

November 26, 2024

VIA EMAIL AND U.S. MAIL

Kittitas County Board of County Commissioners
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RE: *State Environmental Policy Act (SEPA) Appeal*
File No. RZ-24-00001 (Gibson Rezone)
Docket Item No. 2024-13

Dear Commissioners and Planning Manager:

This firm represents Appellant Ellensburg Cement Products, Inc. (Ellensburg Cement) concerning the Notice of Appeal of Kittitas County's State Environmental Policy Act (SEPA) threshold determination and issuance of a Mitigated Determination of Nonsignificance (MDNS) under File No. RZ-24-00001 and Comprehensive Plan Docket No. 2024-13, sometimes referred to as the Gibson Rezone. Ellensburg Cement respectfully requests the Board and Community Development Services (CDS) re-notice and reschedule the SEPA Appeal hearing apparently now scheduled for December 9, 2024, in order to comply with the process and timelines set forth by County Code and to ensure appropriate due process is provided to the parties.

Lack of Required Process and Notice

Ellensburg Cement timely filed an initial Notice of Appeal concerning the original MDNS on October 10, 2024. The County subsequently withdrew the MDNS, and on October 16, 2024, issued a new MDNS. The current County issued MDNS and Notice of SEPA Action provides for an administrative appeal pursuant to the provisions of chapter 15A.07 KCC. Appellants timely filed a subsequent Notice of Appeal dated October 29, 2024, received by the County on October 30, 2024. While the SEPA appeal hearing in this matter appears now to have been scheduled for December 9, 2024, no individualized notice of the same was provided to or received by Ellensburg Cement.

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County Code requires, that upon filing of an appeal, the administrator shall "set the time and place for hearing" and "establish a briefing schedule for the parties." KCC 15A.07.010(3). No such briefing schedule was ever provided. Further, CDS "shall forthwith transmit to the reviewing body and the parties all of the records pertaining to the decision being appealed." KCC 15A.07.010(3). No such record has been received. Finally, the Code requires a reasonable period of time for briefing prior to the noticed hearing date, requiring, *inter alia*, that appellant's brief and supporting declarations "shall be due no sooner than 15 days after having received the administrative record and no later than 30 days prior to the hearing date." KCC 15A.07.010(3). Publication of the SEPA Appeal hearing was apparently made in the Daily Record on November 21, 2024 (just ten working days prior to the scheduled December 9 appeal hearing). To date, no such notice of any hearing date has been provided to, or received by, the Appellants. But for their independent review of the published notice, Appellant Ellensburg Cement would have received no notice of the SEPA appeal hearing. As noticed and scheduled, notice was insufficient and the time now permitted is inconsistent with the County's required procedures.

In order to meet the timelines established by County Code, Ellensburg Cement respectfully requests the Board reschedule the December 9, 2024 SEPA appeal hearing in the above-referenced matter, coordinate with CDS to set an appropriate time and place for the hearing, prepare and transmit the record, and establish a briefing schedule consistent with the above County Code imposed required deadlines. The briefing schedule must allow for submission of Appellants' brief no sooner than 15 days after transmission and receipt of the record, and at least 30 days prior to the hearing date.

Thank you for your attention to this matter.

Sincerely,



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cc: Chad Bala, Director, Community Development Services
Jessica Miller, Clerk
James Carmody, Meyer Fluegge & Tenney PS, Counsel for Applicant
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