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May 27, 2008



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## Sent Via Electronic Mail

Mackenzie Moynihan, Staff Planner  
Kittitas County Community Development Services  
411 North Ruby Street, Suite 2  
Ellensburg, WA 98926

## RE: Caribou Canyon Conditional Use Permit Application

Dear Ms. Moynihan:

I write to express profound concern over the application of Dennis and Phyllis Laukala (hereinafter, "Applicants") to develop a summer camp in the Elkhorn Wildlife Refuge and Conservancy. My wife and I own Parcels 22 and 23 of the Elk Hills Development, less than a quarter mile from the proposed summer camp. We are apprehensive that the proposed development will adversely affect the residential and recreational nature of surrounding properties and join in the concerns raised by Meghan and Andy Anderson in their letter of May 23, 2008. I also write separately to address an additional concern that the SEPA Checklist submitted by the applicants is woefully inadequate. Based upon the information furnished by the Applicants, it is impossible to gauge the environmental impacts of the proposed summer camp. Accordingly, a full Environmental Impact Statement should be required before the application is considered.

### Background of SEPA

Under the State Environmental Protection Act ("SEPA"), the proponent of a proposed development must submit information regarding the significant adverse environmental impacts of the proposal. See generally, WAC 197-11-060; WAC 197-11-080; WAC 197-11-090, see also RCW 43.21C.031. A SEPA responsible official then evaluates the environmental checklist and makes a "threshold determination" as to whether the proposal will likely have a "probable significant adverse environmental impact." WAC 197-11-330(1) (b). If the official determines there will be no probable significant adverse environmental impacts from the development, the agency prepares and issues a Determination of Nonsignificance. WAC 197-11-340; WAC 197-11-970 (form). In making this threshold determination, the responsible agency shall review the environmental checklist and any supporting documents without requiring additional information from the applicant. WAC 197-11-330

“Impacts” under SEPA are the effects or consequences of actions. WAC 197-11-752 Among the environmental impacts that an agency must consider are the effect of the proposed development on:

1. Surface water movement/quantity/quality
2. Runoff/absorption
3. Groundwater movement/quantity/quality
4. Scenic Resources
5. Noise
6. Recreation
7. Vehicular traffic
8. Fire

WAC 197-11-444

Washington State regulations require that, in determining an impact's significance, the agency shall take into account that the “same proposal may have a significant adverse impact in one location but not in another location” and that “[s]everal marginal impacts when considered together may result in a significant adverse impact” WAC 197-11-330(3) (a) & (c). The agency must also consider whether or not proposals “[a]dversely affect environmentally sensitive or special areas.” WAC 197-11-330 (3)(e)

In making this threshold determination, the agency may not balance whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather, shall consider whether a proposal has any probable significant adverse environmental impacts. WAC 197-11-330 (5). Agencies must carefully consider the range of probable impacts, including short-term and long-term effects. Impacts shall include those that are likely to arise or exist over the lifetime of a proposal. 197-11-060 (4)(c). Accordingly,

A proposal's effects include direct and indirect impacts caused by a proposal. Impacts include 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.*

197-11-060 (4)(d) (emphasis supplied)

#### Elkhorn Neighborhood

The Elkhorn Ranch is made up of 31 parcels all subject to the Declaration of Easements, Covenants, Conditions and Restrictions for Elkhorn Ranch A Private Wildlife Refuge and Conservancy (“Declaration”) recorded April 6, 2001 under Kittitas County Auditor’s File No. 200104060003. The Declaration is the primary governing document of the Elkhorn community and reflects the expectations, understandings and commitments of community members who each received a copy before purchasing their property. The Declaration defines Elkhorn as “a recreational/residential development” and

establishes protective covenants “for the purpose of enhancing, protecting, preserving and augmenting the natural environment features of the property.”

The Declaration provides that lots “shall be used solely for recreational and residential use” with narrow exceptions. Article IX, Section 1. Recognizing the sensitive environmental nature of the Caribou Canyon, the Covenants requires that homes be placed in a manner “to have the least impact on wetlands and other areas considered sensitive by any governmental agency” or important “for the conservancy and refuge purposes of the development.” *Id.*, Section 3. Temporary living quarters are limited to one building season. *Id.*, Section 6 Recognizing the recreational and commercial nature of the developments, the Declaration mandates that “no commercial enterprises are allowed” with the possible exception of bed and breakfast, small guest ranch and horse breeding and training. *Id.*, Section 14. Moreover, “no lot owner shall allow more than 10 guests to use the trails.” *Id.*, Section 27.

In adjudicating Applicants proposal to develop a summer camp in Elkhorn Ranch, the county is explicitly charged with consider “the character of the surrounding neighborhood.” See Zoning Conditional Use Permit Application, Question 9A. While the specific provisions of the Declaration are not enforceable by the County, they are illustrative of the “character” of the Elkhorn neighborhood. Moreover, references to wetlands and sensitive environmental areas in the Declaration represent a clear acknowledgment of the delicate environmental status of the property.

Elkhorn property owners all could have purchased raw open rangeland to develop as they saw fit, but instead opted to invest in a planned, residential community with restrictive covenants and stringent growth limitations. The explicit prohibition on commercial enterprises, number of guests, and temporary living quarters manifests a clear intention to curtail growth and development that should be recognized by the County in its consideration of the current permit.

#### Impact of Proposed Summer Camp

The Conditional Use Application seeks a permit to operate a summer camp on lots 17, 18 and 19 of the Elkhorn development. While effusive in expressing the mission and goals of the proposed camp, the application is less specific as to the precise confines of the proposal. The application appears to envision a horse camp of 12 to 18 campers, 4 to 8 counselors and a groundskeeper. While labeled a horse camp, no specifics are provided on the number of horses that will be at the camp, although it can reasonably be surmised that more than 20 will be required to maintain the facility. A handwritten drawing depicts several outbuildings and horse corral and arena less than 100 feet from Caribou Creek. However, there is no statement as to the age of the children to be attending the camp; their level of riding expertise; the training and qualifications of camp counselors and riding instructors or the measures that will be undertaken to minimize fire risk and prevent runoff into Caribou Creek.

Section 9A of the application asks how the proposed use is “essential or desirable to the public convenience and not detrimental or injurious to the “character of the surrounding neighborhood.” While the Applicants’ response speaks eloquently of teaching horsemanship to young people in a “Christian environment,” it does not address whether or not a summer camp is consistent with the character of the Elkhorn neighborhood. Nor does it discuss the impact on the neighborhood of the use of campers of the “adjacent private ranchland” owned by other members of the Elkhorn community. Finally, there is no acknowledgment of the safety and liability risks created by young and inexperienced horseback riders using trails and roads maintained by the Elkhorn Homeowners Association or the increased fire hazards arising from adolescents in a wild setting. In summary, nothing in the response to Question 9A provides

compelling evidence that a proposed camp should overcome the existing uses of the Elkhorn development property.

One of the key criteria in considering the suitability of the proposed camp is the “likelihood that the present proposal will serve as a precedent for future actions.” 197-11-060 (4)(d). Even if the County determines that the currently proposed summer camp would not in itself have a significant adverse environmental impact on the Elkhorn neighborhood, the agency must consider the precedential effect that approval would have on future developments. If the currently proposed summer camp is allowed to proceed, it would be virtually impossible to deny a future Elkhorn landowners application to open second, third and fourth camps. Similarly, approval of a summer camp would create a powerful precedent supporting subsequent development of hotels, restaurants and theaters in the Elkhorn development. Hence, acceptance of the current proposal without full EIS review would open the door to future development of Caribou Canyon and corresponding degradation of its natural environment.

Second 9A of the application seeks information regarding the economic benefits and costs of the proposed summer camp. Regarding the use of county facilities, Applicants simply assert that the camp “will be adequately served by existing roads, police and fire protection.” However, this assertion does not address the fact that some of the 120 to 180 children who stay at the camp over a summer will inevitably become injured in the course of horseback riding, imposing a burden on county emergency personnel. Moreover, everyone who ever attended summer camp will remember that “kids will be kids” and that relatively harmless adolescent pranks such as sneaking out, lighting campfires, and raiding the tents of other campers is an inevitable part of the camping experience. In most settings, these activities would not be a significant concern. However, the fire danger in Caribou Canyon is acute, particularly in the summer months. The camp is close to a half hour drive from the nearest fire station and a brush fire caused by innocent adolescent activity could have a grave impact on the entire Elkhorn community. In these circumstances, the impact on Kittitas County fire protection resources would be substantial.

In summary, the application overstates the benefits of the proposed summer camp while understating its impacts on the surrounding neighborhood. A horse camp in the Elkhorn conservancy would contravene the investment backed expectations of neighboring property owners who have invested hundreds of thousands of dollars on a quiet and secluded wildlife conservancy. Moreover, many of the economic costs of the proposed horse camp would be born by the neighbors in terms of enhanced road usage, increased liability costs and lower property values and the County in terms of enhanced fire and emergency service protection.

#### Adequacy of Applicants’ SEPA Checklist

The SEPA Environmental Checklist furnished by the Applicants repeats the laudatory objectives of the proposed camp, but does little to apprise the agency of the environmental issues arising from the proposed development. Some of these deficiencies are addressed below.

Government Approvals In response to Question 10, the Applicants indicate that no governmental approvals or permits will be required for the proposed summer camp. This is not the case. Installation of a septic system capable of servicing 20-30 campers, counselors and

cooks will surely require extensive review from county health authorities. Given that all potable drinking water for the entire Elkhorn community are drawn from wells that are lower in elevation than the proposed drain field, careful consideration will be needed to ensure that drinking water is not contaminated. While it may be that a workable solution can be engineered, full EIS review is required to ensure the purity of community drinking water.

In addition to septic approvals, the proposed camp will require approval from the Health Department to ensure that the community kitchen and sanitation facilities meet state and county standards. Housing 18 youngsters in a summer camp raises many issues regarding supervision and control and extensive involvement with the Division of Social and Health Services would be required for the camp to secure the requires licensure.

Surface and Ground Water Caribou Canyon is drained by Caribou Creek which flows into the Yakima River. The proposed summer camp will clearly result in at least 20 horses corralled in close proximity to Caribou Creek. Based on the information furnished by Applicants, it is impossible to determine what actions, if any, will be undertaken to prevent Caribou Creek from becoming contaminated with horse manurea from surface water runoff. While it is possible that an appropriate mitigation plan could ameliorate this risk, a full Environmental Impact Statement should be required to ensure that water contamination does not occurred.

All home sites in the Elkhorn community receive their potable water from wells. Maintaining a steady supply of sanitary groundwater is essential to the environmental integrity of the community. Operation of the proposed summer camp will involve installing a new septic system to service 25 to 30 individuals and increasing water consumption during the summer months to meet the needs of these individuals. While it may be possible to install a septic system and increase water consumption for 25 to 30 people without affecting the uninterrupted supply of sanitary groundwater for neighboring properties, a full EIS should be required.

Plants and Wildlife In making its threshold determination on environmental impact, the County must consider weather or not the proposed summer camp “[a]dversely affect environmentally sensitive or special areas” WAC 197-11-330 (3)(e). Caribou Canyon is a sensitive environmental area. For that reason, the Declaration mandates that development occur in a manner that has “the least impact on wetlands and other areas considered sensitive by any governmental agency.” Article IX., Section 3. The SEPA Checklist submitted by Applicants does not acknowledge the sensitive environmental nature of Caribou Canyon or provide any information on how the proposed development will address environmental concerns. A full EIS is therefore necessary to identify the precise location of environmentally sensitive areas in Caribou Canyon and ensure that appropriate mitigation is undertaken to ensure that these areas are not affected by the proposed development.

#### Summary

Caribou Canyon is a unique and environmental sensitive area and the Elkhorn development as expressed in the Declaration represents a careful effort to maintain the environmental sanctity of the region for present and future generations. Approval of the proposed summer camp without a full EIS

review would create a palpable risk that the environment integrity of this unique area would be permanently impaired and create a worrisome precedent allowing future commercial development of the Canyon. I respectfully request that the Applicants request for a **Determination of Nonsignificance** be denied and that a full EIS process be undertaken.

Very truly yours,

*Matthew P. Bergman*

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