

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

**TUESDAY**

**4:00 P.M.**

**JULY 18, 2006**

Board members present: Chairman David Bowen and Commissioner Perry Huston. Absent: Vice-Chairman Alan Crankovich.

Others: Julie Kjorsvik, Clerk of the Board; Joanna Valencia, CDS Staff Planner; Darryl Piercy, Director of CDS; Allison Kimball, Assistant Director of CDS; Randy Carbary, Public Work Staff; Holly Duncan, Environmental Health and approximately 50 members of the public.

**PUBLIC HEARING**

**TIMBER MOUNTAIN PLAT ALTERATION**

**CDS**

At approximately 4:00 p.m. **CHAIRMAN BOWEN** opened a continued public hearing from June 6, 2006, to consider the Timber Mountain Plat Alteration Project (P-06-05), submitted by William L. Thrush, authorized agent for Timber Mountain Owner's Association. The application proposes an amendment to update the face of the plat for the Timber Mountain Subdivision revising the plat dedication language in order to change the road use declaration from "dedicates to the use of the public" to "private roads". The Timber Mountain Plat is located in portions of the south ½ and the east ½ of Section 08, T. 19N., R 15E., W.M. in Kittitas County. Timber Mountain is located south of Westside Road and West of South Cle Elum Ridge Road, Cle Elum, Washington.

**JOANNA VALENCIA, CDS STAFF PLANNER** gave a staff report and distributed copies of maps and easements into the record, relating to the establishment of the easement which was ultimately named Tall Pines Drive. She said an application was made proposing an amendment to the face of the Timber Mountain Plat (P0-05-21), in order to change the road use declaration from "dedicates to the use of the public" to "private roads". Community Development Services said the proposed amendment was to an existing plat which was approved and created in 1982 and therefore was processed pursuant to RCW 58.17.215, and was exempt from SEPA.

**COMMISSIONER HUSTON** asked Ms. Valencia to verify the points being petitioned for a private road and which road already existed and was made part of the approval process. **CHAIRMAN BOWEN** said the original road was not quite developed, but when the plat was put in they upgraded the road.

**RANDY CARBARY, PUBLIC WORKS DEPARTMENT STAFF** explained he had conferred with applicant regarding the easement information. He said the S. Cle Elum Ridge Road was originally used for logging up until 1970's and in 1975, a separate easement was established. In the 1980's the Timber Mountain Plat was established and easements were established on the road as well. The easement is exclusive for Tall Pines Trail.

**THOSE PRESENT & TESTIFYING: DON SCOGGINS** explained that he has seen a formal easement for egress and had no objections to the Timber Mountains proposal. **THERE BEING NO ADDITIONAL TESTIMONY, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.**

**DARRYL PIERCY, DIRECTOR OF COMMUNITY DEVELOPMENT SERVICES** said they could limit the gate installation to the south of the access to the easement; condition the transformation to plat for no gated access; wide discretion to amend the plat to guarantee access to those owners to the north of the plat. **CHAIRMAN BOWEN** wanted to ensure there were no limits to public lands. **MS. VALENCIA** said there is no other access or easements through the lots Timber Mountain Loop. **MR. CARBERY** verified internal transportation system.

The applicant will put a gate south to where the Tall Pines Drive intersection is, noting there is one there currently, but it's not used and does not see it being used in the future either.

**COMMISSIONER HUSTON** said if the Board conditioned a gate he had no objection to putting one to the south. The applicant discussed with other people in the area and they have expressed a willingness to participate in the maintenance, noting it would be voluntary.

**COMMISSIONER HUSTON** moved to approve the reclassification request for Timber Mountain Loop and to direct staff to prepare enabling documents reflecting the Boards decision. **COMMISSIONER CRANKOVICH** seconded. Motion carried 3-0.

**COMMISSIONER CRANKOVICH** moved to continue the public hearing to August 1, 2006 at 2:00 p.m. in the Commissioners Auditorium, Room 109, County Courthouse. **COMMISSIONER HUSTON** seconded. Motion carried 3-0.

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**APPEAL HEARING**

**STUTH APPEAL - BRZOWSKI**

**CDS**

At approximately 4:10 p.m. **CHAIRMAN BOWEN** opened a continued appeal hearing from June 6, 2006 to consider an appeal from Judith Brzowski of the Conditional Preliminary Approval of the Stuth Short Plat (SP-05-93), a short subdivision of 9.10 acres into 3 lots consisting of 3.03 acres each, located South of Westside Road and a portion of the SW ½ of Section 05, T19N., R15E., W.M. The parent tax parcel number is 19-15-05056-0002.

**JOANNA VALENCIA, CDS STAFF PLANNER** presented a staff report on the appeal. She noted a Notice of Withdrawal from Attorney Rhys A. Sterling.

**APPELLANT RHYS STERLING, ATTORNEY REPRESENTING THE APPLICANTS (STUTH'S)** indicated they gave notice to opposing parties and the County. He said the Stuth's decided to withdrawal due to work achieved in working with staff and asked the Board to grant Notice of Motion to Withdrawal.

**COMMISSIONER HUSTON** moved to accept the withdrawal of the appeal from Rhys Sterling. **COMMISSIONER CRANKOVICH** seconded. Motion carried 3-0.

**JIM DAVIS, ATTORNEY REPRESENTING JUDITH BRZOZWSKI** said he had no issue with the other parties withdrawing from their appeal, but felt there are other issues remaining to be discussed.

At 4:47 p.m. **JOANNA VALENCIA, STAFF PLANNER** presented a staff report on Ms. Judith Brzozowski's appeal. She noted a letter from Holly Duncan regarding her wellhead.

**MR. STERLING** asked for a motion to dismiss based on standing.

**MR. PIERCY** said upon receipt of the request based on standing, it was forwarded and discussed with Prosecutor's office. They felt the request came too late in the process, that the Board already accepted the appeal, hearings had been held, and therefore the request was no longer valid issue.

**MR. STERLING** explained it was within the jurisdictional authority of the Board to entertain the appeal.

**MR. DAVIS** reviewed an Appeal Memorandum by Judith Brzozowski and submitted it in to the record, relating to the issue of standing and the basis of Ms. Brzozowski's appeal.

**COMMISSIONER HUSTON** thought the request for motion to dismiss based on standing was timely in nature, on where they are in the process, noting the hearing had not been closed record or any point in process would it have created a fatal error. He felt the motion was appropriate for the Board to consider, and since the issue is at preliminary approval stage it has not created a decision which would be subject to appeal.

**COMMISSIONER HUSTON** moved to deny the request to dismiss the appeal on the basis of standing. **COMMISSIONER CRANKOVICH** seconded. Motion carried 3-0.

**COMMISSIONER HUSTON** asked if the roadway in question that will be 19 feet from the well in question would violate any RCW, WAC or County Code.

**HOLLY DUNCAN WAS SWORN IN AS A WITNESS. HOLLY DUNCAN, ENVIRONMENTAL HEALTH DEPARTMENT** said there shall be no source of contamination within a 100 foot radius, but it does not specifically address a private driveway which are allowed within the 100 foot radius, and

for that reason, they have dealt with those by mitigating measures including sloping away from the wellhead. She wrote a memo that or access road - prior to preliminary approval? **MS. VALENCIA** said Ms. Duncan's information was received after conditional preliminary approval was given.

**MR. STERLING** presented Exhibits #1 (West Side Heights No. 5, No. 6, No. 7 and No. 8; #2 (email from Tom Justus, Dept. of Health) and #3 (Water Well Report from Bach Drilling Company) into the record and cross examined Joanna Valencia, CDS Staff Planner. **MR. STERLING** cross-examined **HOLLY DUNCAN** regarding Exhibits #2 and #3. **MR. DAVIS** cross-examined Ms. Valencia regarding easements overlapping or encroaching within 100 foot radius within a wellhead. He also cross-examined **HOLLY DUNCAN**.

**MR. DAVIS** presented the appellants testimony. He indicated his client had previously submitted written concerns into the record, claiming the well existed before the application was made, and without his client submitting the appeal, there would have been no thought given to a roadway near her well. He requested going back to the beginning of the process and start over so that all the concerns are addressed before there is a conditional preliminary approval document issued. He requested the Board to rescind the conditional preliminary approval and sent it back to staff for further review with instructions that her issue be considered.

**MS. BRZOWSKI** was sworn into testify. **MR. STERLING** entered into the record Exhibit #4 (Water Well Report) and cross examined Ms. Judith Brzowski relating to water quality. **MR. STERLING** called Chad Allen as a witness. Mr. Allen was sworn in to testify. Mr. Sterling entered Exhibit 5 (Encompass Engineering & Surveying - Assessment of Improvements to Steptoe Drive in Vicinity of Lot F3 Well) into the record. **MR. ALLEN** provided testimony relating to Exhibit 5. **MR. DAVIS** cross-examined Mr. Allen relating to the conditions that applied to the situation on the March 10, 2006 notice granting Conditional Preliminary Approval. **MR. STERLING** presented rebuttal information language in preliminary approval allows to address concerns.

**INTERESTED PARTIES - STEVE FORD G-3 LOT OWNER ON STEPTOE DRIVE** was sworn in by the Chairman. He clarified for the record that F4 & G4 had previously had a lot line adjustment done.

**FINAL ARGUMENTS: JOANNA VALENCIA, MR. DAVIS and MR. STERLING** gave closing arguments.

**COMMISSIONER HUSTON** instructed staff to research what is the Board's latitude to interpret the language contained in the conditions of a preliminary approval, and to write a position paper on it by close of business July 26<sup>th</sup>. He did not know if staff would find anything, but wanted them to check. He invited parties to weigh in on that information and leave the record closed, but open to staff product and from Attorney's if they are interested.

**COMMISSIONER HUSTON** moved to continue the hearing to July 31, 2006 at 2:30 p.m. in the Commissioners Auditorium, Room 109, County Courthouse, Ellensburg, Washington. **COMMISSIONER CRANKOVICH** seconded. Motion carried 3-0.

The Board recessed for 10 minutes at 6:35 p.m.

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**PUBLIC HEARING MORATORIUM—PERFORMANCE BASED CLUSTER PLATTING CDS**

At approximately 6:45 p.m. **CHAIRMAN BOWEN** opened a public hearing to consider a Moratorium placed on all new applications intending the use and implementation of Section 16.09, Performance Based Cluster Platting, of the Kittitas County Code adopted under Resolution No. 2006-91.

**DARRYL PIERCY, DIRECTOR OF COMMUNITY DEVELOPMENT SERVICES** reviewed a Staff Report dated July 18, 2006. He explained that on June 20, 2006, the Board of County Commissioners approved Resolution No. 2006-91, imposing a moratorium on new applications under Section 16.09 of the Kittitas County Code. He indicated concerns that had been expressed by the Board including issues relating to Open Space and its sufficient size, location and benefit to the public; process of the Public Benefit Rating System and the need to be re-examined. He felt there was a place for cluster performance based in the County Code and between the Board and Planning Commission etc. they could work on it.

**COMMISSIONER CRANKOVICH** explained he thought the public benefit rating system was not to maximize the most for developers nor to be too restrictive, but to provide something for both avenues for both the development community and others to provide amenities such as trails, open space etc. **COMMISSIONER HUSTON** reminded everyone that there was another process to come, and if there were any amendments to be considered, it would need to go through the Planning Commission first, and then they would forward their recommendations on to the Board of County Commissioners. He said the current hearing was almost "retroactive" to consider what's already been done putting the moratorium in place, and now is the time to consider whether amendments are necessary and leave moratorium in place or not?

**THOSE PRESENT & TESTIFYING: BRUCE COE** testified that previous Boards did not rule by moratorium. He spoke against the moratorium and questioned what had changed since last year when there were no concerns brought up. He reviewed the purpose of performance based plats and the County must offer incentives to developers. He did not want a 5 acre checker board in Kittitas County. He felt the County will not see the same current level of applications in the future and noted there will be spikes throughout time. He gave comments on the proposed language submitted from staff and asked whose determination it would be where the clusters go (staff, Board of County Commissioners, etc.). He felt the County would not attract anyone with the current language, and the Board needed to be visionary for the future. **IAN ELLIOT** spoke regarding the large lots

in Forest & Range and rural areas. He said he currently has one application in front of the County, and there needs to be a reason to do this, and felt there is no current problem with the large lot divisions. He commented on the issue of the remaining land and said putting it into perpetuity brings up issues of ownership and who will be the succeeding owner; whose responsibility would it be of taking care of the weed control, taxes and insurance. He felt 10 years is adequate and 25 years is a little excessive. **PAULA**

**THOMPSON REPRESENTING KITTITAS CONSERVATION COALITION** spoke in support of the moratorium and thought it should continue in effect until revisions to the Code has been reviewed and adopted by the Board. She reviewed and submitted proposed language into the record and said they would be participating in future hearings and may suggest other revisions as time goes on. **MARK KIRKPATRICK of**

**ENCOMPASS ENGINEERING** urged the Board to lift the moratorium. He explained he had been working with landowners who were interested in cluster performance based platting, rather than breaking up their property into 3+ acre parcels. He felt the current code was practical, legal and a benefit to the public. He read written comments into the record from Anne Watanabe & Nathan Wise. They felt the new language did not provide incentives for property owners and felt the cluster performance based platting reduces sprawl and provides a public benefit. They requested lifting the moratorium.

**SHAUN NORTHRUP** asked why the moratorium was in effect. He reviewed the applications that were vested, which allows a donation of land for snow-parks for public use, which is a benefit to everyone. He felt the language should be re-examined and said if incentives are not available, others will begin dividing their property into smaller pieces. **MIKE CAULKINS** said he works in real estate in 6 different counties and he was shocked at what the Board did. He felt the current Code was a fantastic tool for the public and was a common sense approach and couldn't figure out why there was a moratorium in effect. He felt with the current revision, he would not participate in it as a developer. **ROGER OLSON** felt the Board needed to start over and determine what the County needs are in order to provide housing and then determine policy. **DAVID GLEASON**

supported the performance based cluster plating, and felt it would allow public benefits such as equestrian use, fishing etc. He thought the Board should give the Code a chance to play itself out. He explained a developer must give up a lot in order to score 100 points and said it was definitely not easier. He said he was not against everything proposed by the Conservancy group, but he felt they were going a bit too far, and thought the Board felt pressure to enact the moratorium. **LARRY SHEFERAL** said he was not against cluster development, but it should not be done on small lots. He felt the intent was for larger pieces of land. **WAYNE NELSEN** spoke in opposition of the moratorium and urged the Board to lift it. He felt the performance based cluster platting was an excellent tool.

**PAT DENEEN** said he had been working on the Code for a long time and

as a developer, he specifically held off on splitting land in order to have such a tool. He spoke in favor of preservation of open space. He said if performance based cluster platting is not allowed, three and five acre parcels are going to be placed all over the County. He requested that language be crafted outside the Planning Commission process prior to it going to them. He suggested putting together a committee to review and involve everyone. **FRANK RAGLAND** felt the cluster subdivision gave him the opportunity to farm the farmable ground. **CHARLES PETERSON** encouraged the Board to lift the moratorium. **CHAD BALA OF TERRA DESIGN WORKS** said he worked on the Code and felt it was a great tool. He expressed opposition of the moratorium and recommended lifting it. **JOHN JENSON** felt most of the testimony given was from developers. He was a member of the Kittitas County Conservation Committee, and the meetings they held were with residents concerned with water issues, wildlife habitat, etc. He urged the Board to keep the moratorium in place until it's been reviewed further. **CLINT PERRY OF TERRA DESIGN WORKS** said he had put a lot of time working on the cluster plat language and all of a sudden it was not taking the direction the Board had intended it to take and questioned what it was they wanted to do. He encouraged the Board to lift the moratorium. **MIKE FISCHER** hoped the County had learned from those developers in King County, who's wiped out a lot of areas. He felt developers needed an option and requested the Board to lift moratorium and give those a chance. **JERRY MARTINS** questioned why the Board would want to eliminate such a good a tool. He said he has heard nothing but opposition into splitting lots into 3 & 5 acres, and therefore the tool should remain. **MIKE TAYBER** disagreed with the moratorium and felt the current Code allowed the County to balance density and gave an opportunity including money for schools etc. and other benefits to the public. **THERE BEING NO ADDITIONAL TESTIMONY, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.**

**CHAIRMAN BOWEN** said he had no desire to eliminate the tool, and agreed there needed to be some adjustment, mostly relating to the points and how they are earned. He explained the system is not for everyone, but did not believe a need to drag on.

**COMMISSIONER CRANKOVICH** felt it was a good tool, and doesn't intend on having it go away. He indicated the approach to address issues right now, has to do with mainly the points and how they are dispersed. He thought larger projects, was what was envisioned with the tool, and there are some minor adjustments that are needed.

**COMMISSIONER HUSTON** said there is no harm in continuing with moratorium since it's already in place, but needed people to evaluate their wants and build a record demonstrating the public benefit as well as the economically viable for well systems in place 14 lots versus 14 families in one cluster (better water).

He addressed the open space issue, claiming he was not interested in a minimum lot size, he felt there is room for everyone to submit a plan. Some of the issues needing to be addressed are ways of identifying open space; a way to express doing it for recreation, mix of densities, lot sizes, etc., what constitutes "open space" and what would define it better; should the County consider what "average density" is and establishing a baseline for minimum/maximum density because it's going to have to deal with it sooner or later.

**DARRYL PIERCY** said the Planning Commission could take a look at it on their August 15<sup>th</sup> special meeting and develop a scope of work for them, noting there is not a re-write needed, only specific to the Boards concerns including issues relating to the point system and open space.

**COMMISSIONER HUSTON** said the Board would set two public hearings on August 1, 2006 for August 16, 2006, for possible amendments to an Ordinance.

**COMMISSIONER HUSTON** moved to continue the moratorium in effect, until August 16, 2006 at 12:00 a.m. midnight, noting if there is no action taken by the Board, the moratorium would expire at that time. **COMMISSIONER CRANKOVICH** seconded. Motion carried 3-0.

**CLERK OF THE BOARD**

**KITTITAS COUNTY COMMISSIONERS  
KITTITAS COUNTY, WASHINGTON**

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**Julie A. Kjorsvik**

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**David Bowen, Chairman**