



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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“Building Partnerships – Building Communities”

WDFW Durr Road Conditional Use Permit (CU-19-00005)

TO: Kittitas County Hearing Examiner
FROM: Kittitas County Community Development Services Staff Planner, Jeremy Johnston
RE: WDFW Durr Road Conditional Use Permit (CU-19-00005)
DATE: October 22, 2020 (Hearing Date)

I. GENERAL INFORMATION

Requested Action: Washington State Department of Fish and Wildlife are proposing a project that will enhance an existing target shooting location with recreation, safety, and ADA improvements. The project site is approximately three acres, located at the convergence of three parcels totaling 640 acres. This project is being proposed in phases.

Location: Parcels 12412, 12413, and 063533 located at Durr Road, Ellensburg, WA. In the NW1/4 of Section 10, T16N, R18E. W.M., Kittitas County.

II. SITE INFORMATION

Total Property Size:	640 Acres (approximately 3-acre project site)
Number of Lots:	3
Domestic Water:	N/A
Sewage Disposal:	No facilities onsite
Power/Electricity:	N/A
Fire Protection:	Area Outside of Fire District Boundaries
Irrigation District:	N/A

Site Characteristics:

North: Privately owned and State-owned lands
South: Primarily State-owned lands, largely undeveloped
East: Primarily State-owned lands, largely undeveloped
West: Primarily State-owned lands, largely undeveloped

Access: The site is accessed from Durr Road, approximately four miles south of the city of Ellensburg.

III. ZONING AND DEVELOPMENT STANDARDS

The parcels involved in this proposal are in a land use designation of *Commercial Agriculture* and a zoning designation of *Commercial Agriculture*. These designations are described under the Resource Lands section in the Kittitas County Comprehensive Plan. The proposed project is classified as a “Shooting Range.” Shooting Ranges are an allowed use within the Commercial Agriculture Zone subject to a Conditional Use permit and consistency with footnote #23 in KCC 17.15.050.1. The property has been utilized for recreational shooting for years and the proposal will implement ADA accessibility and provide safety improvements.

IV. ADMINISTRATIVE REVIEW

Deem Complete: A conditional use permit application (See Index #2) for the Durr Road Shooting Range (CU-19-00005) was submitted to Kittitas County Community Development Services department on November 21, 2019. The application was deemed complete (See Index #8) on December 19, 2019. The site was posted in accordance with KCC 15A.03.110 on January 8, 2020 (See Index #9).

Notice of Application: A notice of application (See Index #12) for the Durr Road Shooting Range Conditional Use Permit (CU-19-00005) was mailed and/or emailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's contiguous tax parcels & applicable agencies. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on January 8, 2020, all in conformance with the Kittitas County Project Permit Application Process (Title 15A) (See Index #13).

V. COMPREHENSIVE PLAN

The Kittitas County Comprehensive Plan has established specific goals and policies associated with resource lands. The following goals and policies guide activities on Commercial Agriculture lands throughout the County. These goals and policies were developed in response to identified needs within the county, and support the County Wide Planning Policies:

RR-G2: "Opportunities should exist for traditional rural lifestyle and rural based economies."

Staff Consistency Statement: Shooting ranges have historically been a common part of a rural lifestyle. Several ranges were established throughout Kittitas County prior to permitting requirements. The proposed project would create a safer and more accessible shooting range environment.

RR-P120: "Kittitas County recognizes that new residents may not understand the rural living differences encountered in Kittitas County; therefore, the County supports the efforts of educational opportunities and agencies to educate on rural living and agriculture activities of long term significance."

Staff Consistency Statement: Shooting ranges have historically been a common part of rural living. Large parcel sizes and ample open space in the Commercial Agriculture zone suit activities like shooting ranges well. The safety improvements being proposed will help to provide a safer opportunity for this traditionally rural recreational activity.

RR-P127: "The County Should provide for flexible use of agricultural lands that are located in areas of limited or no irrigation."

Staff Consistency Statement: The proposed project will operate on three parcels without irrigation access. The Shooting Range use is an example of a flexible use of agriculture lands without irrigation.

This application is consistent with the goals, policies, and objectives of the Kittitas County Comprehensive Plan as outlined above.

VI. ENVIRONMENTAL REVIEW

Critical areas on the project parcels include some hazardous slope and a type 9 stream and two small wetlands in the north-east corner of parcel 12412. The wetlands are positioned approximately 3,300 feet from the project site, far exceeding the wetland setback requirement under KCC17A. Several Type 9 (unknown) streams are located on the parcels. The closest type 9 stream is approximately 600 feet from the project area, exceeding the 100 foot setback requirement. Some hazardous slope exists on the south west portion of parcel 063533, far removed from the project site. The project, as proposed, will not impact any critical areas on the parcels.

Washington State Department of Fish and Wildlife issued a Determination of Nonsignificance (DNS) (See Index #4) for this project on October 7, 2019 under the name “Wenas Wildlife Area Target Shooting Improvements and Management.” The determination was not appealed. For purposes of processing this application, CDS has adopted the determination issued by WDFW through a letter dated January 6, 2020 (See Index #10). No further environmental review is required.

VII. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. All comments are on file and available for public review. All comment submittals can be found in their entirety in Index #s 14-16. The following parties provided comment during the comment period.

Agency Comments:

Kittitas County Public Health Department: Kittitas County Public Health submitted comments stating they had no concerns with the project as it does not propose any water or septic systems. (See Index #14)

Kittitas County Public Works: Kittitas County Public Works submitted comments describing thresholds for future traffic concurrency studies should the range visits increase and addressing requirements should future structures be erected. KCPW also provided a letter stating that they had approved the projects stormwater design plan. (See Index #15).

Public Comments

Arlan Kummer: Mr. Kummer provided a copy of an incident report submitted to the Washington State Department of Natural Resources in 2009, describing reckless endangerment by recreational shooters that had strayed from the traditional shooting area and fired weapons in the general direction of his home. Mr. Kummer did not provide any additional comments but wanted the County to be aware of this safety issue. (See Index #16)

All comments are available for public review through Kittitas County Community Development Services.

VIII. PROJECT ANALYSIS

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff’s analysis and consistency review for the subject application.

Consistency with the Comprehensive Plan:

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced

above in Section V of this staff report, the following Comprehensive Plan goals and policies apply to this proposal: RR-G2, RR-P120, and RR-P127.

Provided the applicant follows and maintains the goals and policies, they shall be in compliance with the Kittitas County Comprehensive Plan. The applicant is proposing upgrades to an existing recreation shooting range which is consistent with the Rural Resource Lands goals and policies as described in the Kittitas County Comprehensive Plan. Therefore, the County and applicant are in compliance with the Comprehensive Plan.

Consistency with the provisions of KCC 17.60A, Conditional Uses:

KCC 17.60A.015 provides the following review criteria to be considered in a conditional use analysis:

1. *The proposed use is essential or desirable to the public convenience and not detrimental or injurious to the public health, peace, or safety or to the character of the surrounding neighborhood.*

Applicant Response: “The proposed use is essential and desirable to the public. The area is currently used for recreational target shooting and the intent is to improve the site by adding safety features and parking to improve safety and reduce habitat damage. The project is located on state land internal to the Wenas Wildlife Area managed for fish and wildlife habitat and compatible recreation. Recreational target shooting has a long history in the area and this will enhance that opportunity and improve conditions.” (See Index #3).

Staff Response: The proposed site has functioned as a shooting range for years. There have been safety concerns in the area related to the shooting range (See Index #16). The applicant is proposing to add safety improvements as part of their project. This action would help to ensure a safer target shooting area for the Kittitas County residents that frequent the existing shooting range. CDS staff agrees that the proposed use is consistent with KCC17.60A.015(1).

2. *The proposed use at the proposed location will not be unreasonably detrimental to the economic welfare of the county and that it will not create excessive public cost for facilities and services by finding that*
 - a. *The proposed use will be adequately serviced by existing facilities such as highways, roads, police and fire protection, irrigation and drainage structures, refuse disposal, water and sewers, and schools; or*
 - b. *The applicant shall provide such facilities; or*
 - c. *The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.*

Applicant Response: “The proposed use will not be detrimental to the economic welfare of the of the county and will not result in excessive public costs. The site will be maintained by the Washington State Department of Fish and Wildlife, the area is accessed by county roads that are already used by the public for the proposed activity and use is not likely to significantly increase.” (See Index #3).

Staff Response: CDS staff agrees that the proposal should not have any notable impact on public services and facilities. The proposed use is adequately serviced by existing facilities. CDS does not anticipate any significant impacts added to public facilities or services that would require mitigation. CDS staff agrees that the proposed use is consistent with KCC17.60A.015(2).

3. *The proposed use complies with relevant development standards and criteria for approval set forth in this title or other applicable provisions of Kittitas County Code.*

Applicant Response: “The proposed use of shooting ranges, complies with the county development standard for areas zoned commercial agriculture. WDFW followed the design criteria in zoning code 23.” (See Index #5)

Staff Response: The project has been reviewed by CDS staff for compliance with footnote #23 of Title 17.12.050.1, which provides specific criteria for a shooting range in a Commercial Agriculture Zone. The criteria established in footnote #23 are examined in more detail below. As conditioned, the project proposal is consistent with development standards for a Shooting Range use within Kittitas County. CDS staff agrees that the proposed use is consistent with KCC17.60A.015(3).

4. *The proposed use will mitigate material impacts of the development, whether environmental or otherwise.*

Applicant Response: “The proposed use is designed to mitigate impacts. The use is already existing, the proposal will implement improvements to reduce those impacts and provide a safer location that protects the adjacent wildlife habitat.” (See Index #3)

Staff Response: CDS staff have reviewed the application to identify material impacts of development. Due to the use already existing, CDS views the improvements proposed as having a beneficial impact on the safety and accessibility of Kittitas County citizens. Any impacts with the potential of negative material impacts (such as spent cartridge contamination) have been addressed in the recommended conditions (condition #3) of this staff report. CDS agrees that the project, as conditioned, mitigates material impacts of the development. CDS staff agrees that the proposed use is consistent with KCC17.60A.015(4).

5. *The proposed use will ensure compatibility with existing neighboring land uses.*

Applicant Response: “The site is surrounded by public land, nearby private land is zoned agriculture and no residences are nearby. The orientation of improvements are designed to reduce the threat to private property by directing shooting in a safe direction.” (See Index #3)

Staff Response: Most of the land surrounding the proposed site is state owned, undeveloped land without irrigation. The proposed project, as conditioned, is anticipated to be compatible with and have no detrimental impact on neighboring land uses. CDS has concluded that the project, as conditioned, ensures compatibility with existing neighboring land uses in accordance with KCC17.60A.015(5).

6. *The proposed use is consistent with the intent and character of the zoning district in which it is located.*

Applicant Response: “The proposed use is consistent with the intent and character of the zoning district and is a permitted use in the zoning district.” (See Index #3)

Staff Response: Kittitas County Code 17.15.050.1 allows shooting ranges in the Commercial Agriculture zoning designation with a conditional use permit. As described in section V of this staff report, the Commercial Agriculture zone allows for uses associated with a traditional rural lifestyle within this zone. CDS staff agrees that the proposed use is consistent with KCC17.60A.015(6).

7. *For conditional uses outside of Urban Growth Areas, the proposed use:*

- a. *Is consistent with the intent, goals, policies, and objectives of the Kittitas County Comprehensive Plan, including the policies of Chapter 8, Rural and Resource Lands;*
- b. *Preserves “rural character” as defined in the Growth Management Act*
- c. *Requires only rural government services; and*

d. Does not compromise the long term viability of designated resource lands.

Applicant Response: “The project is outside of Urban Growth Areas, it is consistent with the intent, goals, policies and objectives of the Kittitas County Comprehensive Plan, including the policies outlined in Chapter 8. In addition, the project preserves the rural character of the property as defined in RCW 36.70A.030(15) and will require only rural government services which would be limited to emergency services. Finally, the project does not compromise the long-term viability of the land which are designated as Commercial Agriculture and are owned and managed by WA Department of Fish and Wildlife to fish and wildlife habitat.” (See Index #3)

Staff Response: Kittitas County CDS has determined that the project, as conditioned, is consistent with the Comprehensive Plan as described above in the “Comprehensive Plan” section of this Project Analysis. The project is consistent with the definition of rural character as defined in the Growth Management Act, RCW 36.70A.030(20), by preserving open spaces with visual landscapes and fostering a traditional rural lifestyle. The proposed project will not require rural government services beyond that already existing and does not compromise the long-term viability of the lands involved. CDS finds the proposes use consistent with KCC 17.60A.015(7).

Staff Conclusions: Kittitas County CDS finds the application, as conditioned, consistent with KCC 17.60A Conditional Uses, as described above.

Consistency with KCC 17.15.050.1, Footnote #23:

Kittitas County Code 17.15.050.1, Footnote #23 outlines specific review considerations to be observed by the Hearings Examiner when making a determination regarding a shooting range conditional use in the Commercial Agriculture Zone. CDS has examined these items and offers the following analysis:

1. The general health, safety, and welfare of surrounding property owners, their livestock, their agricultural products, and their property.

Staff Analysis: The proposed project site is a three (3) acre area within three parcels totaling 640 acres. The project parcels are largely surrounded by undeveloped state-owned lands without irrigation. No agriculture or livestock will be impacted by the use. The closest residence is over two miles away from the site.

2. Adherence to the practices and recommendation of the “NRA Range Sourcebook.”

Staff Analysis: The applicant describes utilizing the NRA range standards and the input of the Yakima Training Center Range Officer in the design of the project. An approval condition is included in this staff report to ensure consistency with the NRA Range Sourcebook.

3. Adherence to the practices and recommendations of the “EPA Best Management Practices for Lead at Outdoor Shooting Ranges.”

Staff Analysis: The applicant has stated that WDFW will be responsible for maintenance of this site, including lead management. An approval condition is included in this staff report to ensure consistency with the EPA Best Management Practices for Lead at Outdoor Shooting Ranges.

4. Proposed shooting ranges in areas designated as agricultural land of long-term commercial significance shall comply with RCW 36.70A.177(3) as currently existing or hereafter amended and shall be limited to lands with poor soils or those unsuitable for agriculture.

Staff Analysis: The proposed shooting range improvements comply with RCW 36.70A.177(3)(b)(ii). The proposed use is located outside of the general area already developed for buildings and residential uses and the three (3) acre project site is not being converted to a non-agriculture use, as the use is preexisting. The project parcels are outside of irrigation district boundaries. The proposed project will assist in providing more structure, accessibility and safety to this existing use.

Staff Conclusions: Kittitas County CDS finds the application, as conditioned, consistent with KCC 17.17.15.050.1, Footnote #23, as described above.

Consistency with the provisions of the KCC Title 17A, Critical Areas:

Critical areas on the project parcels include some hazardous slope and a type 9 stream and two small wetlands in the north-east corner of parcel 12412. The wetlands are positioned approximately 3,300 feet from the project site, far exceeding the wetland setback requirement under KCC17A. Several Type 9 (unknown) streams are located on the parcels. The closest type 9 stream is approximately 600 feet from the project area, exceeding the maximum 100-foot setback requirement. Some hazardous slope exists on the south west portion of parcel 063533, several hundred feet removed from the project site. The project, as proposed, will not impact any critical areas on the parcels. CDS finds the proposed project consistent with Title 17A, Critical Areas.

Consistency with the provisions of the KCC Title 14.04, Building Code:

Any future buildings must be consistent with International Building Codes.

Consistency with the provisions of KCC Title 12, Roads and Bridges:

As conditioned, the proposal is consistent with the provisions of KCC Title 12.

Consistency with the provisions of KCC Title 20, Fire and Life Safety:

As conditioned, the proposal is consistent with the provisions of KCC Title 20.

IX. Findings of Fact

1. The proposed project will enhance an existing target shooting location with recreation, safety, and ADA improvements. The project site is approximately 3 acres, located at the convergence of 3 parcels totaling 640 acres. This project is being proposed in phases.

2. Site Information

Total Property Size:	640 Acres (approximately 3-acre project site)
Number of Lots:	3
Domestic Water:	N/A
Sewage Disposal:	No facilities onsite
Power/Electricity:	N/A
Fire Protection:	Area Outside of Fire District Boundaries
Irrigation District:	N/A

3. Site Characteristics:

- North: Privately owned and State-owned lands
- South: Primarily State-owned lands, largely undeveloped
- East: Primarily State-owned lands, largely undeveloped

West: Primarily State-owned lands, largely undeveloped

4. Access: The site is accessed from Durr Road, approximately four miles south of the city of Ellensburg.
5. The Comprehensive Plan land use designation is Commercial Agriculture and the zoning designation is Commercial Agriculture.
6. The project is classified as a “Shooting Range”, which is an allowed use in the Commercial Agriculture Zone with a Conditional Use Permit.
7. A conditional use permit application (See Index #2) for the Durr Road Shooting Range (CU-19-00005) was submitted to Kittitas County Community Development Services department on November 21, 2019. The application was deemed complete (See Index #8) on December 19, 2019. The site was posted in accordance with KCC 15A.03.110 on January 8, 2020 (See Index #9).
8. A notice of application (See Index #12) for the Durr Road Shooting Range Conditional Use Permit (CU-19-00005) was mailed and/or emailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal’s contiguous tax parcels & applicable agencies. Notice was given to and published in the official newspaper of record for Kittitas County, and notice was posted to the Kittitas County Website on January 8, 2020, all in conformance with the Kittitas County Project Permit Application Process (Title 15A) (See Index #13).
9. Washington State Department of Fish and Wildlife issued a Determination of Nonsignificance (DNS) (See Index #4) for this project on October 7, 2019 under the name “Wenas Wildlife Area Target Shooting Improvements and Management.” The determination was not appealed. For purposes of processing this application, CDS has adopted the determination issued by WDFW through a letter dated January 6, 2020 (See Index #10). No further environmental review is required..
10. The proposal, as conditioned, is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section V of this staff report, the following Comprehensive Plan goals and policies apply to this proposal: RR-G2, RR-P120, and RR-P127.
11. The proposal is consistent with Kittitas County Review Criteria 17.60A.015 as described in section VIII “Project Analysis” of this determination. Shooting Ranges are a permitted use in the Commercial Agriculture Zone with a conditional use permit.
12. Road Standards and access requirements are subject to the standards outlined in Kittitas County Code Title 12.
13. The following agencies provided comments during the comment period: Kittitas County Public Health Department and Kittitas County Public Works (See Index #'s 14 and 15).
14. CDS received one public comments from Arlan Kummer (See Index #16).
15. This proposal, as conditioned, is consistent with the provisions of KCC Title 12, Roads and Bridges.
16. This proposal, as conditioned, is consistent with the provisions of KCC Title 14, Buildings and Construction.

17. This proposal, as conditioned, is consistent with the provisions of KCC Title 17 and more specifically Title 17.15.050.1, Footnote #23.

18. This proposal, as conditioned, is consistent with the provisions of KCC 17.60A, Conditional Uses.

19. This proposal, as conditioned, is consistent with the provisions of KCC 17A, Critical Areas.

20. This proposal, as conditioned, is consistent with KCC 20, Fire Life and Safety.

X. Conclusions:

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interest will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 17 Zoning, Title 17A Critical Areas, Title 14.04 Building Code, Title 12 Roads and Bridges, and Title 20 Fire and Life Safety.

XI. Recommendation and Conditions of Approval:

Kittitas County recommends *preliminary approval* of the WDFW Durr Road Project CU-19-00005 based on the above staff analysis, findings of fact, and conclusions with the following conditions of approval.

1. The project shall proceed in substantial conformance with the plans and application materials on file with CDS dated November 21, 2019 and subsequent information included in the complete file index except as amended by the conditions herein.
2. The applicant shall adhere to the practices and recommendations of the NRA Range Sourcebook.
3. The applicant shall adhere to the Best Management Practices established in the EPA Best Management Practices for Lead at Outdoor Shooting Ranges.
4. The applicant is responsible for all applicable local, state and federal rules and regulations and must obtain all appropriate permits and approvals.
5. The site is accessed from Durr Road which receives minimal maintenance. If future traffic visits should exceed 9 peak hour vehicle trips, a Transportation Impact Analysis shall be required.
6. A grading permit is required for any dirt work exceeding 100 cubic yards of material prior to any ground disturbance.

7. All development, design and construction shall comply with International Fire Code requirements.
8. It is a proponent's responsibility to demonstrate compliance with the approval conditions of a conditional use permit. Compliance with all conditions must be demonstrated in writing to Kittitas County CDS prior to Final Conditional Use Permit issuance. Final approval of a Conditional Use Permit is required within 5 years of the approval date pursuant to KCC 17.60A.090.