory review of KCC 17.15.060.1 evinces the potentially not insignificant changes that would be occasioned by the rezone. Understanding Gibson's business operations, this would most notably include allowing for rock crushing as a new permitted use (where currently not allowed), allowing for future and expanded mining and excavation as a permitted use (where current operations must be consistent with any conditional use permit and future expansion or changed operations must undergo a thorough conditional use permit process), and allowing the conditional development of asphalt and concrete plants and retail sales. None of the impacts or effects of these intensive land uses, which would now be permitted for the first time or subject to relaxed standards, is disclosed, analyzed, or meaningfully evaluated. As these represent the most obvious and significant differences between the two zones, the intent though is clear. In short, the environmental review is devoid of relevant analysis and is insufficient.

Further, the SEPA Checklist and associated review appears devoid of any disclosure or analysis of the actual potential impacts of the newly permitted uses under the proposed rezone. Notably, this includes, without limitation, the following:

- Neither the SEPA Checklist nor any studies address noise and other impacts associated with blasting and vibration associated with the rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address dust control, emissions, or air quality impacts from rock crushing operations that would be permitted under the proposed rezone.
- Neither the SEPA Checklist nor any studies address potential traffic impacts and safety associated with increased truck traffic and heavy machinery associated with uses that would be permitted under the proposed rezone.

- Neither the SEPA Checklist nor any studies address potential impacts to groundwater, hydraulic connectivity with surface water bodies,⁵ or aquifer impacts.
- While the application materials note a lack of any water rights associated with the property, the SEPA Checklist does not address or evaluate how water supply would be made available to the property for dust control and operational issues, and the impact of the same.

The DNS as issued includes no consideration or imposition of any mitigating conditions associated with these issues. As the proposed rezone would allow for new intensive uses as a matter of right, without further review, SEPA requires review of these probable impacts now, and such review cannot be deferred.

IMPROPER DEFERAL OF REQUIRED ENVIRONMENTAL REVIEW

Second, to the extent the SEPA Checklist and the County's review purports to effectively defer review of the environmental impacts of the rezone, such deferral is inappropriate and SEPA analysis must occur now and at the forefront before the rezone can be undertaken. The SEPA Checklist statement that "[a]ny future permits would be reviewed for impacts and/or mitigation measures under the applicable regulations in effect at the time if the permit action" is insufficient and a transparent attempt to not just defer but to avoid review. Yet, if the County were to in fact approve the proposed rezone, activities currently not permitted (i.e. rock crushing) or permitted only through a conditional use permit process and continued compliance with any applicable CUP (i.e. mining and excavation) would become activities permitted as a matter of right. The County should reject this slight-of-hand, and at a minimum, must evaluate these impacts now, with any probable adverse impacts adequately mitigated. As Washington courts have explained, even for non-project actions (such as rezones):

. . . the agency must address the probable impacts of any future project action the proposal would allow. The purpose of these rules is to ensure an agency fully discloses and carefully considers a proposal's environmental impacts before adopting it and "at the earliest possible stage." An agency may not postpone environmental analysis to a later implementation stage if **[**685]** the proposal

⁵ While the SEPA Checklist notes that Parke Creek is within 200 feet of the property in the southwest corner, see Checklist at § 3.a.1, it avoids any discussion of any impacts of the new uses authorized under the rezone, merely describing as "non-applicable." *Id.* at § 3.a.2.

would affect the environment without subsequent implementing action.

Spokane County v. E. Wash. Growth Mgmt. Hearings Bd., 176 Wn. App. 555, 579, 309 P.3d 673 (2013) (internal citations omitted); see also *Millennium Bulk Terminals-Longview, LLC v. Dep't of Ecology*, 2020 Wash. App. LEXIS 647, *17-18 (Wash. Ct. App. Mar. 17, 2020) (piecemealing of environmental review "is disfavored because the later environmental review often seems merely a formality, as the construction of the later segments of the project has already been mandated by the earlier construction"). The County should not and under the SEPA rules cannot, defer this review.

MITIGATING CONDITIONS REQUIRED FOR ISSUANCE OF ANY DNS

While Ellensburg Cement asserts the current SEPA disclosures and analysis is defective and is not based upon information reasonably sufficient to evaluate the environmental impact of the proposal, it further asserts that even when all impacts are properly disclosed, that any subsequent threshold determination, must, at a minimum, include and impose appropriate necessary mitigating conditions as part of a mitigated determination of nonsignificance (MDNS). The entire purpose of the rezone appears to be to loosen permitting standards for gravel operations and avoid and eliminate the robust conditional use permitting process⁶ that Ellensburg Cement has undergone for each of its relevant operations. These conditions have, in the past included, without limitation, required conditions related to the hours of operation of rock crushing operations, analysis of and limitation on trucks and heavy equipment impacting the adjacent community and County roadways, mitigating dust and noise impacts, and addressing compatibility and mitigating impacts on adjoining land uses, and others.

WITHDRAWAL AND RECONSIDERATION OF THE DNS REQUIRED

A DNS must be based upon "information reasonably sufficient to evaluate the environmental impact of a proposal." WAC 197-11-335; see also *Moss v. City of Bellingham*, 109 Wn. App. 6, 14, 31 P.3d 703 (2001). To receive a DNS, an applicant must furnish reasonably complete information about the impacts. In

⁶ See Chapter 17.60A KCC (Conditional Uses). The conditional use permitting process requires, without limitation, that the proposed use is not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood, will not create excessive public cost for facilities and services, be adequately served by existing facilities and roads, and may impose specific conditions to ensure compliance. See, e.g., KCC 17.60A.015 and KCC 1760A.020.

this regard, SEPA cases instruct that “the [local jurisdiction] must demonstrate that it had actually considered relevant environmental factors before [issuing the threshold determination]. Moreover, the record must demonstrate that the [local jurisdiction] adequately considered the environmental factors in a manner sufficient to be a prima facie compliance with the procedural dictates of SEPA.” *Boehm v. City of Vancouver*, 111 Wn. App. 711, 718, 47 P.3d 137 (2002). The responsible official “shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents.” WAC 197-11-340(2)(f). Withdrawal of the DNS is appropriate here.

The SEPA rules further require that the lead agency withdraw a DNS where “new information is presented indicating . . . a proposal’s probable significant adverse environmental impact,” WAC 197-11-340(3)(a)(ii), or where the “DNS was procured by misrepresentation or lack of material disclosure.” WAC 197-11-340(3)(a)(iii). Here, Ellensburg Cement has raised new information not clearly disclosed in the SEPA Checklist or evaluated by the County, including the undisclosed actual material differences between the zoning designations. This new information requires withdrawal of the DNS. WAC 197-11-340(3)(a)(ii). Similarly, the lack of material disclosure on these issues, and of the lack of actual consideration of the probable effects of the rezone requires withdrawal of the DNS. WAC 197-11-340(3)(a)(iii). Withdrawal of the DNS will permit the County to ensure proper SEPA review consistent with WAC 197-11-335⁷ and applicable law, and to impose mitigating conditions, as demonstrated to be necessary.

SPOT ZONING AND NEED FOR GENERALLY APPLICABLE RULES

Related to the above, Ellensburg Cement views this proposal as a piecemeal special favor in the form of spot zoning that would benefit only Gibson and does not further the County’s land use goals, policies, or the broader interests. The proposal seeks to rezone one individual parcel entirely encompassed within the A-20 zoning designation. The County should act cautiously and resist efforts at such spot zoning benefiting just one party. While Gibson may or will offer arguments as to its views of the appropriate zoning classification of this parcel, such consideration should be given a broader view. Similarly, if the County in

⁷ Pursuant to WAC 197-11-340(2)(f), in response to comments, the Responsible Official shall reconsider the DNS, including modification or withdrawal, and where the lead agency concludes that there is insufficient information it may require an applicant to submit more information on subjects in the checklist. See WAC 197-11-335(1). This result is dictated here.

Jayme Ayling
Kittitas County Community Development Services
August 28, 2024
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fact believes it is in the best interests of the County to more broadly permit rock crushing and gravel operations, or streamline the permit process for the same, it should do so holistically and not to the benefit of a singular property and property owner on a case-by-case basis.

CONCLUSION

The SEPA Checklist fails to properly disclose, let alone consider, the probable effects of the rezone. As such, the County's SEPA evaluation and DNS fails to demonstrate SEPA compliance. Given these deficiencies, and in further consideration of the significant impacts occasioned thereby, in accordance with the provisions of WAC 197-11-340(3), Ellensburg Cement respectfully requests the County withdraw the DNS issued on August 15, 2024, to ensure all appropriate impacts are evaluated and mitigated.

We request notice, directed to the undersigned, of any action the County takes relating to this threshold determination and the underlying rezone application.

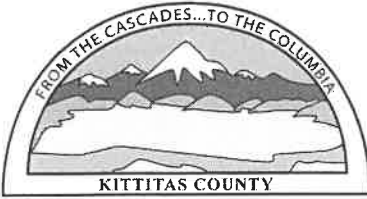
Thank you in advance for your consideration of these comments. Please feel free to contact me if you have any questions or require any additional information. We appreciate the County's careful review of this matter.

Sincerely,



Joseph A. Rehberger
Direct Line: (360) 786-5062
Email: jrehberger@cascadialaw.com
Office: Olympia

cc: Ellensburg Cement Products, Inc.



KITTITAS COUNTY
COMMUNITY DEVELOPMENT SERVICES

Receipt Number: CD24-02600

411 N. Ruby St., Suite 2
Ellensburg, WA 98926
509-962-7506 / <https://www.co.kittitas.wa.us/cds/> /

Payer/Payee: CASCADIA LAW GROUP PLLC
606 COLUMBIA ST NW STE 212
OLYMPIA WA 98501

Cashier: GAIL WEYAND CDS
Payment Type: CHECK (1602)

Date: 10/10/2024

RZ-24-00002 Rezone

PARKE CREEK RD ELLENSBURG

Fee Description

Fee Amount Amount Paid Fee Balance

Appeal

\$1,670.00 \$1,670.00 \$0.00

RZ-24-00002 TOTALS: \$1,670.00 \$1,670.00 \$0.00

TOTAL PAID: \$1,670.00