



## KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

### STAFF REPORT AKHURST REZONE & PRELIMINARY PLAT

TO: Kittitas County Hearing Examiner  
FROM: Kittitas County Community Development Services Staff  
RE: Akhurst Rezone (Z-08-12) and Preliminary Plat (LP-08-33)  
DATE: June 25, 2009

#### I. GENERAL INFORMATION

Requested Action: Don and Gregory Akehurst, landowners, have submitted an application for a rezone from Agriculture-20 to Agriculture-5 along with a 14-lot Preliminary Plat to subdivide three existing parcels totaling 71.29 acres into 14-lots. The proposed lots range in size from 5.00 acres to 8.06 acres. The project is proposed to be served by individual wells and individual on-site septic system.

Location: The property is located east of Wilson Creek Road, west of Naneum Road, south of Lone Willow Lane off of the north side of Brickmill Road, Ellensburg, WA 98926, in a portion of Section 20, T18N, R19E, WM, in Kittitas County. Assessor's map numbers 18-19-20020-0006, 18-19-20020-0013, 18-19-20054-0001 and 18-19-20054-0001.

#### II. SITE INFORMATION

Total Project Size: 71.29 acres  
Number of Lots: 14  
Domestic Water: Individual wells  
Sewage Disposal: Individual septic system.  
Power/Electricity: Puget Sound Energy  
Fire Protection: Kittitas County Fire District #2  
Irrigation District: Kittitas Reclamation District (KRD)

Site Characteristics:

North: Agriculture  
South: Residential  
East: Agriculture  
West: Residential/Agriculture

Access: The proposed project will have access from Brickmill Road via a 60-foot private access easement. All required roadway improvements will be the responsibility of the developer.

Zoning and Development Standards: The subject property is currently located within the Agriculture-20 zoning district. The applicant is proposing a rezone to Agriculture-5. The purpose and intent of the Agricultural-5 zone is to provide for an area where various agricultural activities and low density residential developments co-exist compatibly. Agriculture-5 zones are predominately agricultural-oriented lands and it is not the intent of this section to impose further restrictions on continued agricultural activities therein.

### **III. ADMINISTRATIVE REVIEW**

Rezone and Preliminary Plat Application: Application for a rezone from Agriculture-20 to Agriculture-5 was received on July 30, 2008. The application was deemed complete on December 17, 2008. A Notice of Application was issued on February 3, 2009. Said notice was mailed to all neighbors within 500 feet and to interested state agencies.

Posting of Site: The signed Affidavit of Posting was returned to CDS on January 29, 2009 indicating that the site had been accurately posted with the "Land Use Action" sign as provided by CDS and required per KCC 15A.03.110.

### **IV. COMPREHENSIVE PLAN**

The Kittitas County Comprehensive Plan designates the subject property as Rural. Kittitas County has established the following goals and policies to guide future housing developments. These goals and policies were developed in response to existing housing conditions and identified needs within the county, and support the County Wide Planning Policies:

- GPO 2.5: "Kittitas County should encourage residential and economic growth that will minimize the costs of providing public utilities and services."
- GPO 2.49 "Planned Unit Developments, which reserve substantial portions of land as open space or recreation area, are preferred over conventional subdivisions"
- GPO 2.94a: "A consideration for all future development should be the adaptability of a proposal to both public and private utilities such as municipal water and sewer systems."
- GPO 3.1 Provide a sufficient number of housing units for future populations in rural areas of Kittitas County.
- GPO 3.6 Provide for future populations while protecting individual property rights.
- GPO 3.17 Provide a sufficient number of housing units for future populations while maintaining the rural character of Kittitas County.
- GPO 3.18 Provide sufficient housing units while maintaining environmental quality.
- GPO 8.5 Kittitas County recognizes and agrees with the need for continued diversity in densities and uses on Rural Lands.
- GPO 8.46 Residential development in rural lands must be in areas that can support adequate private water and sewer systems.

### **V. REZONE CRITERIA**

The applicant must demonstrate that the following criteria are met

- A. The proposed amendment is compatible with the comprehensive plan.
- B. The proposed amendment bears a substantial relation to the public health, safety or welfare.
- C. The proposed amendment has merit and value for Kittitas County or a sub-area of the county.
- D. The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property.
- E. The subject property is suitable for development in general conformance with zoning standards for the proposed zone.
- F. The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property.

- G. The proposed change in use of the subject property shall not adversely impact irrigation water deliveries to other properties.

The applicant responds to the above criteria with the following:

- A. The proposed amendment is compatible with the comprehensive plan.

*The Kittitas County Comprehensive Plan (Comp Plan) allows for a variety of land uses from residential to resource based activities. According to the Comp Plan, Chapter 8.2: Rural Lands-Identification of Rural Lands: “The Rural Lands exhibit a vibrant and viable landscape where a diversity of land uses and housing densities are compatible with rural character. Many sizes and shapes can be found in the rural lands, its topography and access variations allow for small to large acreage, economic activities, residential subdivisions, farming, logging and mining.”*

*The Comp Plan supports a mixture of land uses and densities by the following Goals, Policies and Objectives (GPO’S): GPO 2.2, Diversified economic development providing broader economic opportunities; GPO 2.5, Kittitas County should encourage residential and economic growth that will minimize the costs of providing public utilities and services; GPO 2.6, Kittitas County will maintain a flexible balance of land uses; GPO 8.5, Kittitas County recognizes and agrees with the need for continued diversity in densities and uses on rural lands. The proposed rezone meets the compatibility requirement of the Comp Plan.*

- B. The proposed amendment bears a substantial relation to the public health, safety or welfare.

*The primary goal of the Comp Plan is to enhance, preserve and protect the public health, safety and welfare. In a recent court case, the court recognized that if the rezone is consistent with the County Comprehensive Plan and implements the Comprehensive Plan, then that is a clear indication that the rezone is in the interest of the public health, safety and welfare.*

*The rezone and proposed subdivision will have access to Brickmill Road, a county road. There is also a network of both private and public county roads available for a future landowner to access the subject property that can handle the level of traffic created by the proposed development.*

*The proposed rezone and preliminary plat will allow the creation of smaller, more valuable parcels within Kittitas County. Smaller parcels, once built upon, will increase the assessed values of the property and in effect provided more revenue for county services, schools, and the fire district.*

- C. The proposed amendment has merit and value for Kittitas County or a sub-area of the county.

*Rural character, development and services are defined in RCW 36.70A.030 (15), (16) and (17) as follows: “Rural Character refers to the pattern of land use and development established by a county in the rural element of its comprehensive plan: (b) that foster traditional rural lifestyles, rural based economies and opportunities to both live and work in rural areas; (e) that reduce the inappropriate conversion of undeveloped land into sprawling, low density development. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.*

*The Comp Plan states: “the current mix of rural uses and densities has not increased the cost to taxpayers for road and utility improvements, police and fire protection, or the education of school populations beyond the means of the local people to finance such infrastructure.”*

*The proposed rezone and preliminary plat will take the pressure off of and preserve the agricultural and forestry lands in the area. Larger agriculturally used parcels may not be taken out of production when individuals desire smaller parcels as opposed to parcels 20+ acres in size, thus decreasing the potential of creating rural sprawl.*

*Furthermore, these lands have not been designated as agricultural lands of long term commercial significance.*

**D.** The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property.

*As of November 1, 2007, there are 950.77 acres of land zoned Ag-5. According to KCC 17.04.060, the county will allow up to 5% of the total land mass or 74,080 acres (1,481,600 X .05) into Ag-5 zone. The Comp Plan states "Total acreages in each zone shall not exceed the identified percentages below when compared to the overall land mass available in Kittitas County." Look at parcels of land just west of the subject property along Brickmill Road, you will notice 17+ parcels zoned Ag-20 that are between 5 and 10 acres in size.*

*Given the current pattern of development in the area, this property would better be served in smaller, residential lots, thus allowing the property owner to realize some economic return on their investment.*

**E.** The subject property is suitable for development in general conformance with zoning standards for the proposed zone.

*Both the current zone (Ag-20) and the proposed zone (Ag-5) are considered Rural Lands as defined by the Comp Plan. Upon detailed analysis of KCC 17.28A.020 (Ag-5) and 17.29.020 (Ag-20) you will observe that the allowed uses are identical across the two zoning districts with the exception of AG-5 allowing for the raising of animals, provided an area of not less than an acre. In terms of allowed uses the only difference is lot size.*

*Speculation has risen that this is considered an "island or spot rezone". The Kittitas County Prosecuting Attorney has recently shed light on this matter. While the Kittitas County was considering the Firkins Project Rezone, the Graham Family Project Rezone and Finley Project Rezone (all which proposed to rezone property surrounded by another zone), Neil Calkins stated that as long as the underlying land use is consistent with the surrounding land uses and that the proposed zone is consistent with the comprehensive plan, the request is not an "island or spot" rezone. As of today, October 10, 2008, the BOCC has approved the Graham Family Rezone and is considering the Firkins and Finley Project Rezones.*

**F.** The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property.

*Undoubtedly, there is still active farming in the area; this development will meet the need for more residential parcels, while taking the pressure off adjacent active farm lands.*

*The road infrastructure in the area is all public. As in the case with most residential development in and around active farming communities, the road system is often the means of travel for both cars and farm equipment. A plat note will be placed on the final mylar stating "The subject property is within or near lands used for agriculture on which a variety of commercial activities may occur that are not compatible with residential development for periods of varying durations. (RCW 36.70A.060(1)) Commercial Natural Resource activities performed in accordance with county, state, and federal laws are not subject*

*to legal action as public nuisances (RCW 7.48.305)”*

**G.** The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties.

*A water distribution plan will be submitted to the KRD upon submission of this application. This plan outlines water conveyances and provisions for distribution for each proposed lot in the subdivision. A statement from the KRD will disclose how many acre feet each parcel is granted and provisions for the duties of the water master. Prior to final plat approval, Kittitas County must receive verification that the distribution plan has been approved by the KRD Board of Directors.*

## **V. ENVIRONMENTAL REVIEW**

Based on review of the submitted application materials and correspondence received during the comment period Kittitas County issued a Determination of Nonsignificance (DNS) on June 5, 2009 in accordance with WAC 197-11-355 (Optional DNS process). The last day to appeal the SEPA determination was June 19, 2009. There were no appeals filed.

## **VI. AGENCY AND PUBLIC COMMENTS**

Applicable agencies have been given the opportunity to review this proposal. Agency comments have been included as Exhibits in the Hearing Examiner packet.

Public comments were submitted on this proposal and have been included as exhibits in the Hearing Examiner packet.

## **VII. 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.

### Comprehensive Plan Consistency:

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The proposed subdivision also is consistent with GPO 8.5 in allowing a variety of densities in the rural areas of the County.

### Consistency with the provisions of KCC 16.32: Short Plat Subdivision Code:

This proposal is consistent with the Kittitas County Subdivision Code for Short Plats.

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

The road serving any lot within this development is required to meet all Kittitas County Private Road Standards as outlined in the memorandum issued by the Department of Public Works prior to issuance of a building permit. As conditioned, the proposal is consistent with the provisions of KCC Title 12.

### Agency Comments:

The following agencies provided comments during the comment period: Department of Ecology, Department of Community, Trade & Economic Development, Washington Department of Health, Kittitas County Fire Marshal's Office, Kittitas County Public Health, and Kittitas County Public Works. These comments have been included as conditions of approval to address these agency concerns.

Public Comments:

One letter was received from the adjacent property owner, who had no objections to the proposed rezone and preliminary plat.

**VIII. RECOMMENDATION**

As conditioned below, the application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 12, Title 16.12 and Title 17.30 of the Kittitas County Code and the Kittitas County Comprehensive Plan. Staff recommends **approval** of the Akehurst Rezone (RZ-08-12) and Preliminary Plat (LP-08-33) subject to the following findings of fact and conditions:

**Suggested Findings of Fact**

1. Don and Gregory Akehurst, landowners, have submitted an application for a rezone from Agriculture-20 to Agriculture-5 along with a 14-lot Preliminary Plat to subdivide three existing parcels totaling 71.29 acres into 14-lots. The proposed lots range in size from 5.00 acres to 8.06 acres. The project is proposed to be served by individual wells and individual on-site septic system. The project is proposed to be served by individual wells and individual on-site septic systems.
2. The property is located east of Wilson Creek Road, west of Naneum Road, south of Lone Willow Lane off of the north side of Brickmill Road, Ellensburg, WA 98926, in a portion of Section 20, T18N, R19E, WM, in Kittitas County. Assessor's map numbers 18-19-20020-0006, 18-19-20020-0013, 18-19-20054-0001 and 18-19-20054-0001.
3. Site Information:

Total Project Size:	71.29 acres
Number of Lots:	14
Existing zoning district	Agriculture-20
Proposed zoning district	Agriculture-5
Domestic Water:	Individual wells
Sewage Disposal:	Individual on-site septic
Power/Electricity:	Puget Sound Energy
Fire Protection:	Kittitas County Fire District #2
Irrigation District:	Kittitas Reclamation District (KRD)
4. Site Characteristics: The area is forested and relatively flat where no slopes are in excess of 25%.
5. Surrounding Property:

<u>North:</u>	Agriculture
<u>South:</u>	Residential
<u>East:</u>	Agriculture
<u>West:</u>	Residential/Agriculture
6. The Comprehensive Plan designation is Rural.
7. The subject property is zoned Agriculture-20, which allows for a 20 acre minimum lot size.
8. Application for a rezone from Agriculture-20 to Agriculture-5 was received on December 17, 2008. The application was deemed complete on January 20, 2009. A Notice of Application was issued on February 3, 2009. Said notice was mailed to all neighbors within 500 feet and to interested state agencies.

9. In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the “Land Use Action” sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner on January 29, 2009.
10. Kittitas County issued a Determination of Nonsignificance (DNS) on June 5, 2009 in accordance with WAC 197-11-355 (Optional DNS process). There were no appeals filed.
11. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by the Individual wells, and individual on-site septic systems. Staff has conducted an administrative critical area review in accordance with KCC 17A and found no critical areas on site.
12. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.12 for Preliminary Plats.
13. The Kittitas County Department of Public Works has conditioned the project and the conditions are included as part of the record. As conditioned, the proposal is consistent with the provisions of KCC Title 12.
14. The following agencies provided comments during the comment period: Department of Ecology, Department of Community, Trade & Economic Development, Washington Department of Health, Kittitas County Fire Marshal’s Office, Kittitas County Public Health, and Kittitas County Public Works. These comments have been included as conditions of approval to address the agency concerns.
15. A surrounding landowner submitted comments during the comment period and these comments have been included as an exhibit in the Hearing Examiner packet and were considered in making the SEPA threshold determination.

**Suggested 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 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.

**Suggested Conditions of Approval:**

1. The project shall proceed in substantial conformance with the plans and application materials which were deemed complete on December 17, 2008 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. All current and future landowners must comply with the International Fire Code and its Appendices.
4. It is the responsibility of the applicant to contact the Kittitas County Assessor’s and Treasurer’s offices to confirm all taxes are current prior to final plat approval.

5. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
6. Proof of potable water must be shown prior to final plat approval.
7. For final approval of an individual well, the submittal of well logs or a hydrogeological report with documentation/evidence to support the claim regarding adequate availability of groundwater for the proposed number of potable water wells is required. This report shall be submitted by a Professional Engineer who practices in the field of hydrology or by a licensed Hydrogeologist.
8. All applicants for subdivision utilizing wells shall have a note placed on the face of the final mylars that states: “
  - a. *“Metering will be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements.”*”
9. The Final Plat shall meet all requirements as listed in Chapter 16.20 of the Subdivision Code; including content, format, etc. The following items will be required on the Final Plat Submittal:
  - a. Adjacent Property Owners: The adjacent property owners and surrounding properties shall be on the face of the final short plat. (K.C.C.16.20.040, 10, Plat drawing, Adjacent Owners).
  - b. Surrounding Area: All surrounding property shall be shown in dotted lines and letters with names of plats, roads, adjoining lots, canals, and etc., and if un-platted shall be so indicated. (K.C.C.16.20.040, 11, Plat drawing, Surrounding Area).
10. Private roads serving any of the lots within this development shall be inspected and certified by a licensed professional engineer for conformance with current Kittitas County Road Standards, 9/6/05 edition. Kittitas County Public Works shall require this road certification to be completed or improvements bonded for prior to the issuance of a building permit for any of the structures within the proposed plat.
11. Access from Brickmill Road to the cul-de-sac shall be constructed to meet or exceed the conditions of a Low-Density Private Road. See Kittitas County Road Standards, 9/6/05 edition.
  - a. Access easements shall be a minimum of 60’ wide. The roadway shall have a minimum width of 20’, with 1’ shoulders, for a total width of 22’.
  - b. Minimum centerline radius will be 60’.
  - c. The surface requirement is for a minimum gravel surface depth of 6”.
  - d. Maximum grade is 12%.
  - e. Stopping site distance, reference AASHTO.
  - f. Entering site distance, reference AASHTO.
  - g. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
  - h. Any further subdivision or lots to be served by proposed access may result in further access requirements.



- i. All roads located within this development or roads that provide access to this development shall be constructed to current county road standards unless any other maintenance agreements, forest service road easements or state easements require higher road standards. The higher of the road standards shall apply.
  - j. All easements shall provide for AASHTO radius at the intersection of county road.
  - k. A paved apron shall be constructed at the intersection of the proposed private intersection and the county road right of way.
12. A cul-de-sac turn-around having an outside right-of-way or easement diameter of at least 110 feet shall be constructed at the closed end of all dead-end roads serving 3 or more lots. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2006 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.
13. Access to Lots 1-11 is allowed in the proposed location by Road Variance 08-12. Access to Lot 12 shall be a single-use driveway in the existing location. Access to Lots 13 and 14 shall be a joint-use driveway in the existing location.
14. A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
- a. Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
  - b. The surface requirement is for a minimum gravel surface depth of 6".
  - c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
  - d. Any further subdivision or lots to be served by proposed access may result in further access requirements.
15. A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
- a. The roadway shall be a minimum of 8' wide with gravel surface.
  - b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
  - c. Any further subdivision or lots to be served by proposed access may result in further access requirements.
16. The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
17. It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
18. An approved access permit shall be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right of way.
19. Contact the Kittitas County Rural Addressing Coordinator at (509) 962-7523 to obtain addresses prior to obtaining a building permit. A parcel cannot receive a building permit or utilities until such parcel is identified with a 911 address.

20. Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
21. The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.
22. Private roads shall meet the following conditions:
  - a. Private roads shall meet the minimum access requirements of the International Fire Code as adopted by the County, and
  - b. Shall be designed and constructed in conformance with AASHTO Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT< 400) 2001, as now exists or hereafter amended, and
  - c. Shall be inspected and certified by a licensed professional engineer for conformance with the above referenced standards. In the alternative, an applicant may request the private roadway to be inspected and subject to the approval of the Public Works Director. If certification by the public Works Director/County Engineer is desired, submission of road plans and necessary testing documentation that confirms compliance with Kittitas County Road Standards is required, and services will be performed on a reimbursable basis, and
  - d. Permanently established by an easement recorded with the Kittitas County Auditor or right-of-way, providing legal access to each affected lot, dwelling unit, or business, and
  - e. Will not result in land locking of existing or proposed parcels, and
  - f. Maintained by the developer or legally responsible owner or homeowners' association or other legal entity made up of all benefited property owners, under the provisions of an acceptable and recorded "Private Road Maintenance Agreement", and
  - g. Clearly described on the face of the plat, short plat, or other development authorization and clearly signed at street location as a private street or road, for the maintenance of which Kittitas County is not responsible and a disclosure statement of the same is filed with the County Auditor, and
  - h. The following note shall be placed on the face of the plat, short plat, or other development authorization:

*"Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel."*
23. A plat note discussing the spread of noxious weeds shall be shown on the plat and shall read: "Per RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds, accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds."
24. Final mylars shall be submitted in accordance to KCC 16.20: Final Plats. All applicable survey data and dedications shall be reflected pursuant to KCC 16.24: Survey Data-Dedications.
25. Both sheets shall reflect the Plat number: LP-08-00033.