

**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF

CU-24-00005

Red's Fly Shop

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND
CONDITIONS OF APPROVAL**

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on September 11, 2024 the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. Requested Action: The proposed project is for an addition to the Red's Fly Shop building within an increased footprint of 1400 square feet. Approximately 1338 square feet of storage will be added to the basement. It will be used to store similar materials as the adjacent existing storage. The existing exit will be relocated to the addition. The ceiling will be rated for a one-hour fire separation. Approximately 1335 square feet of retail space will be added to the first floor. It will be an extension of the existing fly shop.
2. Location: 14706 S.R. 821, Parcel 952924, located approximately 9.3 miles southeast of Ellensburg, In Section 28, Township 16, Range 19, W.M; Kittitas County assessor's map number 16-19-28050-0008.
 - 2.1. Total Property Size: 3.25 Acres
 - 2.2. Number of Lots: 1
 - 2.3. Domestic Water: Group A Existing Water System
 - 2.4. Sewage Disposal: Existing Septic System
3. Site Characteristics:
 - 3.1. North: Undeveloped, hilly land within a Forest & Range zoning designation.
 - 3.2. South: Undeveloped land with steep topography within a Forest & Range zoning designation. The Yakima River lies directly to the South.
 - 3.3. East: Undeveloped, hilly land within Forest & Range, and Commercial-Agriculture zoning designations.
 - 3.4. West: Undeveloped land with steep topography within Forest & Range, and Commercial-Agriculture zoning designations. The Yakima River lies directly to the West.
4. Access: The site is accessed by S.R. 821 via an existing access point.

5. The parcel involved in this proposal is in a land use designation of Rural Working and zoning designation of Forest & Range. The proposed project is classified as a "Guest Ranch". Guest Ranches are allowed with a conditional use permit under KCC 17.15.060.1.
6. Deem Complete: A conditional use permit application (See Exhibit #1) for Red's Fly Shop (CU-24-00005) was submitted to Kittitas County Community Development Services department on May 29, 2024. The application was deemed complete on June 6, 2024. The site was posted in accordance with KCC 15A.03.110 on June 12, 2024 (See Exhibit #5).
7. Notice of Application: A notice of application (See Exhibit #'s 3 & 7) for the Red's Fly Shop Conditional Use Permit (CU-24-00005) was mailed and/or emailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's 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 June 13, 2024, all in conformance with the Kittitas County Project Permit Application Process (Title 15A) (See Exhibit #'s 8 & 10). The comment period concluded on July 1, 2024.
8. RR-P4: A certain level of mixed uses in rural areas and rural service centers is acceptable and may include limited commercial, service, and rural industrial uses.
 - 8.1. Staff Consistency Statement: *The proposed addition to the existing land use will enhance existing rural commercial activity that already exists on site, while keeping such activity limited so as to not become detrimental to Kittitas County's rural character.*
9. RP-15: Give preference to land uses in rural designated areas that are related to agriculture, rural residential development, tourism, outdoor recreation, and other open space activities.
 - 9.1. Staff Consistency Statement: *The proposed addition to the existing land use is related to outdoor tourism and recreational activities in a rural setting that highlights Kittitas County's rural character.*
10. This application is consistent with the goals, policies, and objectives of the Kittitas County Comprehensive Plan as outlined above.
11. A review by CDS staff only indicated the Yakima River bordering the property, no streams or wetlands are known to exist on-site. The closest stream from the proposal is approximately 700 feet away from the proposal, well beyond any required setbacks under KCC 17A.04.030. Previous SEPA review was completed under the previous Conditional Use Permit on April 17, 2013. This expansion does not exceed the threshold to require additional SEPA review under WAC 197-11-800(1)(d) and KCC 15.04.090(1)(c).
12. 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 Exhibit # 11. The following parties provided substantive comments during the comment period:
13. Agency Comments: Confederated Tribes of the Colville Reservation, Washington State Dept. of Archaeology and Historic Preservation, Snoqualmie Tribe, Washington Dept. of Fish and Wildlife, Washington Dept. of Health (Office of Drinking Water), Washington State Dept. of Transportation, Kittitas County Public Works. Below is a summary of their comments:

- 13.1. Confederated Tribes of the Colville Reservation: The CTCR requested that the applicants prepare an Inadvertent Discovery Plan (IDP) in order to address the possibility of uncovering cultural artifacts during ground disturbing activities.
- 13.1.1. Hearing Examiner Finding: The applicants have provided an IDP that adequately addresses the Colville Tribe's concerns.
- 13.2. Department of Archaeology and Historic Preservation: DAHP provided comments requesting an Inadvertent Discovery Plan (IDP) be in place in order to address the possibility of uncovering cultural artifacts during ground disturbing activities.
- 13.3. Hearing Examiner Finding: The applicants have provided an IDP that adequately addresses DAHP's concerns.
- 13.4. Snoqualmie Tribe: The Snoqualmie Tribe commented that based on the provided materials and their understanding of the project they had no substantive comments to offer at this time.
- 13.4.1. Hearing Examiner Finding: The applicants have provided an Inadvertent Discovery Plan to address concerns regarding ground disturbing activities and the possibility of uncovering cultural artifacts.
- 13.5. Washington State Department of Fish and Wildlife: WDFW provided comments recommending additional riparian plants along the shoreline in addition to best management practices.
- 13.5.1. Hearing Examiner Finding: Staff has provided these recommendations to the applicants.
- 13.6. Washington State Department of Health (Office of Drinking Water): The WSDOH Office of Drinking Water provided comment asking a clarifying question regarding what type of water system serves the property.
- 13.6.1. Hearing Examiner Finding: In response to this comment, the applicant provided a clarifying answer regarding what type of water system serves the property.
- 13.7. Washington State Department of Transportation: WSDOT provided comments regarding regulations and restrictions upon this property. WSDOT indicated that the property must be served solely by the existing access, and that no additional access points will be allowed. WSDOT also listed lighting regulations and stated that any posted signs on the property must comply with the State Scenic Vistas Act of 1971.
- 13.7.1. Hearing Examiner Finding: As the applicants have stated that they will comply with WSDOT requirements, the Hearing Examiner has conditioned this proposal to require this compliance.
- 13.8. Kittitas County Public Works: Kittitas County Public Works provided comments regarding grading/filling permit requirements. KCPW also provided floodplain development specifications. In addition to these circumstantial requirements, KCPW also stated that the applicant needs to revise their site plan to show the floodplain as a visible layer.

- 13.8.1. Hearing Examiner Finding: As the applicants have revised their site plan and KCPW has indicated that the new site plan is adequate.
- 13.9. Public Comments: No comments were received from the public during the established comment period.
14. Consistency with the Comprehensive Plan: The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The following Comprehensive Plan goals and policies apply to this proposal: RR-P4 and RP-15.
- 14.1. 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:
- 14.1.1. 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.
- 14.1.2. Applicant Response: "... we would like to go on record stating that Red's Fly Shop, located within Canyon River Ranch, is a resort property that is successful due to the beauty and resources located within the Yakima River Canyon. Wildlife, flora and fauna, and healthy river resources are closely tied to a positive customer experience, and we continue to support many efforts to preserve and enhance this area and these resources." (See Exhibit #13)
- 14.1.3. Hearing Examiner Finding: Guest Ranches are allowed by conditional use permit within the Forest & Range zone. The proposal is located on approximately 3.25 acres and the facility will consist of additions to existing structures. The property is located near undeveloped land in Forest & Range and Commercial-Agriculture zoning designations. CDS does not anticipate the proposed use as conditioned will be detrimental or injurious to the public health, peace or safety, or to the character of the surrounding area.
- 14.2. 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
- 14.2.1. 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
- 14.2.2. The applicant shall provide such facilities; or
- 14.2.3. The proposed use will be of sufficient economic benefit to offset additional public costs or economic detriment.
- 14.2.4. Applicant Response: "... we would like to go on record stating that Red's Fly Shop, located within Canyon River Ranch, is a resort property that is successful due to the beauty and resources located within the Yakima River Canyon. Wildlife, flora and fauna, and healthy river resources are closely tied to a positive customer experience, and we continue to support many efforts to preserve and enhance this area and these resources. ... the impacts of the proposal are being mitigated by adding on to an existing facility instead of building a new building." (See Exhibit #13)

- 14.2.5. Hearing Examiner Finding: Staff has confirmed with Public Health and the State Department of Health that the existing water facilities will not be impacted by this project, the road network can handle current traffic levels and this project is not anticipated to add to existing traffic levels. The site is not within an established fire district. The Hearing Examiner has included conditions requiring compliance with all agency requirements.
- 14.3. 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.
- 14.3.1. Applicant Response: "The proposal is consistent with the Rural and Resource Lands goals, policies, and objectives of the Kittitas County Comprehensive Plan. The proposal maintains the rural lifestyle economies and does not require extension of governmental services. The rural character of the area is maintained by matching the existing structures. The proposal provides limited commercial service in an area where the recreation it serves occurs." (See Exhibit #13)
- 14.3.2. Hearing Examiner Finding: The Guest Ranch use is consistent with the relevant development standards and criteria including KCC 17.15.060. The Guest Ranch is permitted in the Forest & Range zone through a Conditional Use Permit.
- 14.4. The proposed use will mitigate material impacts of the development, whether environmental or otherwise.
- 14.4.1. Applicant Response: "The impacts of the proposal are being mitigated by adding on to an existing facility instead of building a new building." (See Exhibit #13)
- 14.4.2. Hearing Examiner Finding: The Hearing Examiner finds that this proposal will not have a significant impact above the already existing impact created by the existing facilities on-site.
- 14.5. The proposed use will ensure compatibility with existing neighboring land uses.
- 14.5.1. Applicant Response: "The proposal is compatible with the existing neighborhood since it is the same use as the existing facility and enhances the recreational opportunities in the canyon." (See Exhibit #13)
- 14.5.2. Hearing Examiner Finding: There are few residences in the area and any impacts should be minimal to the neighboring land uses.
- 14.6. The proposed use is consistent with the intent and character of the zoning district in which it is located.
- 14.6.1. Applicant Response: "The proposal is within the character of the zoning district because it encourages low-impact recreation within the district." (See Exhibit #13)
- 14.6.2. Hearing Examiner Finding: The proposed project is located in Forest & Range zoning. The Forest & Range (F&R) zone is an area wherein natural resource management is the highest priority. The purpose and intent of the Forest & Range zone is to provide for areas of Kittitas County wherein natural resource management is the highest priority and where the subdivision and development of lands for uses and activities incompatible with resource management are discouraged. Kittitas County Comprehensive Plan and Zoning Code have

allowed Guest Ranches in Forest & Range zones in KCC 17.15.060(1) with a conditional use permit. Kittitas County believes that Guest Ranches are part of the rural lifestyle and for people to enjoy the rural character of the county.

- 14.7. For conditional uses outside of Urban Growth Areas, the proposed use:
- 14.7.1. 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;
 - 14.7.2. Preserves "rural character" as defined in the Growth Management Act
 - 14.7.3. Requires only rural government services; and
 - 14.7.4. Does not compromise the long-term viability of designated resource lands.
 - 14.7.5. Applicant Response: "The proposal is within the character of the zoning district because it encourages low-impact recreation within the district."
 - 14.7.5.1. The proposal is consistent with the Rural and Resource Lands goals, policies and objectives of the Kittitas County Comprehensive Plan. The proposal maintains the rural lifestyle economies and does not require extension of governmental services. The rural character of the area is maintained by matching the existing structures. The proposal provides limited commercial service in an area where the recreation it serves occurs.
 - 14.7.5.2. The proposal preserves the rural character consistent with the Growth Management Act as stated above.
 - 14.7.5.3. Only government services that are already provided to the existing facilities will be required.
 - 14.7.5.4. N/A"
 - 14.7.6. Hearing Examiner Finding: The proposal is consistent with the Kittitas County Comprehensive Plan. The use will not conflict with rural character, requires only rural government services and will not compromise resource lands.
- 14.8. Hearing Examiner Finding: the Hearing Examiner finds the application, as conditioned, consistent with KCC 17.60A Conditional Uses, as described above.
15. Consistency with the provisions of the KCC Title 17A, Critical Areas: A review by CDS staff only indicated the presence of the Yakima River on/adjacent to the property. The closest regulated stream from the proposal is approximately 700 feet away from the proposal, well beyond any required setbacks under KCC 17A.04.030. As such, the proposal is consistent with KCC Title 17A, Critical Areas.
16. Consistency with the provisions of the KCC Title 14.04, Building Code: Any future buildings must be consistent with International Building Codes.
17. Consistency with the provisions of KCC Title 12, Roads and Bridges: As conditioned, the proposal is consistent with the provisions of KCC Title 12.

18. 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.
19. Agency Comments:
 - 19.1. The following agencies provided comments during the comment period: Confederated Tribes of the Colville Reservation, Washington State Dept. of Archaeology and Historic Preservation, Snoqualmie Tribe, Washington State Dept. of Fish and Wildlife, Washington State Dept. of Health (Office of Drinking Water), Washington State Dept. of Transportation, Kittitas County Public Works. (Exhibit #11).
20. Public Comments: No comments were received from the public.
21. The proposed project is for an addition to the Red's Fly Shop building with an increased footprint of 1400 square feet. Approximately 1338 square feet of storage will be added to the basement. It will be used to store similar materials as the adjacent existing storage. The existing exit will be relocated to the addition. The ceiling will be rated for a one-hour fire separation. Approximately 1335 square feet of retail space will be added to the first floor. It will be an extension of the existing fly shop.
22. Site Information
 - 22.1. Total Property Size: 3.25 Acres
 - 22.2. Number of Lots: 1
 - 22.3. Domestic Water: Group A Water System (Already Existing)
 - 22.4. Sewage Disposal: Existing Septic
23. Site Characteristics:
 - 23.1. North: Undeveloped, hilly land within a Forest & Range zoning designation.
 - 23.2. South: Undeveloped land with steep topography within a Forest & Range zoning designation. The Yakima River is directly adjacent in this direction.
 - 23.3. East: Undeveloped, hilly land within a Forest & Range, and Commercial-Agriculture zoning designation.
 - 23.4. West: Undeveloped land with steep topography within a Forest & Range and Commercial-Agriculture zoning designation. The Yakima River is directly adjacent in this direction.
24. Access: Site is accessed from S.R. 821 via an existing access point.
25. The Comprehensive Plan land use designation is Rural Working, and the zoning designation is Forest & Range.
26. The proposed use is permitted in this zone with a Conditional Use Permit under Guest Ranch in KCC 17.15.060.1.

27. A conditional use permit application (See Exhibit #1) for Red's Fly Shop (CU-24-00005) was submitted to Kittitas County Community Development Services on May 29, 2024. The application was deemed complete on June 6, 2024. The site was posted in accordance with KCC 15A.03.110 on June 12, 2024 (See Exhibit #5).
28. Notice of Application: A notice of application (See Exhibit #'s 3 & 7) for the Red's Fly Shop Conditional Use Permit (CU-24-00005) was mailed and/or emailed to adjacent landowners located within 500 feet of any portion of the boundary of the proposal's 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 June 13, 2024, all in conformance with the Kittitas County Project Permit Application Process (Title 15A) (See Exhibit #'s 8 & 10). The comment period concluded on July 1, 2024.
29. A SEPA Checklist was not required under WAC 197-11-800(1)(d) and KCC 15.04.090(1)(c).
30. 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-P4 and RP-15.
31. Grading requirements are subject to the standards outlined in Kittitas County Code Title 14.
32. The following agencies provided comments during the comment period: Confederated Tribes of the Colville Reservation, Washington State Dept. of Archaeology and Historic Preservation, Snoqualmie Tribe, Washington State Dept. of Fish and Wildlife, Washington State Dept. of Health (Office of Drinking Water), Washington State Dept. of Transportation, Kittitas County Public Works. (Exhibit #11).
33. No public comments were received for this project.
34. This proposal, as conditioned, is consistent with the provisions of KCC 17.60A, Conditional Uses.
35. This proposal, as conditioned, is consistent with the provisions of KCC Title 12, Roads and Bridges.
36. This proposal, as conditioned, is consistent with the provisions of KCC Title 14 Building and Construction.
37. This proposal, as conditioned, is consistent with the provisions of KCC 17A, Critical Areas.
38. This proposal, as conditioned, is consistent with KCC 20, Fire Life and Safety.
39. This proposal, as conditioned, is consistent with KCC Title 17, Zoning.
40. An open record public hearing was held, after legal notice, on September 11, 2024.
41. Appearing and testifying on behalf of the Applicant was Steve Joyce. Mr. Joyce testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Joyce stated that he agreed with the representations set forth within the staff report and the proposed Conditions of Approval.
42. No member of the public testified at the hearing.

43. The following exhibits were admitted into the record:

- 43.1. Ex. 1: Application;
- 43.2. Ex. 2: Deemed Complete;
- 43.3. Ex. 3: NOA Legal;
- 43.4. Ex. 4: NOA Memo;
- 43.5. Ex. 5: Affidavit of Posting;
- 43.6. Ex. 6: Maps;
- 43.7. Ex. 7: Affidavit of Mailing & Publishing NOA;
- 43.8. Ex. 8: NOA Legal & Receipt;
- 43.9. Ex. 9: Transmittal of Comments;
- 43.10. Ex. 10: Legal Notice and Correspondence with Daily Record;
- 43.11. Ex. 11: Agency Comments;
- 43.12. Ex. 12: Updated Site Plan Provided in Response to Public Works;
- 43.13. Ex. 13: Applicant Response to Comments;
- 43.14. Ex. 14: Staff Report.

44. The Kittitas County Hearing Examiner considered all evidence within the record in rendering this decision.

45. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

- 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 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, Title 12 Roads and Bridges, and Title 20 Fire & Life Safety.

5. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, CU-24-00005, is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

1. The project shall proceed in substantial conformance with the plans and application materials on file with CDS that were received on May 29, 2024 attached as Exhibit A, and subsequent information included in the complete file index except as amended by the conditions herein.
2. The property shall have an annual Fire, Life, Safety inspection by the Fire Marshal.
3. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
4. Any grading over 100 cubic yards of material requires a grading permit through Kittitas County Public Works. Any grading over 500 cubic yards shall be accompanied by an engineered grading plan. All conditions must be met in any approved grading permit. Grading over 500 cubic yards also requires a SEPA checklist to be submitted and approved by Kittitas County Community Development Services.
5. There shall be no parking on any Right-Of-Way or S.R. 821 at any time.
6. The applicant shall comply with all local, state and federal regulations at the time of building permit submittal.
7. Owner/applicant must obtain authorization from the Department of Ecology if withdrawing over 5,000 gallons of water per day.
8. An Inadvertent Discovery Plan (IDP) shall be in place during construction and shall be implemented by the general contractor who is ultimately awarded the construction bid. This IDP shall be posted in an area accessible to contractors during all phases of construction involving ground disturbance of any depth.
9. 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 Department of Archaeology & Historic Preservation (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.
10. Applicants shall utilize Best Management Practices (BMP) identified by the United States Fish and Wildlife Service (USFWS) to minimize impacts to fish and wildlife resources.
11. Access to the property exists via an existing permitted connection at mile post 14.67 Lt. (ACP45865).

This driveway can continue to serve this property; no additional access to the property will be allowed.

12. Any new lighting should be directed down towards the site, and away from SR 821.
13. Any signs that may be proposed as part of this project shall comply with the state Scenic Vistas Act of 1971 (RCW 47.42 and WAC 468-66).
14. All activities within the floodplain must be permitted through the floodplain development permit process and follow the regulations within KCC 14.08.
15. Failure to comply with conditions of approval may result in limitation or revocation of the conditional use permit in accordance with KCC 17.60A.100.

Dated this 19 day of September, 2024

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

This Decision is subject to appeal pursuant to the Kittitas County Code and the Revised Code of Washington.