

**Big Creek Trails Planned Unit Development
Kittitas County Rezone Number
RZ-15-00001**

**Final Development Plan
Submittal
January 25, 2017
Amended April 27, 2017**

A handwritten signature in black ink, appearing to read "Dayna Ridlon", is written over a horizontal line.

Submitted by DK Professional Consultants, Inc.
Dayna Ridlon, President
January 25, 2017
Amended April 27, 2017

Big Creek Trails PUD Rezone

Preliminary Approval

DK Professional Consultants, Inc. submitted the Big Creek Trails PUD Rezone Application to Kittitas County on July 16, 2015, which was deemed complete by the County on September 28, 2015. A full record of said application with public comments, staff comments and other items of record can be found on the Kittitas County Land Use Web Site.

The Kittitas County Hearing Examiner heard the matter of the Big Creek Trails PUD Rezone on July 14, 2016. On July 28, 2016 the Kittitas County Hearing Examiner issued a recommendation for approval of the project, a copy of which is attached hereto as [Exhibit 1](#).

On September 20, 2016 the Kittitas County Board of Commissioners held a closed record hearing, which was continued to October 18, 2016 and again to November 1, 2016. On December 6, 2016 the Kittitas County Board of Commissioners preliminary approved the Big Creek Trails PUD Rezone via Ordinance 2016–24, a copy of which is attached hereto as [Exhibit 2](#).

Final Development Plan

DK Professional Consultants, Inc., through this document, submits the Big Creek Final Development Plan as required by Kittitas County Code 17.36.040, as is reproduced on the following page.

Kittitas County Code Section 17.36.040

Submittal requirements - Final development plan

17.36.040 Submittal requirements - Final development plan.

Following approval of the preliminary development plan by the county and before lot sales or building construction commences, the developer (owner) shall submit a final development plan for approval by the Board which shall include all of the following as listed below.

Submittal shall be consistent with the process as outlined for final plat development in KCC Chapter 16.20.

- 1. A staging plan describing the timing or sequence of construction for all the elements of the plan. Subdivision lot sales may precede other elements of the development upon final plat approval;*
- 2. A map or maps of the site drawn at a scale no smaller than one hundred (100) feet to one (1) inch showing the following:*
 - a. Preliminary engineering plans including site grading, road improvements, drainage and public utilities extensions;*
 - b. Arrangement of all buildings which shall be identified by type;*
 - c. Preliminary building plans including floor plans and exterior design and/or elevation views;*
 - d. Location and number of off-street parking areas including type and estimated cost of surfacing;*
 - e. The location and dimensions of roads and driveways including type and estimated cost of surfacing and road maintenance plans;*
 - f. The location and total area of common open spaces;*
 - g. Proposed location of fire protection facilities;*
 - h. Proposed storm drainage plan;*
- 3. Certification from state and local health authorities that water and sewer systems are available to accommodate the development;*
- 4. Provisions to assure permanence and maintenance of common open spaces;*
- 5. Statement of intent including estimated cost for landscaping and restoration of natural areas despoiled by construction including tree planting;*
- 6. Certification by the county of transfer of the required density credits in compliance with KCC Chapter 17.13, Transfer of Development Rights. (Ord. 2010-006, 2010; Ord. 2007-22, 2007; Ord. 96-19 (part), 1996; Ord. 90-6 (part), 1990; Res. 83-10, 1983)*

17.36.045 Review criteria.

- 2. Final development plan: The Director shall evaluate and the Board shall approve final development plans for the PUD, provided the conditions imposed on the preliminary PUD approval, if any, have been satisfied. (Ord. 2013-001, 2013)*

**Final Development Submittal Requirements
Kittitas County Code 17.36.040
States The Following**

17.36.040 Submittal requirements - Final development plan.

Following approval of the preliminary development plan by the county and before lot sales or building construction commences, the developer (owner) shall submit a final development plan for approval by the Board which shall include all of the following as listed below. Submittal shall be consistent with the process as outlined for final plat development in KCC Chapter 16.20

By this document DK Professional Consultants, Inc. submits to Kittitas County for approval the Final Development Plan For the Big Creek Trails Planned Unit Development as applied for on July 16, 2015 and preliminary approved by the Kittitas County Board of Commissioners on December 6, 2016.

As provided for 17.36.040 the approval process of the Big Creek Final Development states: *“shall be consistent with the process as outlined for final plat development in KCC Chapter 16.20”* and 17.36.045 (2) *“ Final development plan: The Director shall evaluate and the Board shall approve final development plans for the PUD, provided the conditions imposed on the preliminary PUD approval, if any, have been satisfied.”*

DK Professional Consultants, Inc. respectfully submits this Big Creek Trails Final Development Plan to the Kittitas County Planning Director for review and approval as provided for in Kittitas County Code Sections 17.36.040, 17.36.045(2) and as provided for 16.20.

It is our understanding that upon submittal of this Final Development Plan that the Director will acknowledge receipt of said plan and shall review same. Subject to the Directors review of said plan and pursuant to said review and Directors comments regarding said review DK Professional Consultants, Inc., as Applicant, may amend the Big Creek Trails Final Development Plan to address said review and Directors comments.

Submittal

The following pages, attachments and exhibits provide the information as required by Kittitas County Code Section 17.36.040. Each Section and Sub Section of said code will be addressed herein.

Kittitas County Code Section 17.36.040(1)

1. A staging plan describing the timing or sequence of construction for all the elements of the plan. Subdivision lot sales may precede other elements of the development upon final plat approval;

Big Creek Trails Planned Unit Development Staging Plan & Construction Sequencing:

As originally submitted by DK Professional Consultants, Inc. on July 16, 2015 the Big Creek Trails Planned Unit Development application contained a Staging Plan, as provided in Exhibit H of said submittal, a copy of which is attached hereto for reference as [Exhibit 3](#). During the Kittitas County approval process there were no modifications requested by the county or made by applicant, DK Professional Consultants, Inc. Therefore the Big Creek Trails Planned Unit Development Final Development Plan will adopt the Staging Plan as submitted to Kittitas County with the original application. Development of the Recreation vehicle storage areas, as provided for in KCC 17.36.020 2.V., may precede all other development. The submittal of Exhibit H as attached as [Exhibit 3](#) anticipated delays in the approval process and allows for the modification of the timing of the construction of the Big Creek Trails Planned Unit Development based on the timing of the completed approval process, including the submitted final development plan and other items outside of the Applicants control that may delay the construction of the project.

To graphically show the Big Creek Trails Planned Unit Development Staging Plan a map identifying the various phases will be included in the Big Creek Trails Final Development Plan, a copy of which is attached for reference as [Exhibit 4](#).

Kittitas County Code Section 17.36.040(2)

2. *A map or maps of the site drawn at a scale no smaller than one hundred (100) feet to one (1) inch showing the following:*
 - a. *Preliminary engineering plans including site grading, road improvements, drainage and public utilities extensions;*
 - b. *Arrangement of all buildings which shall be identified by type;*
 - c. *Preliminary building plans including floor plans and exterior design and/or elevation views;*
 - d. *Location and number of off-street parking areas including type and estimated cost of surfacing;*
 - e. *The location and dimensions of roads and driveways including type and estimated cost of surfacing and road maintenance plans;*
 - f. *The location and total area of common open spaces;*
 - g. *Proposed location of fire protection facilities;*
 - h. *Proposed storm drainage plan;*

One all-inclusive map as identified above will be provided with this submittal, a reduced copy of which is attached hereto as [Exhibit 6](#). Additional maps at a reduced scale will be attached to this document to further identify and discuss the Big Creeks Trail Final Development Plan.

The Big Creek Development Plan Map will show the 58 lots as preliminary approved by the County. This Development Plan Map, a copy of which is attached hereto in reduced size for reference as [Exhibit 6](#), consists of an architectural type of drawing (not a preliminary plat map) that shows all locations of lots, roads, open space, etc. As previous agreements specified this type of drawing will be sufficient for the final development plan approval and will allow for the future review and approval of final plats (individual divisions within each phase) that are consistent with the Big Creek Final Development Plan.

- a. *Preliminary engineering plans including site grading, road improvements, drainage and public utilities extensions;*

Preliminary Engineering plans including site grading, road improvements, drainage and public utilities:

As previously agreed the preliminary engineering road plans, site grading, road improvements and drainage will be submitted, at this Final Development Plan stage, through cross sections of the roads serving each Stage and Phase, copies of which are attached for reference as [Exhibit 7](#) and [Exhibit 8](#).

Roads will be built to the Kittitas County Public and Private Road Standards (2005 Road Standards) with designated roads anticipated to be accepted onto the County Public Road

System. Road Cross Sections, as provided in the Kittitas County Road Standards (2005 Road Standards) are included with this submittal as [Exhibit 7](#) and [Exhibit 8](#).

Water System will be privately owned and operated.

Septic systems will serve each parcel and be owned privately.

Puget Sound Energy will provide power.

All other dry utilities will be privately owned.

b. Arrangement of all buildings which shall be identified by type;

Arrangement of building type:

The arrangement of buildings and building type on each parcel will be shown via a small circle within the parcels or otherwise noted on the Development Plan Map.

c. Preliminary building plans including floor plans and exterior design and/or elevation views;

The Big Creek Trails Planned Unit Development does hereby adopt, by this reference, the preliminary building plans submitted and approved for the Evergreen Ridge PUD. In addition to those adopted preliminary building plans additional preliminary building plans are being submitted with this Big Creek Trails Final Development Plan as separate attachments.

d. Location and number of off-street parking areas including type and estimated cost of surfacing

Location of off-street parking areas and :

The location of off street parking at the Community Center and the Activity Center is shown on the Development Plan Map. There will be a minimum of two parking spaces within each created parcel. Driveways will be gravel with a surfacing cost estimated to \$.75 per square foot.

e. The location and dimensions of roads and driveways including type and estimated cost of surfacing and road maintenance plans;

Location and dimension of road and driveways including type and estimated cost of surfacing:

The location of roads and driveways are shown on the Development Plan Map as shown on [Exhibit 6](#) with specifications provided through the cross sections as attached hereto as [Exhibit 7](#) and [Exhibit 8](#). The road cross sections are provided for all roads, which by previous agreement, meets the intent of this Final Development Plan requirement. Final

plats will, as required by Kittitas County Code, provide exact and specific designs and information of roads. At the time of building permits location and dimensions of driveways will be located and approved by Kittitas County as the county approves access permits. Roadway surfacing is estimated to cost an estimated \$1.95 per square foot.

f. The location and total area of common open spaces;

Location of total area of common open spaces:

The location of the total area of common open space is shown on the development map.

g. Proposed location of fire protection facilities;

Proposed location of fire protection facilities:

As provided for in the approved preliminary Big Creek Trails Planned Unit Development each home will be required to install fire sprinklers. Fire hydrants are not required for this development.

h. Proposed storm drainage plan;

Storm Drainage Plan: Upon approval of the Big Creek Trails Final Development Plan a storm water pollution prevention plan will be submitted to the Washington State Department of Ecology for review. This plan will implement the Best Management Practices of the Eastern Washington Storm Water Manual addressing all storm water needs pertaining to the Big Creek Trails Final Development Plan. A conceptual storm water drainage map is included with this submittal of the Big Creek Trails Final Development Plan, a copy of which in a smaller size is attached hereto as [Exhibit 12](#).

Kittitas County Code Section 17.36.040(3)

3. Certification from state and local health authorities that water and sewer systems are available to accommodate the development;

The Big Creek Water Bank has been approved by the Washington State Department of Ecology, a copy of which is attached hereto as [Exhibit 13](#). This water bank will provide for all of the water necessary for the full development of Big Creek Trails Planned Unit Development as located and approved.

Upon approval of the Big Creek Trails Final Development Plan by Kittitas County for location, density and layout the domestic water plans will be engineered and submitted to and reviewed and approved by the Washington State Department of Health and by the Kittitas County Environmental Health Department.

As preliminary approved by Kittitas County, the first 9 parcels of the Big Creek Trails Planned Unit Development will be served by a Group B Water System. Upon approval of the Big Creek Trails Final Development Plan by Kittitas County for location, density and layout the Group B Water System Plan will be designed, engineered and submitted for approval to the Kittitas County Environmental Health Department.

As the Big Creek Trails development expands beyond 9 parcels the Group B system will be absorbed into the Big Creek Trails Group A water system.

Kittitas County Code Section 17.36.040(4)

4. Provisions to assure permanence and maintenance of common open spaces;

Maintenance Of Common Open Spaces:

Kittitas County has instituted a new policy of having specific types of Open Space and Non-buildable parcels be proportionately owned by tenants in the common as shown in the two paragraphs below that were included in Ordinance 2016-024 providing preliminary approval for the Big Creek Trails Planned Unit Development:

- p. The identified open space tracts shall be proportionately owned by tenants in the common, and retained by each home owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation. This requirement shall not apply to lots retained by the original landowner or subsequent landowner(s) for the purpose of providing improved recreational facilities serving the benefited parcels. For the purposes of this condition, improved recreational facilities shall be those which exceed \$100,000 in value.*

- q. Non-buildable parcels. Any parcel created specifically for, or dominated by, easements, roadways, storm water retention facilities, septic facilities or other purposes and as a result or otherwise are non-buildable shall be proportionately owned as tenants in common of the benefited parcels, retained by each parcel owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation.*

To address these requirements DK Professional Consultants, Inc. as Applicant for the Big Creek Trails Planned Unit Development agrees that at the point of final plating of any division of any phase of the Big Creek Trails Planned Unit Development all lots will be encumbered in such a manner that:

- (i) The home owner association as the primary entity having the responsibility for maintenance and care of open space and non-buildable parcels shall be empowered with the right to lien and foreclose on said lien if any lot owner does not meet their responsibility to equally share in and contribute to the maintenance of said developments open space and non-buildable parcels.

- (ii) Kittitas County shall be empowered with the right to lien and foreclose on said lien if any lot owner does not meet their responsibility to equally share in and contribute to the maintenance of said development open space and non-buildable parcels if the homeowner association does not meet its responsibility to maintain said open space and non-buildable parcels.

Kittitas County Code Section 17.36.040(5)

5. Statement of intent including estimated cost for landscaping and restoration of natural areas despoiled by construction including tree planting;

Estimated Cost For Landscaping

Great care will be taken by the Big Creek Trails Planned Unit Development in regards to the construction of the roads and infrastructure. Where practical all utilities will be placed within the road right of way. The Applicant is estimating a cost of \$5 per lineal foot of developed road for restoration of areas distributed construction activities.

Kittitas County Ordinance 2016-24 Response To Conditions

17.36.045 Review criteria.

2. Final development plan: The Director shall evaluate and the Board shall approve final development plans for the PUD, provided the conditions imposed on the preliminary PUD approval, if any, have been satisfied. (Ord. 2013-001, 2013)

As stated in Kittitas County Code 17.36.045(2), as shown above, the conditions established in the approving Kittitas County Ordinance 2016-24 which are required to be satisfied during the development of the Big Creek Trails Planned Unit Development. The following review conditions imposed on the Big Creek Trails Planned Unit Development provides information as to how said conditions will be satisfied by Big Creek Trails during the development process.

1. Transportation

a. Access: This project proposes to change the use of the existing access from the county road. The access must be improved to meet Kittitas County road standards. An access permit must be applied for and issued prior to beginning any work within the county right of way. Access must be completed prior to issuance of any final plats.

Response: Big Creek Trails Planned Unit Development will apply for an access permit from the Kittitas County Public Works Department prior to beginning any work on the access to Big Creek Trails Planned Unit Development.

b. The Lund Lane extension and the crossing of the irrigation canal will be a private road built to meet public road standards and dedicated for public use.

Response: Big Creek Trails Planned Unit Development shall design and build the Lund Lane extension to the Kittitas County Public Road Standards as vested. Said road shall be a private road unless Kittitas County, through action by the Board of Commissioners, adopts it as an on system road. Big Creek Trails Planned Unit Development shall gain Kittitas County Public Works approval of said road design. Said road shall be dedicated to the public.

c. Construction of Road "A" will be a private road built meeting public road standards and dedicated for public use. Construction of Road "B" will be built to current private road standards with an all- weather surface.

Response: Big Creek Trails Planned Unit Development shall design and build Road "A" to the Kittitas County Public Road Standards as vested. Said road shall be a private road unless Kittitas County, through action by the Board of

Commissioners, adopts it as an on system road. Big Creek Trails Planned Unit Development shall gain Kittitas County Public Works approval of said road design. Said road shall be dedicated to the public.

Big Creek Trails Planned Unit Development shall design and build Road "B" to the Kittitas County Private Road Standards as vested. Big Creek Trails Planned Unit Development shall gain Kittitas County Public Works approval of said road design. Said road shall be dedicated to the public.

d. The southerly most road depicted on the preliminary plan map shall dedicate a 60 foot easement for future connection with Misty Mountain Way.

Response: The access easement will be designed and established as required by the Kittitas County Public Works Department at the time that the associated plats are filed.

e. The Subject property is accessed via a federally owned bridge (United States Bureau of Reclamation) and requires a replacement of the existing bridge built to County public bridge construction standards and transfer of the replacement bridge to Kittitas County. Prior to approving any final plat, the applicant or successors must obtain the necessary permits through United States Bureau of Reclamation for the permanent crossing of the canal.

Response: The Big Creek Trails Planned Unit Development shall, working with Kittitas County Public Works, apply for and receive approval from United States Bureau of Reclamation for a permit that allows the construction of and ownership of said bridge by Kittitas County. Kittitas County Public Works shall cooperate with Big Creek Trails in the application process as required by the United States Bureau of Reclamation for said bridge. Big Creek Trails Planned Unit Development shall be responsible for the construction and payment for all cost associated with said bridge.

f. Access to Lot 43 by driveway may occur if no access is provided by the driveway to Lots 44 and 45. Access may be provided to lots 43 through 45 if the road is constructed to meet private road standards and has an all-weather surface.

Response: Big Creek Trails Planned Unit Development will propose the design of said road to Kittitas County and designate said access on the Final Plat associated with said lots.

g. Bonneville Power Administration (BPA) requires that any activity in parcels 20-14-29000-0019, 20-14-29000-0017, 20-14-32000-0001, 20-14-32000-0003, & 20-14-32000-0004 that occurs in the right of way needs to be permitted by BPA prior to

installation or construction and acquire a Land Use Agreement for any portion of the development plans that lie within the BPA's right of way.

Response: Big Creek Trails Planned Unit Development will apply and gain approval from BPA for any activity within the BPA right of way prior to use.

2. Water

a. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require an NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan). It is the applicant's responsibility to contact the Department of Ecology.

Response: Big Creek Trails Planned Unit Development will apply and gain approval of Stormwater Pollution Prevention Plan prior to the start of construction.

b. On-site stormwater management that conforms to the specifications of the most current version of the Stormwater management Manual for Eastern Washington is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The stormwater system design shall be presented to Public Works and reviewed by the County Engineer prior to issuance of final plat approval. The stormwater system construction shall be certified by a licensed engineer prior to issuance of any building occupancy permit.

Response: Big Creek Trails Planned Unit Development will design and submit to Kittitas County Public Works a Stormwater Management Plan for, at a minimum, each final plat presented for approval to Kittitas County.

c. All water proposed to be used must be obtained from a water budget neutral source meeting conditions of Kittitas County Code Chapter 13.35.

Response: Big Creek Trails Planned Unit Development will obtain all water required by the Big Creek Water Bank. Big Creek Trails Planned Unit Development currently owns, through the Big Creek Water Bank, adequate water for full development of the Big Creek Planned Unit Development.

d. Withdrawals of groundwater on the subject property are subject to the rules and regulations adopted and administered by the Washington State Department of Ecology; this includes the use of water for irrigation. Legally obtained water must be used on-site.

Response: Response: Big Creek Trails Planned Unit Development will obtain all water required by the Big Creek Water Bank. Big Creek Trails Planned Unit Development currently owns, through the Big Creek Water Bank, adequate water for full development of the Big Creek Planned Unit Development.

e. Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in an area becomes limited, use could be curtailed by those with senior water rights. Department of Ecology and Washington State Fish and Wildlife concur the surface water is not adequate to satisfy all water rights year-round.

Response: Big Creek Trails Planned Unit Development will obtain all water required by the Big Creek Water Bank. Big Creek Trails Planned Unit Development currently owns, through the Big Creek Water Bank, adequate water for full development of the Big Creek Planned Unit Development.

f. Prior to applying for any type of final plat approval in Kittitas County, applicants shall be required to make appropriate provisions for potable water supplies per RCW 58.17.110 which includes, but is not limited to, the minimum requirements outlined in the Kittitas County Board of Commissioners Resolution 2012-027.

Response: Big Creek Trails Planned Unit Development will obtain all water required by the Big Creek Water Bank. Big Creek Trails Planned Unit Development currently owns, through the Big Creek Water Bank, adequate water for full development of the Big Creek Planned Unit Development.

g. The Washington State Department of Health, Office of Drinking Water requires an approved water system for this project.

Response: Big Creek Trails Planned Unit Development will, prior to, the submittal of the second subdivision of the Big Creek Trails Planned Unit Development submit and receive approval for a Group A water system from the Washington State Health Department.

h. Group B water system shall be used for the initial 9 connections and shall be approved by Kittitas County Public Health Department. The Group B water system shall be converted to a Group A water system after the initial 9 connections from the Group B water system. The Group A public water system must be approved by the Washington State Department of Health (DOH) to serve all lots within the project.

Response: Big Creek Trails Planned Unit Development will, prior to, the submittal of the first subdivision of the Big Creek Trails Planned Unit Development submit and receive approval for a Group B water system from the Kittitas County Public Health Department. Said Group B water system shall be absorbed into the Group A water system as described above in item "g".

i. Site evaluations for Onsite Septic Systems must be completed at the frequency of one soil log per lot.

Response: Big Creek Trails Planned Unit Development shall complete one soil log per proposed lot located within any Final Plat submitted to Kittitas County.

j. Any plat within the Planned Unit Development is subject to any easements of record and does not modify such easements.

Response: Big Creek Trails Planned Unit Development shall show all recorded easements on the face of any Final Plat submitted to Kittitas County for approval.

k. Construction upon the PUD and final PUD approval will be contingent upon the applicant receiving approval of a substantial development permit, SD-15-00002, from the County with review from the State Shorelines Hearings Board. No structures will occur within 200 feet of any shoreline of the State as indicated by the applicant.

Response: Big Creek Trails Planned Unit Development has agreed to not disturb, construct or develop any land within 200 feet of the high water marks of either Little Creek or Big Creek prior to approval of a Substantial Development Permit. Final Plats shall not be approved prior to the approval of a Substantial Development Permit.

3. Environmental and Open Space

a. Category I wetlands require a 50' buffer from the wetland delineation in accordance to KCC 17A.02. Category II wetlands require a 25' buffer from the wetland delineation in accordance to KCC 17A.02. Category III wetlands require a 20' buffer from the wetland delineation in accordance to KCC 17A.02.

Response: All Final Plats submitted by Big Creek Trails Planned Unit Development shall show all wetlands and buffers on the face of any and all Final Plats.

b. Setbacks to the shorelines of Big and Little Creek shall be consistent with the Shoreline Substantial Development Permit (SD-15-00002).

Response: All Final Plats submitted by Big Creek Trails Planned Unit Development shall show all required setbacks from Big and Little Creek on the face of any and all Final Plats.

c. A Hydraulic Project Approval (HPA) permit shall be obtained for any work that would influence flow or bed of either Big or Little Creek.

Response: Big Creek Trails Planned Unit Development shall not in anyway do any work that would influence the flow or bed of either Big or Little Creek.

d. The Applicant shall establish a riparian corridor being 200 feet wide measured from the Ordinary High Water Mark (OHWM), as per RCW 90.58.030, of Big Creek in an easterly direction onto the PUD property, and of Little Creek in a westerly direction onto the PUD property.

Response: Big Creek Trails Planned Unit Development shall show the riparian corridor being 200 feet wide measured from the Ordinary High Water Mark (OHWM), as per RCW 90.58.030, of Big Creek in an easterly direction onto the PUD property, and of Little Creek in a westerly direction onto the PUD property on all Final Plats.

e. The Applicant shall place signs marking the riparian and wildlife movement corridors of Big Creek and of Little Creek. A minimum of four (4) signs will be placed upon the Big Creek corridor and a minimum of four (4) signs will be placed upon the Little Creek corridor. Signs shall be a minimum of 36” square. Signs shall be placed prior to the first final plat recording. Applicant shall submit a map that shows the location of the signs prior to the first plat being recorded. Signs will also identify these areas as a wildlife movement corridor.

Response: Big Creek Trails Planned Unit Development shall, prior to Final Platting of any subdivision, place all signs as required above within the area of the Final Plat.

f. The riparian corridor of Big Creek and of Little Creek shall be marked with signs, flagging or other suitable material prior to the beginning of construction and during construction, which shows the limit of any allowed ground disturbance. Markings shall remain in place during any and all construction related to the development of the PUD.

Response: Big Creek Trails Planned Unit Development shall, prior to any construction or disturbance within any proposed Final Plat, place all signs as required above within the area of the proposed Final Plat.

g. There shall be no disturbance, without approved permits, within the Big Creek or Little Creek riparian areas during the construction of the PUD.

Response: Big Creek Trails Planned Unit Development shall acquire any permits needed to do any work required in the Big and Little Creek riparian areas.

h. There shall be no disturbance, without approved permits, of any critical areas and buffers as described in the 2008 and 2015 Sewall Report during the construction of the PUD.

Response: Big Creek Trails Planned Unit Development shall acquire any permits needed to do any work required in the any critical areas and buffers as described in the 2008 and 2015 Sewall Report.

i. Wetlands and critical areas as identified in the Applicant's proposal shall be identified on the ground with a minimum of four signs. Signs shall be a minimum of 36" square. Signs shall be placed prior to the filing of the first final plat. Applicant shall submit a map that shows the location of the signs prior to the first plat being recorded. Signs will also identify this area as a wildlife movement corridor.

Response: Big Creek Trails Planned Unit Development shall, prior to Final Platting of any subdivision, place all signs as required above within the area of the Final Plat. Big Creek Trails Planned Unit Development shall submit a map to Kittitas County identifying those areas described above in item "i".

j. The applicant shall relocate lots 57 and 58 to an area adjacent to or in close proximity to the larger residential area identified on the site plan that has been submitted with the PUD application as conditioned as follows:

- 1) The current planned residential foot print, identified on the site plan that has been submitted with the PUD application, may be enlarged a maximum of 7.5 acres to absorb the relocation of Lots 57 and 58 (identified on the site plan attached to the PUD application);
- 2) The current location of the home sites may be relocated within the site as long as any additional impacts are mitigated;
- 3) The road that was planned to connect the two home site foot print areas will not be required as the roads of the PUD will be built to the public road standards as defined in Kittitas County Code Title 12; and
- 4) The recreation storage area may be moved or split into two locations with one being located near or adjacent to the northern boundary of the BPA power line easement and not adjacent to the residential area.

Response: The Big Creek Trails Planed Unit Development made the above required adjustments to the Big Creek Trails Development Map attached hereto for reference [Exhibit 6](#).

k. There shall be a wildlife movement corridor established between Big Creek and the identified wetland/critical area that is located towards the center of the project. This movement corridor shall be located north of the BPA power lines on the ridge that runs above the residential area. The existing trail in this area will be identified as non-motorized access only.

Response: The Big Creek Trails Planned Unit Development shows the wildlife corridor required above on the Big Creek Trails Development Map attached hereto for reference [Exhibit 6](#).

l. All trails and recreation use shall be outside of the protected creek corridors and established wetlands, critical areas and the buffers established for said areas.

Response: The Big Creek Trails Planned Unit Development agreed to the above requirement during the preliminary approval process.

m. Upon approval of the Final Development Plan for the PUD and prior to the recording of the first plat, the applicant will provide WDFW with easements required to maintain the diversions and fish screens on Big Creek.

Response: The Big Creek Trails Planned Unit Development agreed to the above requirement during the preliminary approval process.

n. The Final Development Plan shall show the riparian corridors, wetlands, and critical areas. The final plat recordings shall show the riparian corridors, wetlands, and critical areas marked on the Final Development Plan map.

Response: The Big Creek Trails Planned Unit Development agreed to the above requirement during the preliminary approval process.

o. Trails developed south of the BPA easement in the forested areas that are not disturbed by the development of trails shall be left in their natural state. Fire control and fire wise actions may be taken in the trail development.

Response: The Big Creek Trails Planned Unit Development agreed to the above requirement during the preliminary approval process.

p. The identified open space tracts shall be proportionately owned by tenants in the common, and retained by each home owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation. This requirement shall not apply to lots retained by the original landowner or subsequent landowner(s) for the purpose of providing improved recreational facilities serving the benefited parcels. For the purposes of this condition, improved recreational facilities shall be those which exceed \$100,000 in value.

Response: Big Creek Trails Planned Unit Development as specified in its response to **Kittitas County Code Section 17.36.040(4)** above agrees to meet this condition as described below.

Maintenance Of Common Open Spaces:

Kittitas County has instituted a new policy of having specific types of Open Space and Non-buildable parcels be proportionately owned by tenants in common as shown in the two paragraphs below that were included in Ordinance 2016-024 providing preliminary approval for the Big Creek Trails Planned Unit Development:

- p. The identified open space tracts shall be proportionately owned by tenants in common, and retained by each home owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation. This requirement shall not apply to lots retained by the original landowner or subsequent landowner(s) for the purpose of providing improved recreational facilities serving the benefited parcels. For the purposes of this condition, improved recreational facilities shall be those which exceed \$100,000 in value.*

- q. Non-buildable parcels. Any parcel created specifically for, or dominated by, easements, roadways, storm water retention facilities, septic facilities or other purposes and as a result or otherwise are non-buildable shall be proportionately owned as tenants in common of the benefited parcels, retained by each parcel owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation.*

To address these requirements DK Professional Consultants, Inc. as Applicant for the Big Creek Trails Planned Unit Development agrees that at the point of final plating of any division of any phase of the Big Creek Trails Planned Unit Development all lots will be encumbered in such a manner that:

- (i) The home owner association as the primary entity having the responsibility for maintenance and care of open space and non-buildable parcels shall be empowered with the right to lien and foreclose on said lien if any lot owner does not meet their responsibility to equally share in and contribute to the maintenance of said developments open space and non-buildable parcels.

 - (ii) Kittitas County shall be empowered with the right to lien and foreclose on said lien if any lot owner does not meet their responsibility to equally share in and contribute to the maintenance of said developments open space and non-buildable parcels if the homeowner association does not meet its responsibility to maintain said open space and non-buildable parcels.
- q. Non-buildable parcels. Any parcel created specifically for, or dominated by, easements, roadways, storm water retention facilities, septic facilities or other purposes and as a result or otherwise are non-buildable shall be proportionately owned as tenants in common of the benefited parcels, retained by each parcel owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation.

Response:

4. Air

a. If the applicant plans to burn trees or debris from the property, the applicant shall obtain a burn permit from the Department of Ecology. Only natural unprocessed vegetation may be burned in an outdoor fire. It is the applicant's responsibility to contact the Department of Ecology regarding this permit.

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement and shall acquire a burning permit as required by the Department of Ecology.

b. Washington Administrative Code (WAC) 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the project site. Additionally, dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts or damaging property or business. As a result, the applicant shall be responsible for creating a site-specific Fugitive Dust Control Plan (FDCP) before starting this project. The plan shall be followed throughout the duration of any activity and construction of the project.

Response: The Big Creek Trails Planned Unit Development agrees to provide a dust prevention plan prior starting construction within the boundaries of the development.

5. Fire & Life Safety

a. Addresses of all new residences shall be clearly visible.

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement.

b. All construction must comply with Wildland Urban Interface Code (WUIC).

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement.

c. A fire suppression system shall be provided which is approved by the Kittitas County Fire Marshall and Washington State Department of Health.

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement.

6. Light and Aesthetics

a. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement.

b. 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.

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement.

c. All landscaping in the development area and its immediate surroundings shall follow the landscaping plan submitted with the Rezone application.

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement.

7. Noise

a. Development and construction practices for this project shall only occur between the hours of 7:00 am and 7:00 pm to minimize the effect of construction noise on nearby residential properties.

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement.

8. Historic and Cultural Preservation

a. Should ground disturbing or other activities related to the proposed planned unit development 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 and 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.

Response: The Big Creek Trails Planned Unit Development agrees to the above requirement.

Attachments

Big Creek Trails Planned Unit Development Final Development Plan Exhibit List

- Exhibit 1 - Hearing Examiner Recommendation for Big Creek Trails PUD
- Exhibit 2 - Ordinance 2016–24 Preliminary Approval Of Big Creek Trails PUD
- Exhibit 3 – Big Creek Trails PUD Staging Plan (Exhibit H)
- Exhibit 4 - Big Creek Trails PUD Staging Plan Map
- Exhibit 5 - Big Creek Trails PUD Development Plan Map - Large
- Exhibit 6 - Big Creek Trails PUD Development Plan Map - Small
- Exhibit 7 - Big Creek Trails PUD Cross Section of Road More Than 400 ADT
- Exhibit 8 - Big Creek Trails PUD Cross Section Road Less Than 400 ADT
- Exhibit 9 - Preliminary buildings plans – submitted with this plan
- Exhibit 10 - Adoption of Evergreen building plans
- Exhibit 11 - Conceptual Drainage Map Large For Big Creek Trails PUD
- Exhibit 12 - Conceptual Drainage Map Small For Big Creek Trails PUD
- Exhibit 13 - Big Creek Water Bank Trust Agreement

**Big Creek Trails Planned Unit Development
Final Development Plan**

Exhibit 1

**Hearing Examiner Recommendation for Big Creek Trails PUD
Follows This Exhibit Title Sheet**

KOTTKAMP & YEDINAK

435 Orondo Ave. | Wenatchee, WA 98801
PO Box 1667 | Wenatchee, WA 98807

Attorneys

Andrew L. Kottkamp

Nicholas A. Yedinak

Sean R. Esworthy

July 28, 2016

Ms. Stephanie Mifflin
Kittitas County Community
Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA 98926

Re: RZ-15-00001, Big Creek Trails

Dear Stephanie:

Enclosed please find the Hearing Examiner's recommended decision regarding RZ-15-00001, Big Creek Trails.

Should you have any questions, please call.

Sincerely,

KOTTKAMP & YEDINAK, PLLC



Kelly Servian

Legal Assistant to Andrew L. Kottkamp

Enclosures

6. Access:

6.1 The proposed project will have access off of I-90 Exit 74 (West Nelson Siding Road Exit), onto Nelson Siding Road, east to Lund Lane, south on Lund Lane to a point of intersection where a new interior road will be constructed within an existing easement for this use.

7. Additionally, there are Category I, II, and III wetlands located near Big Creek and south of the Bonneville Power Easement per 2008 Wetland Inventory report. There is 30% and greater steep slope located on the property south of the Bonneville Power Easement. The area contains wooded areas with some open space with low lying vegetation which is proposed to remain in open space.

8. The current Comprehensive Plan land use designation is Rural Recreation. Under the 2014 Comprehensive Plan, Kittitas County has established the following goals and policies to guide future development through a 20 year planning window. These goals and policies were developed in an effort to ensure consistency and coordination with the future land uses and support the County Wide Planning Policies:

8.1 GPO 8.2 Rural lands often have an established land use pattern that inhibits urban character and are generally, and anticipated to continue to be, served by septic systems and individual wells or small community water systems.

8.2 GPO 8.5 In order to protect and preserve Resource Lands, non-resource development and activities on adjacent Rural lands shall require preservation of adjacent vegetation, existing landforms, or use of other methods that provide functional separation from the resource land use.

8.3 GPO 8.12 Incentive-based land use strategies will be examined and adopted to encourage land uses which are compatible to the rural environment.

8.4 GPO 8.13 Encourage development activities and establish development standards which enhance or result in the preservation of rural lands.

8.5 GPO 8.14 Allow for a variety of rural densities which maintain and recognize rural character, agricultural activities, rural community and development patterns, open spaces and recreational opportunities.

8.6 GPO 8.14A Only allow comprehensive plan amendments, rezones, bonus densities, and other measures that increase rural densities where adequate supplies of potable water are available that will not adversely affect surface and ground water and agriculture.

8.7 GPO 8.14B Set allowed densities based on the available water resources and reserve adequate resources to support the Kittitas County's economic base including agriculture.

8.8 GPO 8.14C Development shall be located distances from streams, rivers, lakes, wetlands, critical areas determined necessary as outlined within existing Shorelines Management

Program, the Critical Areas Ordinance and other adopted resource ordinances in order to protect ground and surface waters.

- 8.9 GPO 8.16 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.
 - 8.10 GPO 8.18 Limit development in rural areas through density requirements that protect and maintain existing rural character, natural open space, critical areas, and recreation areas. Direct rural development to lands that have adequate public services.
 - 8.11 GPO 8.19 Develop buffer standards and regulations that will be used between incompatible rural uses.
9. Zoning and Development Standards: The subject property is currently located within the Rural Recreation and Rural 5 zoning district. Planned Unit Development zoning is being requested, which is an appropriate zoning classification and Rural Recreation land use designation. The purpose and intent of the Planned Unit Development zone is to meet one or more of the following objectives:
- 9.1 encourage more innovative design than is generally possible under conventional zoning and subdivision regulations,
 - 9.2 encourage more economical and efficient use of land, streets, public services, preserve and create useable open space and other amenities superior to conventional developments,
 - 9.3 preserve important nature features of the land, encourage development of a variety of housing types and densities, encourage energy conservation,
 - 9.4 encourage development of areas or site characterized by special geographical features, or
 - 9.5 permit flexibility of design that will create desirable public and private open space.
10. A complete Rezone and Short Plat application was submitted to Community Development Services on July 16, 2015. The application was deemed complete on August 13, 2015. A Notice of Application for said applications was issued on October 12, 2015. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners within 500 feet and other interested parties.
11. Posting of Site:
- The signed Affidavit of Posting was returned to CDS on September 30, 2015 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.

12. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 30 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on June 17, 2016. The appeal period ended on July 1, 2016 at 5:00 p.m. No appeals were filed.
13. Any proposed Planned Unit Development must meet the following criteria per KCC 17.98.020.6 (a-h).
 - a) The proposed amendment is compatible with the comprehensive plan; and
 - b) The proposed amendment bears a substantial relation to the public health, safety or welfare; and
 - c) The proposed amendment has merit and value for Kittitas County or a sub-area of the county; and
 - 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; and
 - e) The subject property is suitable for development in general conformance with zoning standards for the proposed zone; and
 - f) The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property; and
 - g) The proposed change in use of the subject property shall not adversely impact irrigation water deliveries to other properties; and
 - h) The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.
14. The Hearing Examiner finds the above criteria are satisfied as follows:
 - 14.1 The proposed amendment is compatible with the comprehensive plan.
 - 14.1.1 This project proposes to create 58 parcels on 290 acres which are an allowed use in the Planned Unit Development zoning. Additionally, this proposal is currently east of Cle Elum and Roslyn with a comprehensive plan designation of Rural Recreation and Rural 5. The requested zone change from Rural Recreation and Rural 5 zoning to Planned Unit Development meets the intent of the policies listed above and is therefore compatible with the 2014 Comprehensive Plan.
 - 14.2 The proposed amendment bears a substantial relation to the public health, safety or welfare.
 - 14.2.1 This amendment will not be detrimental to the health, safety, or welfare of the public. It is proposing to provide a Group A Water system per recommendation of Washington State Department of Health, and individual septic systems approved by the County Health Department will serve the lots. The proposed PUD meets health and safety requirements.
 - 14.3 The proposed amendment has merit and value for Kittitas County or a sub-area of the county.

- 14.3.1 Staff Response: The proposed amendment will provide for residential and recreation in the County that that will be economically beneficial to the County and therefore meets the intent of the Rural Recreation classification. This also meets the goals, policies, and objectives of the Comprehensive Plan by allowing a variety of rural densities which maintain and recognize rural character and recreational opportunities.
- 14.4 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.
- 14.4.1 The proposed rezone is appropriate for reasonable development of the subject property. This rezone to Planned Unit Development will make the property more useable by building of single family residences and recreation, and the development allows for mixed housing density and allowing for open space rural in nature.
- 14.5 The subject property is suitable for development in general conformance with zoning standards for the proposed zone.
- 14.5.1 The existing zoning designation is Rural Recreation and Rural 5 to be changed to Planned Unit Development (PUD) which is compatible with KCC 17.36.015.02.
- 14.6 The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property.
- 14.6.1 The proposed amendment will not be materially detrimental to the properties in the immediate vicinity of the subject property. Adjacent to the west is property currently owned by the Cascade Land Conservancy and the United States Forest Service. The property is bordered private residential property to the north. South of the proposal is property that is used owned by the United States Forest Service and to the west is residential property. This proposal is compatible with the existing uses since the proposed open space will be consistent with the adjacent parcels existing uses in open space in the south, and the north will be adjacent to existing rural residential uses.
- 14.7 The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties.
- 14.7.1 There are no irrigation districts in this area. Irrigation will not be impacted.
- 14.8 The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.
- 14.8.1 Upon review of KCC 17.13 Transfer of Development Rights, that the request to rezone from Rural Recreation, Rural 5 to planned unit development (PUD) is outside of the scope of KCC 17.13 because the Planned Unit Development meets

the required density of the current zoning of Rural Recreation and Rural 5. Therefore, TDRs are not required for this rezone proposal.

15. Comprehensive Plan Consistency:
 - 15.1 The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan GPOs apply to this proposal: GPO 8.2; 8.5; 8.12; 8.13; 8.14 (b & c); 8.16; 8.18; and 8.19.
16. Consistency with the provisions of KCC Title 12 Roads and Bridges:
 - 16.1 All roads and accesses are required to meet all 2005 Kittitas County Road Standards.. Additionally, the United States Bureau of Reclamation will require the bridge to be replaced and transfer of ownership to the new replacement bridge to be privately owned. The Kittitas Reclamation District will require a Crossing License to be obtained to cross the KRD canal.
17. Consistency with the provisions of KCC 13 Water and Sewers Code:
 - 17.1 This proposal with the recommended conditions is consistent with the Kittitas County Code for Water and Sewers. Department of Health (DOH) requires a Group A system to be approved.
18. Consistency with the provisions of KCC Title 14 Buildings and Construction:
 - 18.1 This proposal with the recommended conditions is consistent with Kittitas County Code Title 14 for Building and Construction.
19. Consistency with the provisions of KCC 17.36, Planned Unit Development:
 - 19.1 This proposal is consistent with the Kittitas County Zoning Code 17.36. The proposal is compatible with KCC 17.36.015.02 referring to the land outside the Urban Growth Area (UGA) and Rural LAMIRDs: The provision of this chapter can be used for the properties over twenty (20) acres in size, except that PUDs are prohibited on Resource Lands and Rural Lands in the Rural Working Land Use Designation. Specifically, a Planned Unit Development is compatible as a permitted use with 17.36.020.02 (A).
20. Consistency with the provisions of KCC 17A Critical Areas Code:
 - 20.1 Staff has conducted an administrative critical area review in accordance with KCC 17A and found critical areas present on-site. There is a DNR stream type I – Fish bearing stream (Big Creek) along the western edge of the project site, and a DNR stream type I- Fish bearing stream (Little Creek) on the eastern edge of the project site. There is a 100 year floodplain located near both streams along the western and eastern edge of the project sites. Additionally there is a Category I, II, and III located near Big Creek and south of the Bonneville Power Easement per 2008 Wetland Inventory report. The proposed activities will take place north and between the west and east of both

floodplains and no activity will occur in the two hundred [200] feet buffer from Ordinary High Water Marks (OHWMs) of Big and Little Creek.

21. Consistency with the provisions of KCC 20 Fire and Life Safety Code:
 - 21.1 This proposal with the recommended conditions is consistent with the Kittitas County Code for Fire Life Safety.
22. Upon review of the project, it is determined that TDRs are not required for this rezone proposal.
23. The following agencies provided comments during the comment period:, Washington State Department of Health, Washington State Department of Ecology, Kittitas County Environmental Health,, Kittitas County Public Works, Bureau of Reclamation, Washington State Department of Fish and Wildlife, Bonneville Power Administration and Kittitas Reclamation District. Additional comments were provided during the pre-application meeting held on December 18, 2013 from Kittitas County Fire Marshal and Building Department. Ten comments were received from the Public. These comments have been integrated into the SEPA MDNS and the recommended conditions of approval.
24. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
25. An open record public hearing after due legal notice was held on July 14, 2016.
26. The entire Planning Staff file was admitted into the record at the public hearing.
27. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval.
28. Admitted into the record were the following exhibits:
 - 28.1 Exhibit 1 Pre Application Info
 - 28.2 Exhibit 2 Application Submittal Packet
 - 28.3 Exhibit 3 CDS Receipts
 - 28.4 Exhibit 4 Staff Review
 - 28.5 Exhibit 5 Deem Incomplete letter 8.17.15
 - 28.6 Exhibit 6 Request for additional information letter 8.25.15
 - 28.7 Exhibit 7 Email correspondence between applicant and CDS 8.25.15
 - 28.8 Exhibit 8 Transportation Concurrency Application
 - 28.9 Exhibit 9 Letter from KC PW to applicant 9.4.15
 - 28.10 Exhibit 10 Additional information submitted 9.16.15
 - 28.11 Exhibit 11 Deem Complete Letter 9.28.15
 - 28.12 Exhibit 12 Deem Complete email 9.28.15
 - 28.13 Exhibit 13 Affidavit of posting unsigned
 - 28.14 Exhibit 14 Email correspondence between applicant and CDS 9.28.15
 - 28.15 Exhibit 15 Affidavit of posting signed
 - 28.16 Exhibit 16 Notice of Application – memo
 - 28.17 Exhibit 17 Notice of Application - legal

- 28.18 Exhibit 18 Affidavit of Mailing & Publication – Notice of Application
- 28.19 Exhibit 19 Habitat Report
- 28.20 Exhibit 20 Traffic Impact Analysis
- 28.21 Exhibit 21 DR Affidavit of Publishing - NOA
- 28.22 Exhibit 22 Email between CDS and truax6 – 10.15.15
- 28.23 Exhibit 23 Email between applicant and CDS – 11.13.15
- 28.24 Exhibit 24 Comment – Russell Mau – DOH – 10.15.15
- 28.25 Exhibit 25 Comment – Christina Wollman – DPW – 10.19.15
- 28.26 Exhibit 26 Comment – Scott Downes – WDFW – 10.21.15
- 28.27 Exhibit 27 Comment – Lesli Olson – BPA – 10.30.15
- 28.28 Exhibit 28 Comment – Carron Helberg – BOR – 11.5.15
- 28.29 Exhibit 29 Comment – Gwen Clear – DOE – 11.10.15
- 28.30 Exhibit 30 Comment – Kevin Eslinger – KR D – 11.12.15
- 28.31 Exhibit 31 Comment – Scott Downes – WDFW – 11.12.15
- 28.32 Exhibit 32 Comment – Art Hammerberg – Ranch Prop – 11.12.15
- 28.33 Exhibit 33 Comment – Dave & Ruth Matulka – 11.12.15
- 28.34 Exhibit 34 Comment – Eddie Staheli – 11.13.15
- 28.35 Exhibit 35 Comment – Mark Staheli – 11.13.15
- 28.36 Exhibit 36 Comment – David Lund – BCWUA – 11.13.15
- 28.37 Exhibit 37 Comment – David Lund – 11.13.15
- 28.38 Exhibit 38 Comment – Walter Feurer – 11.13.15
- 28.39 Exhibit 39 Comment – Brian Lund – 11.13.15
- 28.40 Exhibit 40 Transmittal of Comments – letter & email
- 28.41 Exhibit 41 Comment – Roger Olsen – 11.13.15
- 28.42 Exhibit 42 Transmittal of Comments email – one additional on-time comment
- 28.43 Exhibit 43 Email between CDS and Roger Olsen – 11.19.15
- 28.44 Exhibit 44 MDNS issued 6.17.2016
- 28.45 Exhibit 45 Notice of SEPA & Public Hearing Legal
- 28.46 Exhibit 46 Notice of SEPA Public Hearing Memo
- 28.47 Exhibit 47 DR MDNS & Hearing Legal Confirmation- Publish 2x (6.17&6.24/2016)
- 28.48 Exhibit 48 DR MDNS & Hearing Legal Confirmation- Publish 2x (6.17&6.24/2016) - signed
- 28.49 Exhibit 49 Affidavit of Mailing & Publication – Notice of Decision of MDNS
- 28.50 Exhibit 50 Comments Received- Holly Myers Kittitas County Public Health 6.20.16
- 28.51 Exhibit 51 Comments Received- Roger Olsen 6.27.2016
- 28.52 Exhibit 52 Comments Received- David Matulka 7.1.2016
- 28.53 Exhibit 53 Updated Site Plan showing two lots being relocated per DFW conditions 7.5.2016
- 28.54 Exhibit 54 E-mail Correspondence between Applicant and DFW 7.6.2016
- 28.55 Exhibit 55 HE Staff Report 7.7.2016
- 28.56 Exhibit 56 Staff Report
- 28.57 Exhibit 57 Chain Up Title document regarding access easements
- 28.58 Exhibit 58 Water Right Acquisition document (17 pages)
- 28.59 Exhibit 59 Deed submitted by Jessica Karraker
- 28.60 Exhibit 60 Letter from the Lund Family to the Kittitas County Board of Commissioners

29. Appearing and testifying on behalf of the applicant was attorney James Carmody. It should first be noted that Mr. Carmody testified that he was the attorney for the applicants and was

authorized to appear and speak on their behalf. Mr. Carmody indicated that the applicants had no objection to any of the proposed conditions of approval. Mr. Carmody provided testimony and argument as to how and why the project is consistent with Kittitas County Comprehensive Plan and Zoning Code.

30. Testifying from the public in opposition to the project were the following individuals:
 - 30.1 Jessica Karraker;
 - 30.2 Roger Olson;
 - 30.3 Brian Ritter;
 - 30.4 David Matulka;
 - 30.5 Ed Staheli;
 - 30.6 Mark Staheli;
 - 30.7 Debbie Ritter; and
 - 30.8 Jerrod Zabik;
31. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
32. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
33. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
34. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this recommended decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 12 Roads and Bridges, Title 13 Water and Sewer, Title 14 Building and Construction, Title 15 Environmental Policy, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire Life Safety.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.

8. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
9. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Kittitas County Code or the Comprehensive Plan.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

Based on the above Recommended Findings of Fact and Recommended Conclusions of Law, the Hearing Examiner hereby recommends that Application RZ-15-00001, Big Creek Trails be **APPROVED** subject to the following Recommended Conditions of Approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The project shall proceed in substantial conformance with the plans and application materials (RZ-15-00001 Big Creek Trails Rezone) on file dated July 16, 2015, and all submitted revisions 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. The applicant will adhere to all conditions that were agreed upon by the applicant and Department of Fish and Wildlife dated February 8th, 2016.
4. Based on comments received during the public comment period and other information submitted with this project permit application, A SEPA Mitigation Determination of Non-Significance (MDNS) was issued by Community Development Services on June 17, 2016. The following are the mitigation contained within the MDNS and shall be conditions of approval:
5. The first 9 lots may be served by an approved Group B water system. When converted into a Group A public water system to serve all lots within the project, it must be first be approved by the Washington State Department of Health (DOH). Site evaluations for Onsite Septic Systems must be completed at the frequency of one soil log per lot (KCC 13.04.09 (1(f))).

6. **Transportation**

- 6.1 Access: This project proposes to change the use of the existing access from the county road. The access must be improved to meet Kittitas County road standards. An access permit must be applied for and issued prior to beginning any work within the county right of way. Access must be completed prior to issuance of any building permits.
- 6.2 The Subject property has a federally owned bridge (United States Bureau of Reclamation) and requires a replacement of the bridge and transfer of ownership to privately owned and maintained bridge.
- 6.3 Kittitas Reclamation District requires a crossing license to be obtained to cross the KRD owned canal prior to construction.
- 6.4 Bonneville Power Administration (BPA) requires that any activity in parcels 20-14-29000-0019, 20-14-290000-0017, 20-14-32000-0001, 20-14-32000-0003, & 20-14-32000-0004 that occurs in the right of way needs to be permitted by BPA prior to installation or construction and acquire a Land Use Agreement for any portion of the development plans that lie within the BPA's right of way.

7. **Water**

- 7.1 Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require a NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan). It is the applicant's responsibility to contact the Department of Ecology.
- 7.2 On-site stormwater management that conforms to the specifications of the most current version of the Stormwater management Manual for Eastern Washington is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The stormwater system design shall be presented to Public Works and reviewed by the County Engineer prior to issuance of a building permit. The stormwater system construction shall be certified by a licensed engineer prior to issuance of an occupancy permit.
- 7.3 All water proposed to be used must be obtained from a water budget neutral source meeting conditions of Kittitas County Code Chapter 13.35.
- 7.4 Withdrawals of groundwater on the subject property are subject to the rules and regulations adopted and administrated by the Washington State Department of Ecology; this includes the use of water for irrigation. Legally obtained water must be used on-site.
- 7.5 Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in an area becomes limited, use could be curtailed by those with senior water rights. Department of

Ecology and Washington State Fish and Wildlife concur the surface water is not adequate to satisfy all water rights year-round.

- 7.6 Prior to applying for any type of building permit in Kittitas County, applicants shall be required to make appropriate provisions for potable water supplies per RCW 58.17.110 which includes, but is not limited to, the minimum requirements outlined in the Kittitas County Board of Commissioners Resolution 2012-027.
- 7.7 The Washington State Department of Health, Office of Drinking Water requires an approved water system for this project.
- 7.8 Category I wetlands require a 50' buffer from the wetland delineation in accordance to KCC 17A.02. Category II wetlands require a 25' buffer from the wetland delineation in accordance to KCC 17A.02. Category III wetlands require a 20' buffer from the wetland delineation in accordance to KCC 17A.02.
- 7.9 Setbacks to the shorelines of Big and Little Creek shall be consistent with the Shoreline Substantial Development Permit (SD-15-00002).
- 7.10 Washington State Department of Fish and Wildlife will require Hydraulic Project Approval (HPA) permit for any work that would influence flow or bed of either Big or Little Creek.

8. Air

- 8.1 If the applicant plans to burn trees or debris from the property, the applicant shall obtain a burn permit from the Department of Ecology. Only natural unprocessed vegetation may be burned in an outdoor fire. It is the applicant's responsibility to contact the Department of Ecology regarding this permit.
- 8.2 Washington Administrative Code (WAC) 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the project site. Additionally, dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts or damaging property or business. As a result, the applicant shall be responsible for creating a site-specific Fugitive Dust Control Plan (FDCP) before starting this project. The plan shall be followed throughout the duration of any activity and construction of the project.

9. Fire & Life Safety

- 9.1 Addresses of all new residences shall be clearly visible.
- 9.2 All construction must comply with Wildland Urban Interface Code (WUIC).
- 9.3 If Single Family Residences are sprinkled one 30,000 gallon storage tank is required, if single family residences are not sprinkled; or one 60,000 gallon storage tank is required without a sprinkler fire suppression system

9.4 Hydrant system shall be installed per International Fire Code (IFC).

10. Light and Aesthetics

10.1 All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.

10.2 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.

10.3 All landscaping in the development area and its immediate surroundings shall follow the landscaping plan submitted with the Rezone application.

11. Noise

11.1 Development and construction practices for this project shall only occur between the hours of 7:00 am and 7:00 pm to minimize the effect of construction noise on nearby residential properties.

12. Historic and Cultural Preservation

12.1 Should ground disturbing or other activities related to the proposed conditional use permit 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 and 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.

Dated this 28th day of July, 2016.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 2
Ordinance 2016–24
Preliminary Approval Of Big Creek Trails PUD
Follows This Exhibit Title Sheet**

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

ORDINANCE

NO. 2016-024

**BIG CREEK TRAILS PLANNED UNIT DEVELOPMENT IN THE MATTER OF
AMENDING THE KITTITAS COUNTY ZONING ATLAS TO DESIGNATE PORTIONS
OF THE COUNTY AS PLANNED UNIT DEVELOPMENT**

WHEREAS, according to Kittitas County Code Titles 15A, 16 & 17, relating to rezones and plats and adopted pursuant to RCW 36.70B & 36.70 respectively, an open record hearing was held by the Kittitas County Hearing Examiner on July 14, 2016 for the purpose of considering a zone change consisting of approximately 290 acres from Recreation-5 zone to Planned Unit Development consisting of 58 residential lots of approximately one (1) acre in size and approximately 230 acres in open space park and trails on 11 parcels of land described as follows:

The subject property consists of eleven (11) parcels, located approximately 8 miles east of the City of Cle Elum south of Nelson Siding Road, in a portion of Section 28, 29 and 32, T20N, R14E, WM in Kittitas County, bearing Assessor's map numbers: 20-14-28000-0018, 20-14-28000-0054, 20-14-29000-0006, 20-14-29000-0015, 20-14-29000-0017, 20-14-29000-0018, 20-14-29000-0019, 20-14-32000-001, 20-14-32000-003, 20-14-32000-0004, and 20-14-32000-005.

WHEREAS, testimony was taken on July 14, 2016 from those persons present who wished to be heard during said open record hearing before the Kittitas County Hearing Examiner; and

WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such zone change; and

WHEREAS, the Hearing Examiner recommended approval of said proposed rezone under recommended conditions on July 28, 2016; and

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on September 20, 2016 to consider the Hearing Examiner's recommendation on this matter; and

WHEREAS, the Board of County Commissioners continued such hearing to October 18, 2016 and November 1, 2016 to further consider conditions recommended by staff and the Hearing Examiner; and

WHEREAS, the following FINDINGS OF FACT regarding the rezone have been made by the Board of County Commissioners concerning this ordinance:

1. DK Professional Consultants has submitted a rezone application with associated site plan and project narrative to change the current zoning from Rural Recreation and Rural 5 to Planned Unit Development northwest of Cle Elum. This proposed use is an allowed use in the Planned Unit Development zone per KCC 17.36.15(2).
2. A complete Rezone and Short Plat application was submitted to Community Development Services on July 16, 2015. The application was deemed complete on September 28, 2015.
3. A Notice of Application for said proposal was issued on October 15, 2015. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners within 500 feet of the proposal and other interested parties. This notice was also published in the official county paper of record.
4. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 30 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on June 17, 2016. The appeal period ended on July 1, 2016 at 5:00 p.m and no appeals were filed.
5. The following agencies provided comments during the comment period:, Washington State Department of Health, Washington State Department of Ecology, Kittitas County Environmental Health, Kittitas County Public Works, Bureau of Reclamation, Washington State Department of Fish and Wildlife, Bonneville Power Administration and Kittitas Reclamation District. Additional comments were provided during the pre-application meeting held on December 18, 2013 from Kittitas County Fire Marshal and Building Department. Ten comments were received from the public.
6. The proposal is consistent with the applicable goals and policies of the Kittitas County Comprehensive Plan.
7. As conditioned, this proposal meets the provisions of Kittitas County Code Title 12, Roads and Bridges; Title 13, Water and Sewers; Title 14, Building and Construction; Title 17, Zoning; Title 17A, Critical Areas; and Title 20, Fire, Life and Safety.
8. This proposal meets all the criteria required of approving a Planned Unit Development in Chapter 17.36.045(1)
9. Additional conditions are not necessary at this stage of the planning and approval process

to protect the public's interest.

NOW THEREFORE, BE IT HEREBY ORDAINED the Board of County Commissioners of Kittitas County, Washington, after due deliberation of all of the facts and in the best interest of the public, does hereby approve said zone change from Rural 5 to Planned Unit Development subject to the following conditions:

I. Transportation

- a. Access: This project proposes to change the use of the existing access from the county road. The access must be improved to meet Kittitas County road standards. An access permit must be applied for and issued prior to beginning any work within the county right of way. Access must be completed prior to issuance of any final plats.
- b. The Lund Lane extension and the crossing of the irrigation canal will be a private road built to meet public road standards and dedicated for public use.
- c. Construction of Road "A" will be a private road built meeting public road standards and dedicated for public use. Construction of Road "B" will be built to current private road standards with an all-weather surface.
- d. The southerly most road depicted on the preliminary plan map shall dedicate a 60 foot easement for future connection with Misty Mountain Way.
- e. The Subject property is accessed via a federally owned bridge (United States Bureau of Reclamation) and requires a replacement of the existing bridge built to County public bridge construction standards and transfer of the replacement bridge to Kittitas County. Prior to approving any final plat, the applicant or successors must obtain the necessary permits through United States Bureau of Reclamation for the permanent crossing of the canal.
- f. Access to Lot 43 by driveway may occur if no access is provided by the driveway to Lots 44 and 45. Access may be provided to lots 43 through 45 if the road is constructed to meet private road standards and has an all-weather surface.
- g. Bonneville Power Administration (BPA) requires that any activity in parcels 20-14-29000-0019, 20-14-290000-0017, 20-14-32000-0001, 20-14-32000-0003, & 20-14-32000-0004 that occurs in the right of way needs to be permitted by BPA prior to installation or construction and acquire a Land Use Agreement for any portion of the development plans that lie within the BPA's right of way.

II. Water

- a. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require an NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan). It is the applicant's responsibility to contact the Department of Ecology.
- b. On-site stormwater management that conforms to the specifications of the most current version of the Stormwater management Manual for Eastern Washington is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The stormwater system design shall be presented to Public Works and reviewed by the County Engineer prior to issuance of final plat approval. The stormwater system construction shall be certified by a licensed engineer prior to issuance of any building occupancy permit.
- c. All water proposed to be used must be obtained from a water budget neutral source meeting conditions of Kittitas County Code Chapter 13.35.
- d. Withdrawals of groundwater on the subject property are subject to the rules and regulations adopted and administered by the Washington State Department of Ecology; this includes the use of water for irrigation. Legally obtained water must be used on-site.
- e. Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in an area becomes limited, use could be curtailed by those with senior water rights. Department of Ecology and Washington State Fish and Wildlife concur the surface water is not adequate to satisfy all water rights year-round.
- f. Prior to applying for any type of final plat approval in Kittitas County, applicants shall be required to make appropriate provisions for potable water supplies per RCW 58.17.110 which includes, but is not limited to, the minimum requirements outlined in the Kittitas County Board of Commissioners Resolution 2012-027.
- g. The Washington State Department of Health, Office of Drinking Water requires an approved water system for this project.
- h. Group B water system shall be used for the initial 9 connections and shall be approved by Kittitas County Public Health Department. The Group B water system shall be converted to a Group A water system after the initial 9 connections from the Group B water system. The Group A public water system must be approved by the Washington State Department of Health (DOH) to serve all lots within the project.
- i. Site evaluations for Onsite Septic Systems must be completed at the frequency of one soil log per lot

(KCC 13.04.09 (1)(f)).

- j. Any plat within the Planned Unit Development is subject to any easements of record and does not modify such easements.
- k. Construction upon the PUD and final PUD approval will be contingent upon the applicant receiving approval of a substantial development permit, SD-15-00002, from the County with review from the State Shorelines Hearings Board. No structures will occur within 200 feet of any shoreline of the State as indicated by the applicant.

III. Environmental and Open Space

- a. Category I wetlands require a 50' buffer from the wetland delineation in accordance to KCC 17A.02. Category II wetlands require a 25' buffer from the wetland delineation in accordance to KCC 17A.02. Category III wetlands require a 20' buffer from the wetland delineation in accordance to KCC 17A.02.
- b. Setbacks to the shorelines of Big and Little Creek shall be consistent with the Shoreline Substantial Development Permit (SD-15-00002).
- c. A Hydraulic Project Approval (HPA) permit shall be obtained for any work that would influence flow or bed of either Big or Little Creek.
- d. The Applicant shall establish a riparian corridor being 200 feet wide measured from the Ordinary High Water Mark (OHWM), as per RCW 90.58.030, of Big Creek in an easterly direction onto the PUD property, and of Little Creek in a westerly direction onto the PUD property.
- e. The Applicant shall place signs marking the riparian and wildlife movement corridors of Big Creek and of Little Creek. A minimum of four (4) signs will be placed upon the Big Creek corridor and a minimum of four (4) signs will be placed upon the Little Creek corridor. Signs shall be a minimum of 36" square. Signs shall be placed prior to the first final plat recording. Applicant shall submit a map that shows the location of the signs prior to the first plat being recorded. Signs will also identify these areas as a wildlife movement corridor.
- f. The riparian corridor of Big Creek and of Little Creek shall be marked with signs, flagging or other suitable material prior to the beginning of construction and during construction, which shows the limit of any allowed ground disturbance. Markings shall remain in place during any and all construction related to the development of the PUD.
- g. There shall be no disturbance, without approved permits, within the Big Creek or Little Creek riparian areas during the construction of the PUD.

- h. There shall be no disturbance, without approved permits, of any critical areas and buffers as described in the 2008 and 2015 Sewall Report during the construction of the PUD.
- i. Wetlands and critical areas as identified in the Applicant's proposal shall be identified on the ground with a minimum of four signs. Signs shall be a minimum of 36" square. Signs shall be placed prior to the filing of the first final plat. Applicant shall submit a map that shows the location of the signs prior to the first plat being recorded. Signs will also identify this area as a wildlife movement corridor.
- j. The applicant shall relocate lots 57 and 58 to an area adjacent to or in close proximity to the larger residential area identified on the site plan that has been submitted with the PUD application as conditioned as follows:
 - 1) The current planned residential foot print, identified on the site plan that has been submitted with the PUD application, may be enlarged a maximum of 7.5 acres to absorb the relocation of Lots 57 and 58 (identified on the site plan attached to the PUD application);
 - 2) The current location of the home sites may be relocated within the site as long as any additional impacts are mitigated.;
 - 3) The road that was planned to connect the two home site foot print areas will not be required as the roads of the PUD will be built to the public road standards as defined in Kittitas County Code Title 12; and
 - 4) The recreation storage area may be moved or split into two locations with one being located near or adjacent to the northern boundary of the BPA power line easement and not adjacent to the residential area.
- k. There shall be a wildlife movement corridor established between Big Creek and the identified wetland/critical area that is located towards the center of the project. This movement corridor shall be located north of the BPA power lines on the ridge that runs above the residential area. The existing trail in this area will be identified as non-motorized access only.
- l. All trails and recreation use shall be outside of the protected creek corridors and established wetlands, critical areas and the buffers established for said areas.
- m. Upon approval of the Final Development Plan for the PUD and prior to the recording of the first plat, the applicant will provide WDFW with easements required to maintain the diversions and fish screens on Big Creek.
- n. The Final Development Plan shall show the riparian corridors, wetlands, and critical areas. The final plat recordings shall show the riparian corridors, wetlands, and critical areas marked on the Final Development Plan map.
- o. Trails developed south of the BPA easement in the forested areas that are not disturbed by the

development of trails shall be left in their natural state. Fire control and fire wise actions may be taken in the trail development.

- p. The identified open space tracts shall be proportionately owned by tenants in the common, and retained by each home owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation. This requirement shall not apply to lots retained by the original landowner or subsequent landowner(s) for the purpose of providing improved recreational facilities serving the benefited parcels. For the purposes of this condition, improved recreational facilities shall be those which exceed \$100,000 in value.
- q. Non-buildable parcels. Any parcel created specifically for, or dominated by, easements, roadways, storm water retention facilities, septic facilities or other purposes and as a result or otherwise are non-buildable shall be proportionately owned as tenants in common of the benefited parcels, retained by each parcel owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation.

IV. Air

- a. If the applicant plans to burn trees or debris from the property, the applicant shall obtain a burn permit from the Department of Ecology. Only natural unprocessed vegetation may be burned in an outdoor fire. It is the applicant's responsibility to contact the Department of Ecology regarding this permit.
- b. Washington Administrative Code (WAC) 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the project site. Additionally, dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts or damaging property or business. As a result, the applicant shall be responsible for creating a site- specific Fugitive Dust Control Plan (FDCP) before starting this project. The plan shall be followed throughout the duration of any activity and construction of the project.

V. Fire & Life Safety

- a. Addresses of all new residences shall be clearly visible.
- b. All construction must comply with Wildland Urban Interface Code (WUIC).
- c. A fire suppression system shall be provided which is approved by the Kittitas County Fire Marshall and Washington State Department of Health.

VI. Light and Aesthetics

Ordinance 2016-024

- a. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.
- b. 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.
- c. All landscaping in the development area and its immediate surroundings shall follow the landscaping plan submitted with the Rezone application.

VII. Noise

- a. Development and construction practices for this project shall only occur between the hours of 7:00 am and 7:00 pm to minimize the effect of construction noise on nearby residential properties.

VIII. Historic and Cultural Preservation

- a. Should ground disturbing or other activities related to the proposed planned unit development 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 and 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.

NOW THEREFORE, BE IT FURTHER ORDAINED by the Board of County Commissioners that the official zoning map for Kittitas County be changed as set forth in the attached Zone File Map.

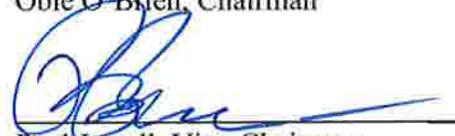
DATED this 6th day of December, 2016, at Ellensburg, Washington.

**BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON**



ATTEST:

 Julie Kiersvik, Clerk of the Board


 Obie O'Brien, Chairman

 Paul Jewell, Vice-Chairman

Ordinance 2016-024

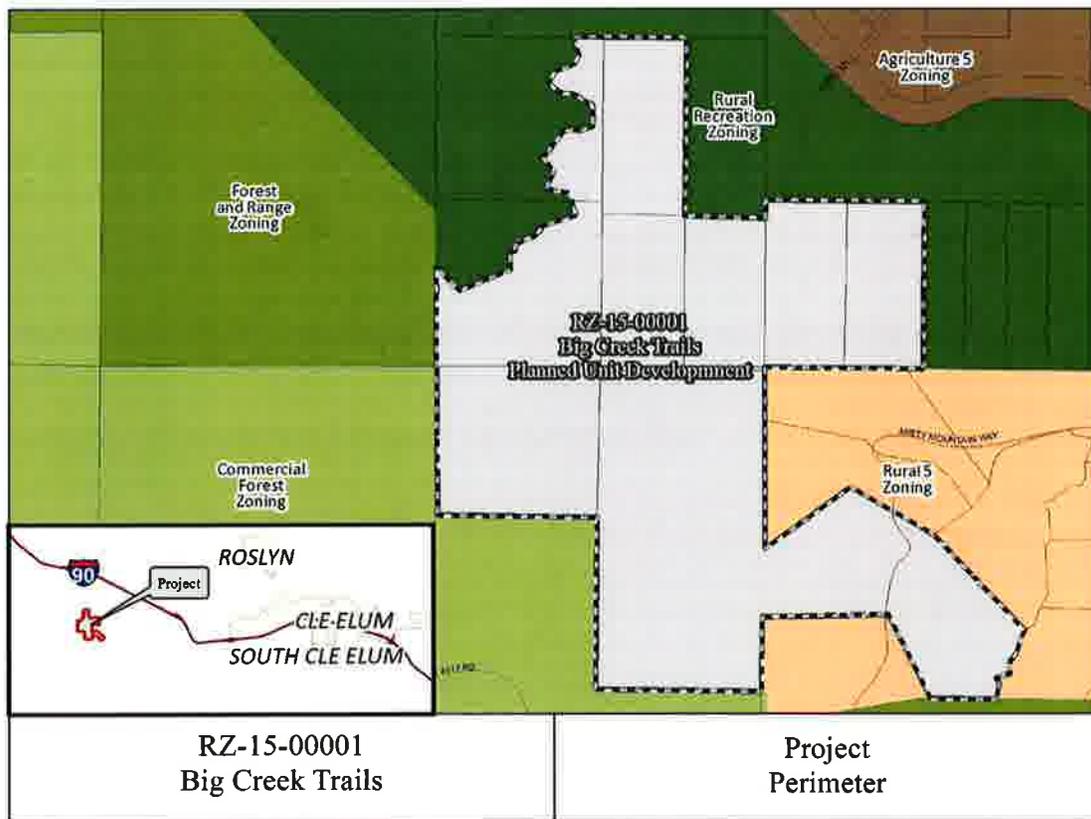
ABSENT

Laura Osiadacz, Commissioner

APPROVED AS TO FORM:

Neil Caulkins, Deputy Prosecuting Attorney for
Gregory L. Zempel
Prosecuting Attorney
WSBA #19125

Attachment A



Follows This Exhibit Title Sheet

Big Creek Trails Planned Unit Development

Final Development Plan

Exhibit 3

Big Creek Trails PUD Staging Plan (Exhibit H)

Follows This Exhibit Title Sheet

Exhibit H
Big Creek Trails
Development Staging and Phasing Plan



The following is the Staging and Phasing plan for the Big Creek Trails Project:

This Staging and Phasing plan accompanies the application for Big Creek Trails Planned Unit Development (the Project) as provided for in KCC 17.36 and the associated SEPA document. This Staging and Phasing plan is for the approval and the development of the Project, by and in Kittitas County, is a best-case scenario. The actual time line for the approval process is unknown, as the time line will vary depending on this approval process and approvals outside of the Kittitas County process such as domestic water transfer approvals. In addition the development and construction Stages and Phases of the Project will vary depending on market conditions, weather, financing, and other unforeseen impacts outside of the Applicant's ability to control. The Staging plan and time line provided herein may be accelerated or delayed depending on known and unknown factors.

It is planned to construct one division per building season but as stated above the construction of various divisions may be accelerated or slowed by any of the factors listed in this Staging and Phasing plan. The Project is projected to be completed within 20 years.

Though the timing of the Staging and Phasing plan depends on many variables outside of the Applicants control such as the approval process, approvals from authorities having jurisdiction outside of the Kittitas County process, and events including but not limited to weather, seasonal building restrictions do to circumstances such as early season snow, late season snow, summer fire restrictions, market conditions, unforeseen circumstances and financing, the

order of the Stages, Phases and the Divisions within each phase should remain consistent.

The Project will be developed in two Stages.

Stage 1 will include road construction, bridge construction, infrastructure construction, sales office construction, model home construction, community building construction, construction of various recreation facilities and 36 parcels with the associated infrastructure and recreation facilities to go along with the parcels.

Stage 2 will include the development of the remaining parcels approved in the PUD process with the associated infrastructure and recreation facilities to go along with the parcels, including but not limited to, road construction, infrastructure construction, model home construction, community building(s) construction and construction of various recreation facilities.

Stage 1, Phase 1. It is anticipated that Phase 1, the preliminary approval process of the PUD, is anticipated to be completed by the end of 2015.

Stage 1, Phase 2. It is anticipated that Phase 2, the final development plan approval process of the PUD, is anticipated to be completed in the first half of 2016.

Stage 1, Phase 3. Phase 3 of the Project depends on the timing of the completion of Phase 2. This Phase includes the construction of the bridge over the KRD canal, bringing Lund Lane up to Kittitas County Road Standards and extending Lund Lane onto the Project Site (the name of this section of the access road may be changed during the approval process). This phase also includes the construction of a model home, construction of a community building to operate as the construction management office and a sales center.

Depending on timing, construction of the model home and the community building, which will operate as the construction management office and a sales center, may proceed the access construction of the extension of Lund Lane and the replacement of the KRD canal bridge as that construction can not be done while the KRD canal is operating during irrigation season. If the model home and the community building are built prior to the completion of the access occupancy permits for these two buildings will be issued upon their completion.

Stage 1, Phases 4 through 10. In Stage 1 there will be six residential development Phases following the first 3 Phases as described above,

The project will be developed from north to south. Each residential Phase (Phases 4 through 10) will include the development and platting of 6 parcels. Each Phase will be divided into two Divisions of three parcels each. Divisions of a Phase may receive final plat independently of the other Divisions of the same Phase. Neither completion nor bonding of future Stages, Phases or Divisions will be required for earlier developed or bonded Stages, Phases, or Divisions to receive final plat approval. Each Phase will include the development of a separate Group B domestic water system to serve that individual phase as well as roads and utilities. It is anticipated that each phase may take 2 or more building seasons to complete. Completion of each phase may be accelerated or delayed based on any of many factors including but not limited to, weather, seasonal building restrictions do to circumstances such as early season snow, late season snow, summer fire restrictions, market conditions, unforeseen circumstances and financing.

Stage 2, Phase 1 through 3.

Each of these Phases will be made up of six parcels with each Phase being divided into 2 Divisions of three parcels each. Development of theses Phases will proceed as provided above in Stage 1.

Stage 2, Phase 4.

Phase 4 includes the development of the final 5 approved parcels. The first Division will include the development of three parcels. The second Division of this Phase will be made up of two Parcels.

Notes Effecting Stage 1 and 2.

Amenity and recreation facility construction and operation, including indoor and outdoor facilities, if built, may be built and operated during the construction of any Stage or Phase.

Recreation use of the property may continue during either Stage of development and may proceed any development of either Stage.

Building Permits and home construction may proceed during the construction and prior to final plating or bonding of any Division with Occupancy Permits for said home construction issued upon and simultaneously with final plating or bonding of said division.

The project may be developed over a period of 20 years with a possible five-year extension. It is the Project's goal to be complete within a twelve-year period but as has been experienced during previous years political, environmental, economic, and development cycles may increase or decrease the development period of the Project. Therefore, the phases and the development period may be slowed or accelerated as circumstances requires or allow.

Market and/or weather or seasonal conditions may impact the rate of development. The Project may be accelerated if approvals and conditions allow for

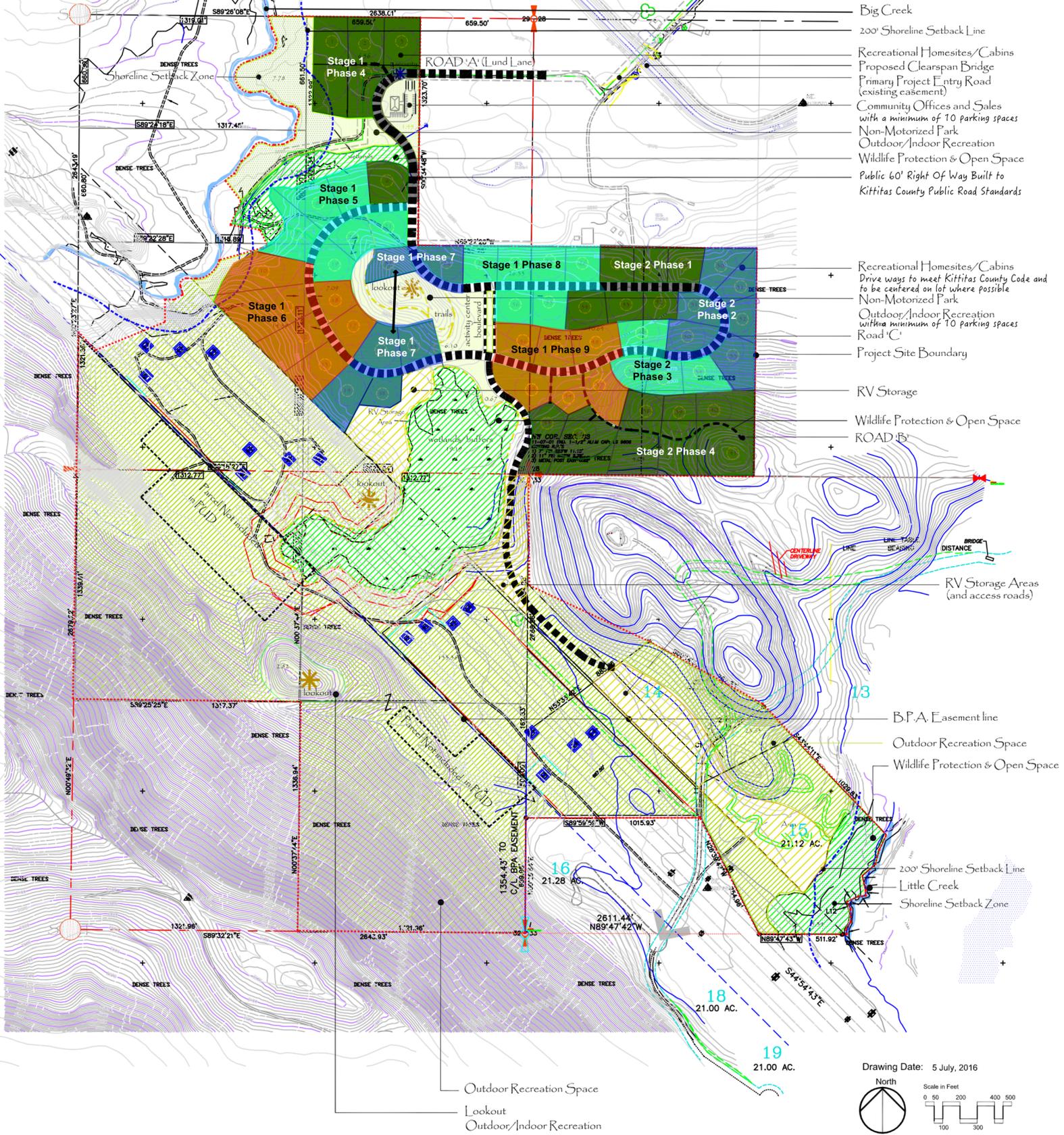
said acceleration. The Project may be slowed if approvals, market conditions and/or other conditions cause said slowing. Indoor and or Outdoor Recreation Facilities may be constructed and operated during any of the phases.

The land within the recreation open space that is not being developed as home sites may continue to evolve as recreation interests change over the life of the project

If approvals occur later than planned or if other actions or conditions delay development the Staging and Phasing of the Project the entire Project may be delayed. The progress of the development of items that include but are not limited to utilities, the transportation corridor and platting delays may accelerate or delay the development of the parcels.

The Project is designed in such a manner that each Phase may follow the preceding Phase but Phases may be constructed simultaneously and at some times out of order. Infrastructure may be constructed beyond the current Phase that is under construction.

**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 4
Big Creek Trails PUD Staging Plan Map
Follows This Exhibit Title Sheet**



- Big Creek
- 200' Shoreline Setback Line
- Recreational Homesites/Cabins
- Proposed Clearspan Bridge
- Primary Project Entry Road (existing easement)
- Community Offices and Sales with a minimum of 10 parking spaces
- Non-Motorized Park
- Outdoor/Indoor Recreation
- Wildlife Protection & Open Space
- Public 60' Right Of Way Built to Kittitas County Public Road Standards
- Recreational Homesites/Cabins
- Drive ways to meet Kittitas County Code and to be centered on lot where possible
- Non-Motorized Park
- Outdoor/Indoor Recreation with a minimum of 10 parking spaces
- Road 'C'
- Project Site Boundary
- RV Storage
- Wildlife Protection & Open Space
- ROAD 'B'
- RV Storage Areas (and access roads)
- B.P.A. Easement line
- Outdoor Recreation Space
- Wildlife Protection & Open Space
- 200' Shoreline Setback Line
- Little Creek
- Shoreline Setback Zone

Drawing Date: 5 July, 2016

North

Scale in Feet

Illustrative Master Plan

Big Creek

A Planned Unit Development
Kittitas County, Washington

Staging Plan

KBA Design Group
Kent Berryman, RLA
3600 NE State Highway 104
Poulsbo, Washington 98370
360.620.4656 Email: KentBerryman@comcast.net www.kentberryman.com

LAND USE SUMMARY

Key	Land Use	Acres	% Site
	200' Shoreline Setback Line-no construction	12.6	4.4
	Recreational Homesites/Cabins	84.3	29.6
	Community Offices and Sales	1.5	0.1
	RV Storage	21.0	7.4
	60' R.O.W.	14.2	5.0
	Wildlife Protection & Open Space	28.5	10.0
	Non-Motorized Park- Outdoor/Indoor Recreation	11.4	4.0
	Outdoor Recreation Space	111.5	39.5
Total		285.0	100.0

**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 5
Big Creek Trails PUD Development Plan Map – Large**

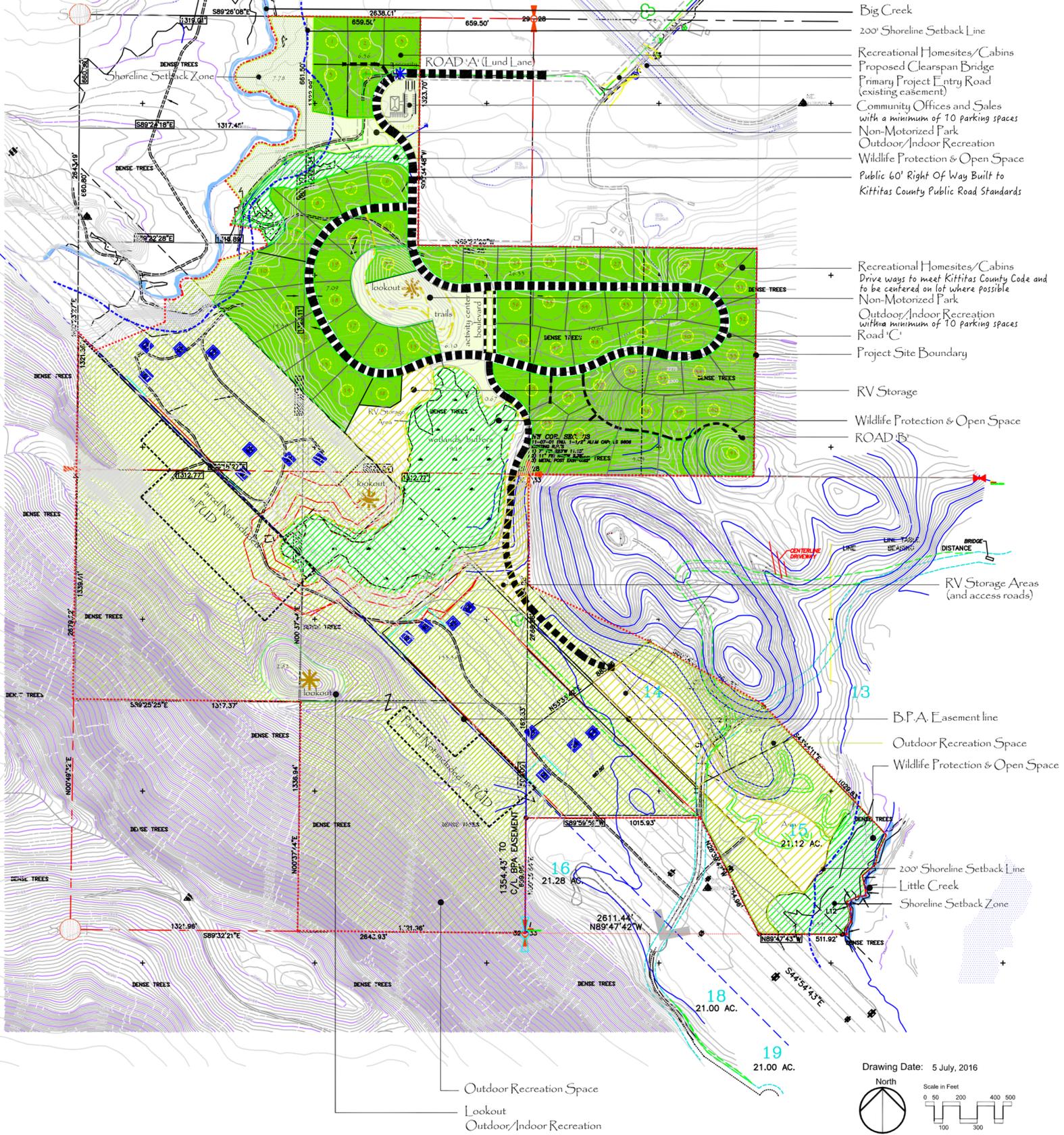
**The Big Creek Trails PUD Development Plan Map at a scale
greater than 1" to 100' as required is submitted as
a supplement to this document
as the size is too large to attach**

**Big Creek Trails Planned Unit Development
Final Development Plan**

Exhibit 6

Big Creek Trails PUD Development Plan Map – Small

**The Big Creek Trails PUD Development Plan Map
is attached hereto in a reduced sized
for review with this document and
Follows This Exhibit Title Sheet**



- Big Creek
- 200' Shoreline Setback Line
- Recreational Homesites/Cabins
- Proposed Clearspan Bridge
- Primary Project Entry Road (existing easement)
- Community Offices and Sales with a minimum of 10 parking spaces
- Non-Motorized Park
- Outdoor/Indoor Recreation
- Wildlife Protection & Open Space
- Public 60' Right Of Way Built to Kittitas County Public Road Standards
- Recreational Homesites/Cabins
- Drive ways to meet Kittitas County Code and to be centered on lot where possible
- Non-Motorized Park
- Outdoor/Indoor Recreation with a minimum of 10 parking spaces
- Road 'C'
- Project Site Boundary
- RV Storage
- Wildlife Protection & Open Space
- ROAD 'B'
- RV Storage Areas (and access roads)
- B.P.A. Easement line
- Outdoor Recreation Space
- Wildlife Protection & Open Space
- 200' Shoreline Setback Line
- Little Creek
- Shoreline Setback Zone
- Outdoor Recreation Space
- Lookout
- Outdoor/Indoor Recreation

Drawing Date: 5 July, 2016

North

Scale in Feet

Illustrative Master Plan

Big Creek

A Planned Unit Development
Kittitas County, Washington

Development Plan

KBA Design Group
 Kent Berryman, RLA
 3600 NE State Highway 104
 Poulsbo, Washington 98370
 360.620.4656 Email: KentBerryman@comcast.net www.kentberryman.com

LAND USE SUMMARY

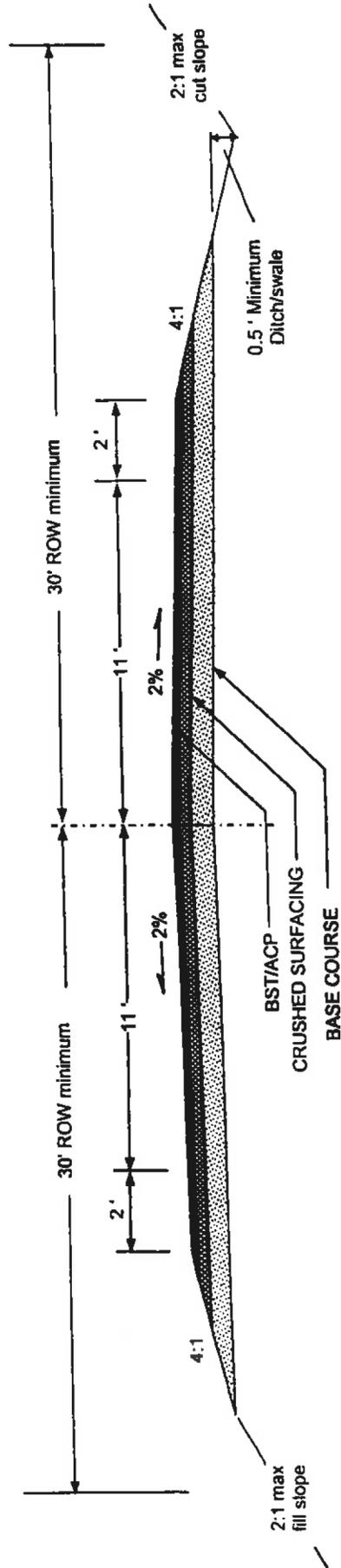
Key	Land Use	Acres	% Site
	200' Shoreline Setback Line-no construction	12.6	4.4
	Recreational Homesites/Cabins	84.3	29.6
	Community Offices and Sales	1.5	0.1
	RV Storage	21.0	7.4
	60' R.O.W.	14.2	5.0
	Wildlife Protection & Open Space	28.5	10.0
	Non-Motorized Park- Outdoor/Indoor Recreation	11.4	4.0
	Outdoor Recreation Space	111.5	39.5
Total		285.0	100.0

**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 7
Big Creek Trails PUD
Cross Section of Road More Than 400 ADT**

**This Cross Section is copied directly out of the
2005 Kittitas County
Road Standards and
Follows This Exhibit Title Sheet**

RURAL AREA PUBLIC ROADWAY DESIGN STANDARDS

ROADWAY CLASSIFICATION: LOCAL ACCESS/COLLECTOR
 AVERAGE DAILY TRAFFIC (ADT): OVER 400 BUT LESS THAN 750



LocalAccessUnder400.doc

RURAL LOCAL ACCESS
 ROADWAY SECTION
 ADT > 400 < 750
 FIGURE 4 - 2

12/1/03

ROADWAY
 STANDARDS

REVISIONS	DATE

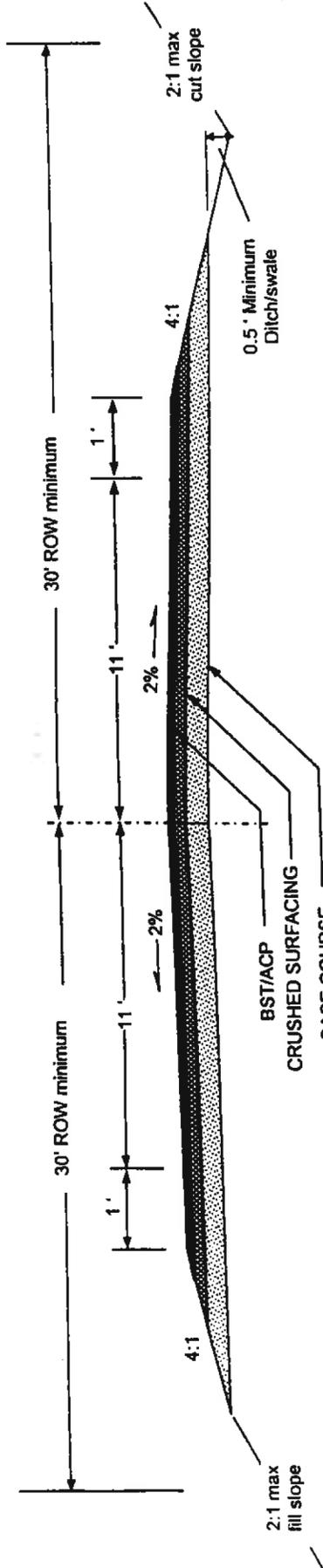
KITTITAS COUNTY
 DEPARTMENT OF
 PUBLIC WORKS

**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 8
Big Creek Trails PUD Cross Section of
Road Less Than 400 ADT**

**This Cross Section is copied directly out of the
2005 Kittitas County
Road Standards and
Follows This Exhibit Title Sheet**

RURAL COUNTY ROADWAY DESIGN STANDARDS

ROADWAY CLASSIFICATION: LOCAL ACCESS
 AVERAGE DAILY TRAFFIC (ADT): <400



* BST Class A may be used in place of ACP however, total surface depth may not be less than 12 inches.

LocalAccessUnder400.doc

RURAL LOCAL ACCESS
 ROADWAY SECTION
 ADT < 400

FIGURE 4 - 1

12/1/03

ROADWAY
 STANDARDS

REVISIONS	DATE

KITTITAS COUNTY
 DEPARTMENT OF
 PUBLIC WORKS

**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 9
Preliminary Buildings Plans
Submitted With This Final Development Plan**

**Submitted with this document as supplemental
attachments are that provide
preliminary building plans**

**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 10
Adoption of Evergreen Ridge Building Plans**

**By reference all of the preliminary building plans
submitted with the
Evergreen Ridge Final Development Plan
are hereby adopted by reference for use
by the Big Creek Trails Planned Unit Development**

**Big Creek Trails Planned Unit Development
Final Development Plan**

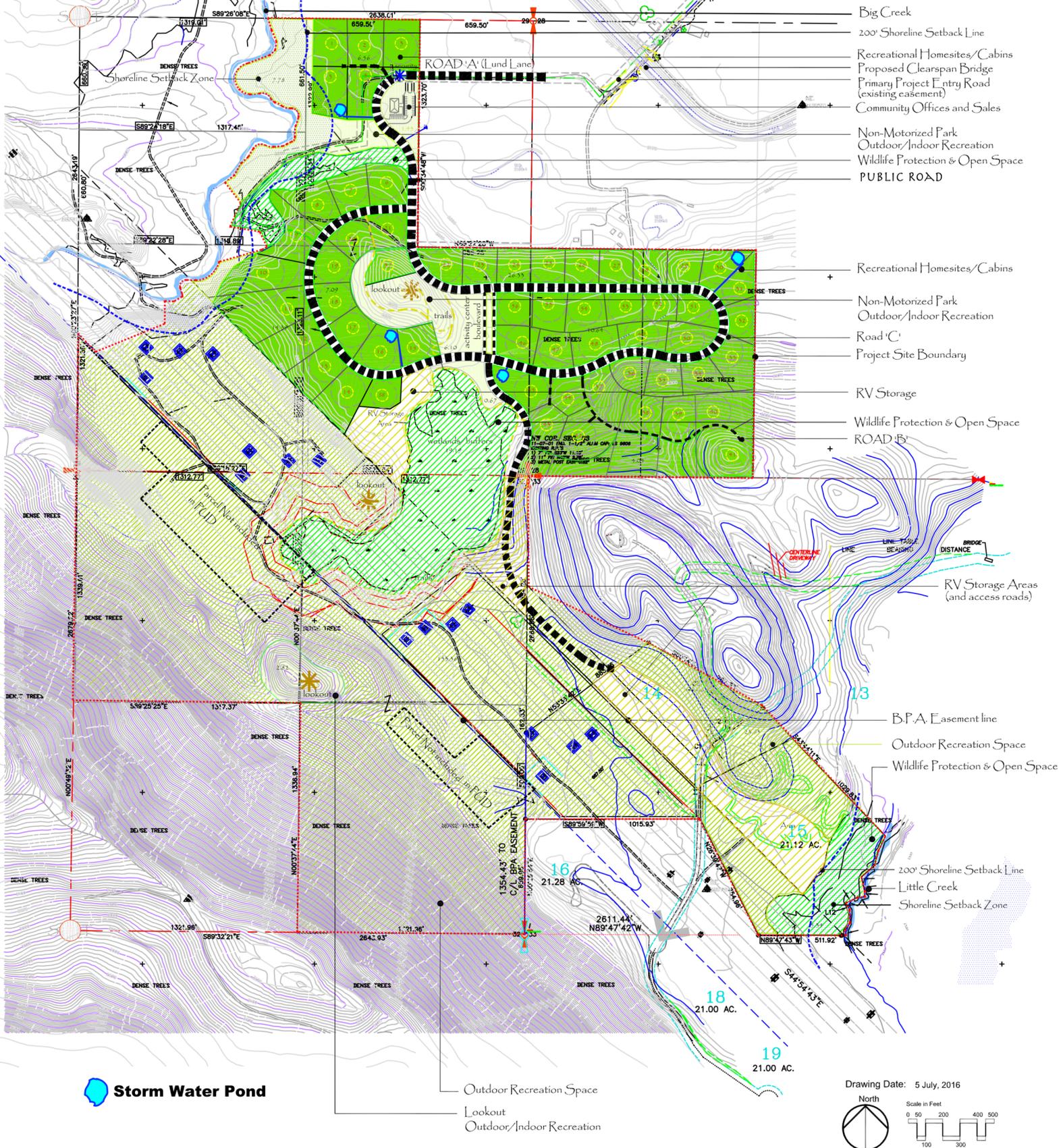
Exhibit 11

Conceptual Drainage Map Large For Big Creek Trails PUD

**The Big Creek Trails PUD Conceptual Drainage Map at a scale
greater than 1" to 100' is submitted as
a supplement to this document
as the size is too large to attach**

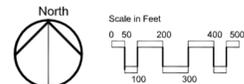
**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 12
Conceptual Drainage Map small For Big Creek Trails PUD**

**The Big Creek Trails PUD Conceptual Drainage Map
is attached hereto in a reduced sized
for review with this document and
Follows This Exhibit Title Sheet**



 Storm Water Pond

Outdoor Recreation Space
 Lookout
 Outdoor/Indoor Recreation

Drawing Date: 5 July, 2016
 North
 Scale in Feet


Illustrative Master Plan

Big Creek

A Planned Unit Development
 Kittitas County, Washington

Conceptual Storm water Plan

KBA Design Group

Kent Berryman, RLA
 3920 NE State Highway 104
 Poulsbo, Washington 98370
 360.620.4656 Email: KentBerryman@comcast.net www.kentberryman.com

LAND USE SUMMARY

Key	Land Use	Acres	% Site
	200' Shoreline Setback Line- no construction	12.6	4.4
	Recreational Homesites/Cabins	84.3	29.6
	Community Offices and Sales	1.5	0.1
	RV Storage	21.0	7.4
	60' R.O.W.	14.2	5.0
	Wildlife Protection & Open Space	28.5	10.0
	Non-Motorized Park- Outdoor/Indoor Recreation	11.4	4.0
	Outdoor Recreation Space	111.5	39.5
	Total	285.0	100.0

**Big Creek Trails Planned Unit Development
Final Development Plan
Exhibit 13
Big Creek Water Bank Trust Agreement
Follows This Exhibit Title Sheet**



Trust Water Right Agreement

This Trust Water Right Agreement is made and entered into as of the 25 day of June 2015, by and between the Washington State Department of Ecology, Yakima River Basin Trust Water Rights Program ("Ecology") and Big Creek Water Right, LLC ("BCWR"), a Washington Limited Liability Company.

A. WHEREAS, Ecology is the trustee of the Yakima River Basin Trust Water Rights Program as authorized under Chapter 90.38 RCW ("Trust"); and

B. WHEREAS, BCWR is the owner of certain water rights in Big Creek, a tributary of the Yakima River as more particularly described and confirmed under Claim No. 00756 in the Conditional Final Order issued in Subbasin 2, dated February 13, 1997 in *Ecology v. Acquavella*, Yakima County Superior Court No. 77-2-01484-5 ("*Acquavella*");

C. WHEREAS, the place of use and purpose of use for a portion of Court Claim No. 00756 was changed from irrigation to instream flow for mitigation under Change Application No. KITT-13-07 (CS4-00756sb2@3) ("Water Right"). The change was approved by the Kittitas County Water Conservancy Board and modified by Ecology in its certain letter dated July 2, 2014. The Water Right is described in Exhibit A.

D. WHEREAS, BCWR has requested to have Ecology hold the Water Right in Trust for instream flow and mitigation so that it can be used to offset or mitigate for future water uses.

E. WHEREAS, subject to the terms of this Agreement, Ecology confirms that it is willing, able, and authorized to hold the Water Right in Trust for the intended purposes as provided for herein.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and undertakings as hereinafter set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged, Ecology and BCWR hereby agree as follows:

1. **Purpose.** The purpose of this Agreement is to allow BCWR to provide senior water rights as off-setting mitigation for its own projects or for third parties seeking: 1) to mitigate existing groundwater withdrawals, 2) water budget neutral determinations, or 3) permits for new surface and groundwater uses. BCWR agrees to convey the Water Right to Ecology to be placed in Trust. By doing so, the Water Right may be made available as mitigation for uses designated by BCWR. These uses will be mitigated in whole or in part by way of a permanent assignment of a portion of the Water Right as is reasonably required to ensure no impairment to the total water supply available in the Yakima River basin ("TWSA") or other water rights.

2. **Closing.** This Agreement shall be effective upon its mutual execution, and the Trust shall commence once the Quit Claim Deed is executed, recorded, and delivered to Ecology. The quit claim deed shall be in a recordable form substantially in the form of Exhibit B attached hereto. The term of this Agreement shall then be for so long as any portion of the Water Right is available to be assigned to new and/or existing uses.

3 Allocations of Water to Third Parties and/or Water for use by TR

3.1 Allocations of Water to Third Parties. BCWR may propose or enter into a contract with a third party to provide a portion of the Water Right as mitigation on such terms consistent with this Agreement as BCWR may elect. BCWR or such third parties shall make application to Ecology for a water budget neutrality determination or a permit to appropriate surface or ground water by providing all regularly required supporting information and include documentation, as necessary to conform to WAC 173-539A-050 and designation, on a form prescribed by BCWR, of the specific quantity of the Water Right in Trust required to offset the consumptive uses described in the application or request for water budget neutral determination (hereinafter a "New Application"). As part of the New Application, Ecology will assign mitigation to offset the consumptive use associated with the uses described on the New Application.

3.3 Ecology will process the New Application in accordance with applicable law, utilizing such portion of the Water Right, as reasonably needed, together with any other proposed mitigation measures, shall reasonably offset the impacts of such new withdrawals.

3.4 If necessary or appropriate, Ecology will complete a Water Transfer Working Group ("WTWG") project description and will present it to the WTWG. Ecology, in consultation with the U.S. Bureau of Reclamation, will determine if some or all of the Water Right that BCWR or the third party applicant designates would be assigned to the Reclamation-Ecology storage and delivery exchange contract.

3.5 Ecology will investigate the New Application and recommend issuance or denial of a permit or a determination of water budget neutrality based on applicable policy, rules, and law. Ecology's review of a New Application shall also include the following considerations:

3.5.1 In order to develop and confirm performance standards as set forth in any respective report of examination or determination of water budget neutrality, Ecology and any such third party shall provide information to reasonably show or estimate, as the case maybe, that the consumptive uses of the proposed project, when offset by a portion of the Water Right and any other proposed mitigation measures, do not increase the consumptive use of water.

3.5.2 With regard to domestic uses, and so long as withdrawals are metered by users; and the subject project is, or will be made, subject to covenants, conditions and restrictions which impose water use restrictions for both inside and outside purposes which will be recorded against the project; and reasonable water use enforcement provisions are provided; and return flows are provided for through an approved septic or other waste treatment facility reasonably designed to infiltrate treated water in the general area from which it is being withdrawn, BCWR shall propose the gallons per day on a year round basis per equivalent residential unit ("ERU") that is acceptable to Ecology and the Washington State Department of Health.

3.6 If issued, Ecology's permit or determination of water budget neutrality relative to a New Application will specify the conditions and limitations on the use of water to be consistent with the Water Right held by Ecology as mitigation. Conditions relating to measuring and reporting water use and reimbursement of any Ecology costs to administer the Reclamation-Ecology Exchange Contract will also be included in the permit. BCWR will ensure that any fees associated with storage under the exchange contract are paid to Ecology.

3.7 If all or a portion of the Water Right is deemed adequate to fully mitigate a New Application, then the third party, upon receipt of final approval from Kittitas County of its land use applications for development of the real property that is the intended place and purpose of use of the New Application, and exhaustion of all applicable appeal periods thereof, the third party applicant (beneficiary of the Water) shall execute such documentation as necessary to irrevocably and perpetually commit the Water to Trust for purposes of offsetting the New Application.

3.8 In the event Ecology prepares to issue an ROE for a New Application, it will publish the draft ROE on its internet site. If the form and substance is acceptable to BCWR and to the third party applicant, if any, BCWR shall cause an escrow to be opened for such transaction at the Escrow Agent upon the mutual execution and deposit of the fully executed agreement between BCWR and the third party applicant, if any, or the deposit of any other documents required for closing. The escrow shall close within thirty (30) days of the occurrence of the last of the following events:

- mutual execution of all agreements and documents contemplated by or collateral to this Agreement; BCWR's deposit of an executed document in a form acceptable to Ecology permanently allocating a portion of the then available and unallocated Water Right to the proposed purpose as set forth in the New Application;
- the giving of all requisite public notices for actions contemplated by such transaction;
- deposit of the ROE and the new water right permit, each in form and content acceptable to BCWR and such third party, if any;
- the expiration of all notice, comment and appeal periods related to the full implementation of this Agreement, the ROE, and the new water right permit;
- the deposit of all monies, documents and things relevant and necessary to conclude the transaction between BCWR and any third party.

3.9 All escrow costs shall be shared equally between BCWR and the third party. BCWR, and any third party having the right to do so under an agreement with BCWR, may, at any time prior to closing of escrow and without cause, withdraw the New Application or otherwise prevent any allocation of any portion of the Water Right to such transactions.

4. Management of Trust Water. Ecology shall hold and manage the Water Right pursuant to chapter 90.42 RCW and this Agreement as a part of the TWSA. Ecology:

4.1 Shall take no position and make no assertions that the quantities and beneficial use of the Water is other than as stated in Exhibit 1 and paragraph 3 above, and this representation shall also apply to any Water removed from the Trust;

4.2 Shall, in addition to the protections against relinquishment in RCW 90.03.380, 90.03.615 and 90.14.140, at all times during the Term manage, maintain, preserve and protect for the benefit of BCWR and its successors, designees and assigns all aspects and attributes of the Water Right including, but not limited to, the priority date, the total diversionary right, instantaneous quantity, and annual consumptive quantity from impairment, challenges, claims and relinquishment

4.3 Shall process all New Applications where portions of the Water Right are proposed to be assigned mitigation and shall take all steps necessary to comply with any restrictions imposed by other agreements to which Ecology may be subject, including, but not limited to memorandums of agreement and groundwater moratoriums or subsequently enacted water right processing rules; and

4.4 Shall not assess or charge BCWR any costs or fees for maintaining the Water in the Trust; provided that Ecology may charge third parties its regular costs and fees for water right applications, transfers and investigations or costs attributable to assignment of a portion of the Water to Ecology's USBR contract for storage and exchange contract.

5. Representations and Warranties. In keeping with the purpose of this Agreement and as a material part of the consideration for this Agreement upon which its execution is dependent:

5.1 BCWR makes the following undertakings, representations and warranties to Ecology:

5.1.1 BCWR is a Washington limited liability company duly formed and authorized and fully able to enter into and perform all its obligations in this Agreement according to its terms.

5.1.2 Each individual executing this Agreement on behalf of BCWR is duly authorized to execute and deliver this Agreement.

5.1.3 Upon its full execution, this Agreement is binding upon BCWR in accordance with its terms.

5.1.4 BCWR shall use its best efforts to fully and timely perform its obligations and actions contemplated by this Agreement.

5.2 Ecology makes the following undertakings, representations and warranties to TR:

5.2.1 Ecology is a division of the State of Washington duly formed and authorized and fully able to enter into and perform all its obligations in this Agreement according to its terms.

5.2.2 Each individual executing this Agreement on behalf of Ecology is duly authorized to execute and deliver this Agreement.

5.2.3 Upon its full execution, this Agreement is binding upon Ecology in accordance with its terms.

5.2.4 Ecology shall use its best efforts to fully and timely perform its obligations and actions contemplated by this Agreement.

6. Termination and Default. BCWR shall have the right at any time to withdraw an Application, terminate this Agreement and remove from the Trust any portion of the Water that has not been permanently assigned as mitigation for other water uses as set forth in this Agreement. In the event BCWR terminates this Agreement, then Ecology shall, without delay, reconvey the unallocated portion of the Water Right back to BCWR using a quit claim deed. If either party defaults in its obligations under this Agreement; or if this Agreement, or a material portion thereof, be declared illegal or unenforceable; or, if either party, through no fault or action by such party, should be incapable or prevented from performing any material obligations or actions, the non-defaulting party in the event of a default or either party in any other event shall have the right to the following:

6.1 As the computation of damages may be difficult, continue this Agreement and bring an action to specifically perform this Agreement.

6.2 Declare the Agreement null and void, whereupon the parties shall cooperate to end the trust water right relationship in an orderly manner as follows:

6.2.1 BCWR shall identify all in-process designation agreements and inform Ecology of their status. BCWR shall not make representations regarding in-process designations and shall in each instance work with Ecology to determine whether an assignment should be completed. If Ecology agrees, the permit process will be completed promptly in accordance with applicable policies, rules, and law.

6.2.2 Ecology shall promptly convey to BCWR or its designee the portion of the trust water right not yet designated and assigned as mitigation for individual ground water and surface water permits. Ecology may use any unassigned portion of the Water Right set aside to address uncertainty associated with the then existing mitigated permits. and provide instream flow benefits. OK WITH BCWR

6.2.3 Each party shall be responsible for their own costs associated with ending the trust water right relationship in an orderly manner.

6.3 Pursue any other remedy now or hereafter available.

6.4 In no event shall the termination of this Agreement alter or affect any Water previously allocated for mitigation or permits granted relative to New Applications.

6.5

7. This Agreement may be assigned by BCWR upon the giving of written notice to Ecology. This Agreement is binding upon and inures to the benefit of the parties to the Agreement as

well as upon and to the benefit of their respective heirs, personal representatives, assignees and other successors in interest.

8. Any notice or communication required by this Agreement between BCWR and Ecology shall be given to the addresses set forth below:

To Ecology:

Water Resources Section Manager
Washington Department of Ecology
Central Regional Office
15 West Yakima Avenue, Suite 200
Yakima, Washington 98902-3452

To BCWR:

Big Creek Water Right LLC
P.O. Box 808
Cle Elum, Washington 98922

9. BCWR, from time to time, may request by letter that Ecology add additional water rights, that BCWR owns or controls, to this Trust Agreement. Upon Ecology's agreement with said request, said water shall be added to this trust Agreement through an addendum.

10. No provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision of this Agreement be unenforceable for any reason outside the control of the parties and subject to the provisions of Paragraph 8.2, the party finding itself unable to enforce the provision may, at its sole discretion, declare this entire Agreement to be null and void.

11. If either party fails to exercise its rights under this Agreement, it will not be precluded from subsequent exercising of its rights under this Agreement. A failure to exercise rights will not constitute a waiver of any other rights under this Agreement, unless stated in a letter signed by an authorized representative of the party and attached to the original Agreement.

12. Amendments to this Agreement must be in writing and signed by an authorized representative of each of the parties.

13. Each party shall protect, defend, indemnify, and hold the other harmless from and against their respective acts and omissions and for all third party claims arising out of or related to this Agreement.

14. This Agreement will be governed and enforced under the laws of the State of Washington. Venue for any action arising under or related to this Agreement shall be in Kittitas County, Washington.

15. If either party hereto is required to retain an attorney to enforce any provision of this Agreement, whether or not a legal proceeding is commenced, the substantially prevailing party shall be entitled to reasonable attorneys' fees regardless of whether at trial, on appeal, in any bankruptcy proceeding, arbitration matter or without resort to suit.

This Agreement is executed as of the date first above written.

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY:**

By: *Sage Park*
Print Name: Sage Park
Its: WR Section Manager

BIG CREEK WATER RIGHT, LLC:

[Signature]
By: _____
Print Name: PATRICK DENBERN
Its: manager

HH:Document1

EXHIBIT A

The Water Right

TYPE OF USE, PERIOD OF USE		MAXIMUM ACRE- FEET/ YEAR			MAXIMUM CUBIC FEET/ SECOND	
Instream flow for mitigation		Qa			Qi	
May 1 – September 1		60 (21.02 ac-ft/yr consumptive and 38.98 ac-ft/yr non-consumptive).			0.34	
March 1 to April 30		*			0.156	
May 1 to September 1		*			0.02	
September 2 to Nov. 15		*			0.156	
November 16 to Feb. 29		*			0.222	
		* Cumulative total for instream flow March 1 through February 29 is 0.9 ac-ft/yr.				
SOURCE				TRIBUTARY OF (IF SURFACE WATER)		
Big Creek				Yakima River		
¼	¼	SECTION	TOWNSHIP	RANGE	WRIA	COUNTY.
SW	SE	29	20 N.	14 E.W.M.	39	Kittitas
AT A POINT LOCATED: PARCEL NO. 1100 feet North and 750 feet East from the South quarter corner of Section 29, being within SW¼ SE¼ of Section 29, T. 20 N., R. 14 E.W.M.						
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD						
Primary Reach: The portion of Big Creek below the original point of diversion to the confluence with the Yakima River.						
Secondary Reach: Commencing at the confluence of Big Creek and the Yakima River, within the Yakima River downstream to the confluence with the Columbia River.						

EXHIBIT B

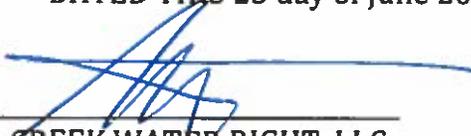
QUIT CLAIM DEED - WATER RIGHT

THE GRANTOR, Patrick Deneen, for valuable consideration, convey and quit claim to the WASHINGTON STATE DEPARTMENT OF ECOLOGY, STATE TRUST WATER RIGHTS PROGRAM ("Grantee") all of Grantor's right, title and interest in and to *a portion* of the water right under Court Claim No. 00756 in *State of Washington v. Acquavella, et al.*, Yakima County Superior Court Cause No. 77-2-01484-5, described as follows:

0.34 cubic feet per second, 21.02 acre-feet per year (consumptive use) instream flow water right per Change Authorization No. KITT-13-07, CS4-00756sb2@3 which was historically appurtenant to real property situated in the Easton Subbasin, County of Kittitas, State of Washington.

SUBJECT TO the terms and conditions of that certain Trust Water Right Agreement between Grantors and Grantee, attached hereto.

DATED THIS 25 day of June 2015.



BIG CREEK WATER RIGHT, LLC
Patrick Deneen

STATE OF WASHINGTON)
County of Kittitas) ss.
)

I certify that I know or have satisfactory evidence that PATRICK DENEEN who appears before me, and said individual acknowledged he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 25 day of June 2015.



Leroy A. Gaidos

Print Name: Leroy A. Gaidos
Notary Public in and for the State of
Washington
My commission expires: 9.29.15

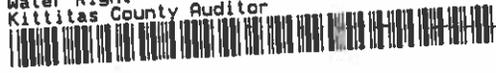
Return to:
Big Creek Water Right, LLC
304 West First Street
Cle Elum, WA 98922



REVIEWED BY
KITTITAS COUNTY TREASURER
DEPUTY B. Blumensetter
DATE April 10 2015

04/10/2015 03:00:33 PM
\$73.00
Water Right AMERITITLE
Kittitas County Auditor

201504100055
Page 1 of 2



QUIT CLAIM DEED - WATER RIGHT

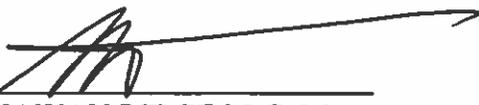
AMT \$73⁵

THE GRANTOR, TEANAWAY RIDGE LLC, by it's manager, Patrick Deneen ("Grantor"), for valuable consideration, convey and quit claim to the BIG CREEK WATER RIGHT LLC ("Grantee") all of Grantor's right, title and interest in and to a *portion* of the water right under Court Claim No. 00756 in *State of Washington v. Acquavella, et al.*, Yakima County Superior Court Cause No. 77-2-01484-5, described as follows:

0.34 cubic feet per second, 21.02 acre-feet per year (consumptive use) instream flow water right per Change Authorization No. KITT-13-07, CS4-00756sb2@3 which was historically appurtenant to real property situated in the Easton Subbasin, County of Kittitas, State of Washington.

SUBJECT TO the terms and conditions of that certain Trust Water Right Agreement between Grantors and Grantee, attached hereto.

DATED THIS 8 day of April, 2015. EXCISE TAX PAID 3/31/15 AFF #2015-452



TEANAWAY RIDGE LLC, Manager
Patrick Deneen

COURTESY RECORDING ONLY...
NO LIABILITY FOR VALIDITY
AND / OR ACCURACY ASSUMED BY
AMERITITLE

STATE OF WASHINGTON)

County of Kittitas)

) ss.
)

I certify that I know or have satisfactory evidence that PATRICK DENEEN, as Manager of Teanaway Ridge, LLC, who appears before me, and said individual acknowledged he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 8th day of April, 2015.



Lerae A. Gaidos
Print Name: Lerae A. Gaidos
Notary Public in and for the State of Washington

My commission expires: 9/29/15

