

**COMMISSIONERS' MINUTES
KITITAS COUNTY, WASHINGTON
APPEAL HEARING**

TUESDAY

4:00 P.M.

APRIL 27, 2004

Board members present: Chairman Perry D. Huston, Vice-Chairman Bruce Coe and Commissioner Max A. Golladay.

Others: Julie Kjorsvik, Clerk of the Board; Jan Sharar, Staff Planner; Allison Kimball, CDS Operations Supervisor; Jeff Slothower, Attorney for Appellant; and Paul Bennett, Public Works Director, and approximately 10 members of the public.

APPEAL HEARING

WINIFRED ACRES SHORT PLAT APPEAL

CDS

At approximately 10:00 a.m. **VICE-CHAIRMAN COE** opened a hearing to consider an appeal of an administrative decision on the conditions for the Winifred Acres Short Plat (SP-03-45). The subject property is located at east of Willow Street and west of Matthews Road, within the Ellensburg Urban Growth Area, in the southeast quarter of Section 1, of T17N., R18E., W.M. Tax Parcel Number 17-18-01086-0004.

There were no objections to Vice-Chairman Coe presiding over the appeal hearing. **VICE-CHAIRMAN COE** reviewed written information that had been submitted into the record, as well as the hearing process. He announced he had been the current liaison of the Community Development Services, since the departure of the Director, and noted he had not made any administrative decisions, or given instructions relating to the appeal. There were no objections made.

COMMISSIONER HUSTON and **COMMISSIONER GOLLADAY** had no disclosures to make. **JEFF SLOTHOWER, ATTORNEY REPRESENTING THE YOST'S (APPELLANTS)**, explained Mr. Yost was ill and unable to attend the hearing, but was authorized to represent his clients.

JAN SHARAR, STAFF PLANNER and **PAUL BENNETT, PUBLIC WORKS DIRECTOR** were sworn-in to testify.

MS. SHARAR read from her Staff Report, which included general information, site information, referral parties, and appeal issues. She indicated the staff planner (Chad Bala) assigned to the Short Plat's last day of employment with Kittitas County was November 13, 2003, and the file was not reassigned to her until early December. Due to the departure of the original planner prior to issuing a conditional preliminary approval within the 28-day time frame from receipt of the application and the time required to re-assign the

project, CDS was out of compliance on November 14, 2004 (K.C.C. 15A.03.040). Unfortunately, a written notice was not written by Kittitas County to the applicant explaining the delay, and apologized for their oversight. **PAUL BENNETT, PUBLIC WORKS DIRECTOR** testified relating to the development and transportation review of the application. He said in 2002 Public Works began experimenting with moving irrigation to the edge of the County right-of-way, and the goal was to recover shoulder structure in an attempt to limit traffic accidents and lessen the severity of those accidents by decreasing the slope and depth of the ditches, but still allowing irrigation water in the county right-of-way. He explained the Public Works department has proposed to the Board of County Commissioners during a study session on November 10, 2003, that utilizing the easements for irrigation water, which is viewed as a utility, would continue the flow of irrigation waters to adjacent agricultural lands, bypassing non-productive lands and would remove the irrigation water from road ditches, thereby decreasing erosion and prolonging the life of the road. The Board of Commissioners supported that direction, as reflected in the study session minutes dated November 10, 2003, and adopted on December 16, 2003. He recommended the Board reaffirm the language and subsequent guidance that was provided to the Public Works department in the study session held November 10, 2003.

JEFF SLOTHOWER and CHUCK CRUSE were sworn in to testify. **MR. SLOTHOWER** cross-examined Mr. Bennett. He noted there was no Ordinance in effect, reflecting the direction of the Board of County Commissioners. He objected to Items #2, 3, 4 and 5, submitted by the Public Works department, stating they did not relate to the Winifred Acres short plat application. **MR. SLOTHOWER** called Chuck Cruse as a witness. **CHUCK CRUSE** announced that he was the one that conducted the survey of the application. He said the Community Development Services department had not notified him of the delay in processing the short plat application. He explained concerns the City of Ellensburg would have of changing any slopes and impacts to the distribution lines.

Interested parties requesting to testify were sworn in. **JACK CARPENTER, Manager of the Kittitas Reclamation District** discussed the Right to Farm Ordinance adopted by the County. He supported the County working with the irrigation companies. **URBAN EBERHART, Chairman of the Kittitas Reclamation District Board** discussed the importance of utilizing the roadway ditches.

MS. SHARAR and MR. BENNETT did not present final arguments. **MR. SLOTHOWER** said government should not "experiment" with private property. He commented on the irrigation and tail water, stating there was no Ordinance authorizing the Public Works department to condition moving irrigation ditches, only direction during a study

session. He felt it would be impossible for his clients to comply with the conditions set forth by the Public Works department, and encouraged the Board to grant the appeal and remove the condition.

COMMISSIONER HUSTON acknowledged the error by Kittitas County, relating to the time frame of processing the application. He felt condition #2 was reasonable, and could be applied on the plats. He admitted the policy decision and direction given by the Board of Commissioners to the Public Works department, but felt there were times that it would not be possible to apply them. He said it was a legitimate policy decision, and they still have the same goal, which would provide public benefit. **COMMISSIONER GOLLADAY** extended his apologies to the applicants for the extended length of time, and spoke in favor of removing the condition. **VICE-CHAIRMAN COE** explained he still continued to support the Public Works department, and their decision to apply the direction of the Board, it may have been the wrong application to do so.

COMMISSIONER GOLLADAY moved to grant the appeal, removing the condition placed upon the Winifred Acres Short Plat, stating the irrigation ditch shall have a 2:1 slope and be sized to carry historical irrigation flows; the existing water channel shall be relocated to a utility easement on the short plat, maintaining irrigation tail water transmission. **COMMISSIONER HUSTON** seconded. Motion carried 3-0.

Meeting adjourned at 5:35 p.m.

CLERK OF THE BOARD

**KITTITAS COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON**

Julie A. Kjorsvik

Bruce Coe, Vice-Chairman