

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

**PRELIMINARY PLAT APPROVAL
HENSHAW LAKE PERFORMANCE BASED CLUSTER PLAT (P-07-44)**

RESOLUTION

NO. 2010- 20

WHEREAS, according to Kittitas County Code Chapter 16, relating to the Subdivision of Land, adopted pursuant to RCW 58.17, an open record hearing was held by the Kittitas County Hearing Examiner on December 10, 2009 for the purpose of considering a preliminary plat known as the Henshaw Lake Performance Based Cluster Plat and described as follows:

The division of 39.73 acres into 26 lots located in a portion of the SW 1/4 of Section 30, T20N, R16E, WM in Kittitas County; a portion of map number 20-16-30030-0001. Proponent: Wayne Nelsen, authorized agent for Bernie Henshaw, landowner.

WHEREAS, public testimony was heard from those persons present; 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 platting; and,

WHEREAS, the Hearing Examiner recommended approval of said proposed subdivision; and,

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on February 2, 2010 to consider the Hearing Examiner's recommendation on this matter; and,

WHEREAS, the Kittitas County Board of Commissioners make the following FINDINGS OF FACT and CONCLUSIONS AT LAW concerning said proposed preliminary plat:

1. Wayne Nelsen, authorized agent for Bernie Henshaw, landowner, has applied for a 26-lot Performance Based Cluster Plat on approximately 39.73 acres of land that is zoned Agriculture-3. Proposed lots will be served by Class 'A' water system and community onsite septic systems.
2. The subject property is located north of SR-970 and Airport Road, south of Danko Road and east of White Road at 871 Airport Road, Cle Elum, WA 98922 located within a portion of the SW 1/4 of Section 30, T20N, R16E, WM in Kittitas County; a portion of map number 20-16-30030-0001.
3. A long plat application was submitted to Community Development Services on July 3, 2007. The Notice of Application for the preliminary plat application was issued on September 7, 2007. 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. The last day to submit written comments was on September 27, 2007.

4. Community Development Services issued a Mitigated Determination of Nonsignificance (MDNS) on November 17, 2009 in accordance with WAC 197-11-355 (Optional DNS process). No appeals were filed.
5. The Hearing Examiner conducted an open record hearing on December 10, 2009 to consider this matter where testimony was heard. On December 22, 2009 the Hearing Examiner issued a recommendation of preliminary plat approval for the Henshaw Lake Performance Based Cluster Plat (P-07-44).
6. The Board of County Commissioners conducted a closed record meeting on February 2, 2010 for the purpose of considering the preliminary plat known as the Henshaw Lake Performance Based Cluster Plat (P-07-44). A motion was made and seconded that the preliminary plat be approved subject to adding two additional conditions, the motion carried with a vote of 2-1 with Commissioner Crankovich voting against the proposal.
7. The Board of County Commissioners finds that additional conditions are necessary to protect the public's interest.
8. The Board of County Commissioner's find that the Hearing Examiner's condition #9 shall read as follows: Because KCC 16.09 does not discuss lot widths, then in accordance with KCC 17.28.030 the minimum average lot width within the Henshaw Lake Performance Based Cluster Plat shall ~~be two hundred fifty feet~~ comply with Health Department requirements.
9. The Board of County Commissioner's find that the Hearing Examiner's condition #16 shall read as follows: PSE Easement: It appears that some of the lots ~~Lots 1-15 and Lot 26~~ will need to cross the PSE easement with private driveways. If, in fact, this crossing is required, then approval from PSE shall be required prior to final approval

NOW, THEREFORE BE IT RESOLVED: That the Kittitas County Board of Commissioners hereby grants preliminary plat approval to the Henshaw Lake Performance Based Cluster Plat (P-07-44) and adopts the Kittitas County Land Use Hearing Examiner's Recommended Finds of Fact, Conclusions of Law, Decision and Conditions of Approval (See Exhibit A) and the same hereby is, approved with the proposed development configuration (See Exhibit B).

DATED this 2nd day of March, 2010 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON



Mark McClain, Chairman



Paul Jewell, Vice Chairman

OPPOSED

Alan A. Crankovich, Commissioner

ATTES
CLERK OF THE BOARD



Julie A Kjorsvik

APPROVED AS TO FORM:

Greg Zempel WSBA #19125

Exhibit "A"

KITTITAS COUNTY LAND USE HEARING EXAMINER

IN THE MATTER OF)	RECOMMENDED FINDINGS OF
)	FACT, CONCLUSIONS OF
P-07-44)	LAW, DECISION AND
Henshaw Lake PBC Plat)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on December 10, 2009, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. Wayne Nelsen, authorized agent for Bernie Henshaw, landowner, has applied for a 26-lot Performance Based Cluster Plat on approximately 39.73 acres of land that is zoned Agriculture-3. Proposed lots will be served by Class 'A' water system and community onsite septic systems. (Staff report)
2. The applicant is Bernie Henshaw, landowner, PO Box 234, Cle Elum, WA 98922. The authorized agent is Wayne Nelsen, 206 West 1st Street, Cle Elum, WA 98922. (Application materials)
3. The proposed lot sizes range from 0.46 acres to 0.72 acres. The project is proposed to be served a Group 'A' water system and community onsite septic systems. (Staff report)
4. The property is located north of SR-970 and Airport Road, south of Danko Road and east of White Road at 871 Airport Road, Cle Elum, WA 98922 located within a portion of the SW 1/4 of Section 30, T20N, R16E, WM in Kittitas County; a portion of map number 20-16-30030-0001. (Staff report)
5. Site Information:

Total Project Size:	39.73 acres
Number of Lots:	26
Domestic Water:	Group 'A' water system
Sewage Disposal:	Community on-site septic system
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District #7.
Irrigation District:	Not applicable

(Staff report)

6. Site Characteristics: The area is generally flat. (Staff report)
7. Surrounding Properties:
North: Residential zoned AG-3
South: Residential zoned Rural Residential
East: Residential zoned AG-3
West: Residential zoned AG-3
(Staff report)
8. The Comprehensive Plan designation is "Rural." (Staff report)
9. The subject property is zoned Agriculture 3, which allows for one residential unit per 3 acres.
(Staff report)
10. A long plat application was submitted to Community Development Services on July 3, 2007. The Notice of Application for the preliminary plat application was issued on September 7, 2007. 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. The last day to submit written comments was on September 27, 2007. (Staff report)
11. Kittitas County issued a Mitigated Determination of Nonsignificance (MDNS) on November 17, 2009 in accordance with WAC 197-11-355 (Optional DNS process). No appeals were filed.
(Staff report)
12. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by a Group 'A' water system and community onsite septic systems. (Staff report)
13. Staff has conducted an administrative critical area review in accordance with KCC 17A and found that portions of the site within the 100 year floodplain. As conditioned, the proposed development is consistent with the provisions of KCC Title 17A. (Staff report)
14. The Department of Public Works has reviewed this proposal for consistency with KCC Title 12 Roads and Bridges. Several conditions have been applied to the construction of onsite private roads, as outlined in the July 10, 2007 and October 22, 2007 memorandum issued by the Department of Public Works, which will be required prior to issuance of a building permit. As conditioned, the proposal is consistent with the provisions of KCC Title 12. (Staff report)
15. The following agencies provided comments during the comment period: : Kittitas County Department of Public Works, Kittitas County Public Health Department, City of Cle Elum and Washington State Department of Ecology. These comments have been included as conditions of approval to address these agency concerns. (Staff report)
16. Written comments were received from the public submitted by Bernie Henshaw, Craig Johnson and Beth Rogers, Kathleen Cox and Dee Hawk. (Staff report)

17. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval. (Hearing Examiner finding based on the record)
 18. This Application was found to be Technically Complete as required by law. (Staff report))
 19. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
 20. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
 21. The following exhibits were admitted into the record:
 - 21.1 Exhibit 1: December 10, 2009, letter from Roger Olsen to Kittitas County Community Development Services with an attachment of three photographs.
 - 21.2 Exhibit 2: Email dated December 10, 2009, from Melissa Bates to Dan Valoff with attached six photographs.
 - 21.3 Exhibit 3: December 10, 2009, memorandum from Ivana Halvorsen to the Hearing Examiner.
 - 21.4 Exhibit 4: March 19, 2008, letter from Matthew Morton, Community Development Director for the City of Cle Elum, to Kittitas County Community Development Services.
 - 21.5 Exhibit 5: December 10, 2009, letter from Carter Timmerman of the Washington State Department of Transportation Aviation Division to the Hearing Examiner with three attachments identified as Figure 1, Figure 2 and Figure 3.
 - 21.6 Exhibit 6: December 8, 2009, letter from Gwen Clear of Department of Ecology to Dan Valoff.
 - 21.7 Exhibit 7: Letter signed by Craig Johnson and Beth Rogers to Kittitas County Community Development Services.
 - 21.8 Exhibit 8: December 2, 2009, letter from Mark Myers to Mr. Valoff.
 - 21.9 Exhibit 9: Washington State Department of Transportation Aviation Division Airspace Plan.
 - 21.10 Exhibit 10: Aerial map of the subject property, submitted by the applicant showing distances to the airport.
 - 21.11 Exhibit 11: Submitted by the applicant showing distances from the subject property to the airport.
 - 21.12 Exhibit 12: Aerial photograph showing the Cle Elum Municipal Airport and the approximate location of Henshaw Lake property.
 - 21.13 Exhibit 13: Documents submitted by applicant entitled "Height Hazard Airspace Zones."
 - 21.14 Exhibit 14: September 25, 2009, letter from Attorney Jeff Slothower to the Hearing Examiner regarding a different project.
 - 21.15 Exhibit 15: Letter signed by Dave Cline, President of Lannigan Meadows Homeowner Association, to Dan Valoff.
- (Open record public hearing)

22. Public hearing after due legal notice was held on December 10, 2009. Appearing and testifying on behalf of the applicant was Ivana Halvorsen. Ms. Halvorsen testified that she was an agent authorized to appear and speak on behalf of the applicant. She generally described the project and indicated that this would be a private, gated community. She took exception with Condition 8, Condition 15, and Condition 38. All other proposed conditions of approval were acceptable as written. She testified that based upon engineering calculations, that there will actually be two-thirds less water being released into the Younger Ditch than is currently being released. This is due to the storm retention facility that will be constructed as part of the project. She testified that the water being released into the ditch will have a higher water quality than that which is currently being released into the ditch. She testified that all stormwater from the site will be controlled and contained on site and only released by the controlling mechanism for their stormwater detention facility. Release of the stormwater will be controlled by the applicant. Regarding the March 18, 2009, letter from the City of Cle Elum, the applicant indicated that the requested plat note was acceptable with the exception of the factual statement contained in the first sentence. See Exhibit 4. (Open record public hearing testimony)
23. The following member of the public testified:
- 23.1 Dave Cline, President of the Lannigan Meadows Homeowner Association testified consistent with Exhibit 15, his letter.
- 23.2 Testifying in opposition to the project was Craig Johnson of Cle Elum. He provided the perspective of that of an airplane pilot. He testified that the safety zones at the end of runways are critical and the most critical would be Zone No. 1. He testified that Zone 2 protections do cover some of the lots of the development. He was also concerned that the water created by the new lake and that the water would likely attract water fowl, and other birds that may pose a risk to airplane pilots.
- 23.3 Also testifying in opposition to the project was Roger Olsen. He testified consistent with his memorandum admitted as Exhibit 1.
- 23.4 Testifying in opposition to the project was Mike McGavin. Actually, Mr. McGavin did not really testify against the project but just wanted the Hearing Examiner to be aware that there is also additional water that is going into the Younger Ditch that is coming off of the airport due to the airport improvements.
(Open record public hearing testimony)
24. 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. (Hearing Examiner finding based on the record)
25. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval. (Hearing Examiner finding based on the record)
26. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities. (Hearing Examiner finding based on the record)

27. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference. (Hearing Examiner finding based on the record)

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this recommended decision.
2. As conditioned, this proposal is consistent with the Kittitas County Subdivision Code Chapter 16.09 for Performance Based Cluster Plats.
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Public use and interest will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.
7. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan
8. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
9. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
10. 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.
11. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
12. 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 P-07-44, Henshaw Lake PBC Plat, 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. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file dated July 3, 2007 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.

Platting Standards, Building, and Zoning Code:

5. Certificate of Title: A certificate of title of the property proposed to be platted shall be submitted with the final plat.
6. Lot Closure Computer Sheets: Computer sheets shall be submitted with the final plat showing the closure of plat boundaries, blocks, lots or any. It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
7. A plat note discussing the spread of noxious weeds shall be shown on the plat and shall read: "Per RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds, accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds."
8. Final mylars shall be submitted in accordance to KCC 16.20: Final Plats. All applicable survey data and dedications shall be reflected pursuant to KCC 16.24: Survey Data-Dedications.
9. Because KCC 16.09 does not discuss lot widths, then in accordance with KCC 17.28.030 the minimum average lot width within the Henshaw Lake Performance Based Cluster Plat shall be ~~two hundred fifty feet~~ comply with Health Department requirements.
10. Both sheets shall reflect the Plat number: P-07-44.

Transportation and Infrastructure:

11. Truck Traffic Impact Analysis: The TIA shall focus on the impacts of truck traffic and outline the expected timeline of all projects generating truck traffic, average truck trips per day, and impacts of intersections along the haul route. The Department of Public Works shall be contacted for specific TIA requirements. The TIA shall be completed and stamped by a civil engineer licensed in the State of Washington. If truck traffic is found to impact traffic, mitigation shall be approved by Public Works prior to beginning construction.

12. Roadway Pavement Analysis: The roadway pavement analysis shall focus on all County roads on the haul route. The analysis shall be completed prior to and immediately after trucks are used to excavate Henshaw Lake. If truck traffic results in the degradation of the roadway and/or shoulders, the applicant shall repair these facilities to equal or better condition as prescribed by the Department of Public Works. The roadway pavement analysis shall be completed and stamped by a civil engineer licensed in the State of Washington.
13. Submittal of an engineered road plan with designs prepared and stamped by a civil engineer licensed in the State of Washington. The road plan design shall be presented to Public Works and approved by the County Engineer prior to any clearing, grading, or construction.
14. Private Road Certification: Private roads serving any of the lots within this development shall be inspected and certified by a licensed professional engineer for conformance with current Kittitas County Road Standards, 9/6/05 edition. Kittitas County Public Works shall require this road certification to be completed prior to the issuance of a building permit for any of the structures within the proposed plat.
15. Easements: The width and uses of all easements shall be labeled on the plat.
16. PSE Easement: It appears that some of the lots ~~Lots 1-15 and Lot 26~~ will need to cross the PSE easement with private driveways. If, in fact, this crossing is required, then approval from PSE shall be required prior to final approval.
17. Final Mylar: The final mylar shall be submitted on 18 x 24 inch sheets.
18. Road Names: White Road and Airport Road shall be labeled on the plat.
19. Private Road Improvements: Access from White Road to the cul-de-sac shall be constructed to meet or exceed the conditions of a High-Density Private Road and serve no more than 40 tax parcels. See current Kittitas County Road Standards, 9/6/05 edition.
 - a) Access easements shall be a minimum of 60' wide. The roadway shall have a minimum width of 22', with 1' shoulders, for a total width of 24'.
 - b) Minimum centerline radius shall be 60'.
 - c) Surface requirement BST/ACP.
 - d) Maximum grade is 12%.
 - e) Stopping site distance, reference AASHTO.
 - f) Entering site distance, reference AASHTO.
 - g) Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - h) Any further subdivision or lots to be served by proposed access may result in further access requirements.
 - i) All roads located within this development or roads that provide access to this development shall be constructed to current county road standards unless any other maintenance agreements, forest service road easements or state easements require higher road standards. The higher of the road standards shall apply.
 - j) All easements shall provide for AASHTO radius at the intersection with a county road.
 - k) A paved apron shall be constructed at the intersection of the proposed private intersection and the county road right-of-way.

20. Cul-de-Sac: Permanent dead-end streets shall have a turn-around having an outside right-of-way easement diameter of at least 110' (55' radius) at the closed end. See Kittitas County Road Standards, 9/6/05 edition.
- a) Cul-de-sac design, reference 2006 International Fire Code.
 - b) Contact the Fire Marshall regarding any additional cul-de-sac requirements.
21. Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
- a) Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
 - b) The surface requirement is for a minimum gravel surface depth of 6".
 - c) Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - d) Any further subdivision or lots to be served by proposed access may result in further access requirements.
22. Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
- a) The roadway shall be a minimum of 8' wide with gravel surface.
 - b) Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - c) Any further subdivision or lots to be served by proposed access may result in further access requirements.
23. Plat Notes: Plat notes shall reflect the following:
- a. Entire private road shall achieve 95% compaction and shall be inspected and certified by a licensed engineer in the State of Washington specifying that the road meets current Kittitas County Road Standards prior to the issuance of building permit for this plat.
 - b. Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel.
 - c. Maintenance of the access is the responsibility of the property owners who benefit from its use.
 - d. An approved access permit will be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right-of-way.
 - e. Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
 - f. A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided 5 feet on each side of interior lot lines. Said easement shall also be used for irrigation.

24. Plat Approvals: All plats must show the acceptance signature of the County Engineer. The acceptance block shall be as follows (per KCC 16.24.170):

EXAMINED AND APPROVED

This ____ day of ____, A.D., 20 ____.

Kittitas County Engineer

25. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
26. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
27. Access Permit: An approved access permit shall be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right of way.
28. Addressing: Contact the Kittitas County Rural Addressing Coordinator at (509) 962-7523 to obtain addresses prior to obtaining a building permit. A parcel cannot receive a building permit or utilities until such parcel is identified with a 911 address.
29. Fire Protection: Contact the Kittitas County Fire Marshall regarding any additional access requirements for Emergency Response.
30. Mailbox Placement: Mailboxes must be approved by U.S. Postal Service. Mailbox locations are site specific. Contact your local Post Office for location and design standards before beginning construction.
31. Mailbox Placement: The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.
32. Private roads shall meet the following conditions:
- a) Private roads shall meet the minimum access requirements of the International Fire Code as adopted by the County, and
 - b) Shall be designed and constructed in conformance with AASHTO Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT < 400) 2001, as now exists or hereafter amended, and
 - c) Shall be inspected and certified by a licensed professional engineer for conformance with the above referenced standards. In the alternative, an applicant may request the private roadway to be inspected and subject to the approval of the Public Works Director. If certification by the public Works Director/County Engineer is desired, submission of road plans and necessary testing documentation that confirms compliance with Kittitas County Road Standards is required, and services will be performed on a reimbursable basis, and

- d) Permanently established by an easement recorded with the Kittitas County Auditor or right-of-way, providing legal access to each affected lot, dwelling unit, or business, and
- e) Will not result in land locking of existing or proposed parcels, and
- f) Maintained by the developer or legally responsible owner or homeowners' association or other legal entity made up of all benefited property owners, under the provisions of an acceptable and recorded "Private Road Maintenance Agreement", and
- g) Clearly described on the face of the plat, short plat, or other development authorization and clearly signed at street location as a private street or road, for the maintenance of which Kittitas County is not responsible and a disclosure statement of the same is filed with the County Auditor, and
- h) The following note shall be placed on the face of the plat, short plat, or other development authorization:
"Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel."

Water and Stormwater:

- 33. A Group 'A' water system is proposed for this plat. Public systems exceeding 14 connections require a water right, according to RCW 0.44.050. Demonstration of adequate water rights to serve the entire HENSHAW LAKE Performance Based Cluster Plat, inclusive of all four proposed phases, shall be completed prior to the recording of mylars for phase one. A well site inspection must be performed to approve the site where the well is to be located. The water system must be approved by the Washington State Department of Health prior to final plat approval.
- 34. The Washington Administrative Code WAC 173-150 provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If the water supply in your area becomes limited your use could be curtailed by those with senior water rights.
- 35. Final approval from Kittitas County Public Health will be conditioned upon: 1) Documentation from the State of Washington, Department of Ecology verifying the quantity of water required for the plat has been transferred, and 2) All proposed wells being placed and well logs showing yields consistent with the requirements above being proven and the required nitrate and bacteriological tests showing portability of that water
- 36. Note that additional valid water rights may be required for irrigation water. If irrigation is not available through an irrigation district, the Department of Ecology encourages the use of covenants to help property owners stay within the group water exemption criteria until a valid water right is obtained for irrigation.
- 37. Prior to final plat approval the proponent must demonstrate the suitability of the soils for each lot for onsite septic. Soil logs must be taken on the site per WAC 246-272 or as amended. The result of soil testing may result in requirements to resize lots or reduce the overall number of lots.
- 38. An NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with

more than one acre of disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.

39. This NPDES Construction Stormwater General Permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.
40. To the extent required by the Washington State Department of Ecology, the applicant will be required to obtain a Dam Safety Construction Permit from the Department of Ecology for impounded waters, construction of any dam or dike which will be capable of impounding water to a depth of 10 feet or more at any point, or will impound a volume of 10 acre-feet or more at normal pool level. The approved permit shall be submitted to Community Development Services for review prior to any clearing, grading, or construction.
41. Submittal of an on-site stormwater management plan 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 approved by the County Engineer prior to any clearing, grading, or construction.
42. Submittal of an engineered grading plan with designs prepared and stamped by a civil engineer licensed in the State of Washington. The grading plan design shall be presented to Public Works and approved by the County Engineer prior to any clearing, grading, or construction.

Land Use and Recreation

43. The following shall be submitted to CDS for review, approval, and recording, if necessary, to ensure consistency with the applicant's proposal and KCC 16.09: any proposed restrictive covenants (CC&Rs); homeowners' association bylaws and applicable documents; and proposals related to roads, the Group A water system transfer, onsite sewage treatment systems, and recreation, as applicable, and open space. Any conditions of approval of the Group A Water system transfer and onsite sewage treatment system shall be a condition of the final plat approval and included as a plat note, as appropriate.

Air Quality

44. A burn permit must be obtained from Ecology if the proponent plans to burn trees or debris from the property. Only natural, unprocessed vegetation may be burned in an outdoor fire.
45. The proponent should create a site-specific Fugitive Dust Control Plan (FDCP) before starting this project, and then follow the plan for the construction of the project and the duration of activity on property.

46. Washington Administrative Code (WAC) 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the site. Also, dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts, or damaging property or business.

SEPA MDNS Conditions

47. Based on the comments received during the public comment period and other information submitted with this project permit application, a SEPA Mitigated Determination of Nonsignificance (MDNS) was issued by Community Development Services on November 19, 2009. The following are the mitigations contained within the MDNS and shall be conditions of approval:

Water and Septic

- a. Withdrawals of groundwater on the subject property will be subject to the rules and regulations adopted and administrated by the Washington State Department of Ecology. The applicant shall contact the Washington State Department of Ecology for requirements at (509) 454-7289.
- b. The applicant will develop a Group A Water System for the project. The Group A Water System shall be designed by a licensed engineer and approved by the Washington State Department of Health. The Group A water system shall be completed prior to final plat approval. The applicant, through the submitted SEPA checklist has indicated the availability of water rights to service this project along with the cluster. Demonstration of adequate water rights in relation to development of a Group A Water System shall be completed prior to final approval. Exempt wells shall not be used to service the project. Any deviations to the water system requirements shall undergo further environmental and plat review.
- c. All waters/waterways/ditches/springs located on the subject property shall be delineated and shown on the final mylars. Improvements to such water features shall not impact on-site and off-site use.
- d. Erosion control measure must be in place prior to any clearing, grading or construction. These control measures must prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. The applicant shall contact the Washington State Department of Ecology regarding requirements if there is a potential for discharge from a construction site larger than one acre.
- e. The applicant shall contact the Washington State Department of Ecology regarding the requirements from a Stormwater Prevention Plan (Erosion Sediment Control Plan) for all construction sites.
- f. Stormwater: 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 construction and a copy of the design shall be included with the road certification and is required prior to the issuance of a building permit.
- g. Seasonal drainage and/or stormwater runoff shall be addressed through an engineered stormwater detention design and installation.

- h. Stormwater and surface runoff generated by this project shall be retained and treated on-site in accordance with regulating agencies' standards.
- I. Site grading shall comply with Kittitas county code 14.08.
- j. Site grading and development shall be designed as to minimize loss of existing flood storage or flood conveyance capacity as applicable to the 100-year floodplain, and shall have adequate drainage provided to reduce exposure to flood damage. Plans shall be submitted for review and approval to CDS and Public Works prior to development.
- k. Environmental Health shall review and approve the location of the Community Septic System in relation to the lake in order to ensure that contamination of the lake and septic system will not occur.

Transportation

- a. The project will be subject to the rules and regulations of the Kittitas County Road Standards, and the Conditional Preliminary Approval dated October 22, 2007.
- b. All loads transported on WSDOT rights-of-way must be within legal size and load limits, or have a valid oversize and/or overweight permit.
- c. It is the applicant's responsibility to keep and maintain the state highways free of any of their debris. Any spilled material shall be promptly cleaned up at the applicant's expense.
- d. Provisions shall be included in the site development plan for appropriate snow storage and disposal per the stormwater requirements and approved by Kittitas County.
- E. The applicant shall submit plans for maintenance of this facility (e.g. Snowplowing, road maintenance, vegetation, etc.). This shall be addressed via the development of a formal road maintenance agreement or similar means.
- F. Prior to final approval and any excavation work, a haul route and project timeline for the excavation of Henshaw Lake shall be submitted to and approved by the Kittitas County Department of Public Works.
- g. After the haul route is determined, the following two documents shall be submitted by the applicant:
 - i. Truck Traffic Impact Analysis: The TIA shall focus on the impacts of truck traffic and outline the expected timeline of all projects generating truck traffic, average truck trips per day, and impacts of intersections along the haul route. The Department of Public Works shall be contacted for specific TIA requirements. The TIA shall be completed and stamped by a civil engineer licensed in the State of Washington. If truck traffic is found to impact traffic, mitigation shall be approved by Public Works prior to beginning construction.
 - ii. Roadway Pavement Analysis: The roadway pavement analysis shall focus on all County roads on the haul route. The analysis shall be completed prior to and immediately after trucks are used to excavate Henshaw Lake. If truck traffic results in the degradation of the roadway and/or shoulders, the applicant shall repair these facilities to equal or better condition as prescribed by the Department of Public Works. The roadway pavement analysis shall be completed and stamped by a civil engineer licensed in the State of Washington.
- h. PSE Easement: It appears that some of the lots ~~Lots 1-15 and Lot 26~~ will need to cross the PSE easement with private driveways. Approval from PSE shall be required prior to final approval.

- i. The following plat note shall be placed on the final mylar: This property is located within the City of Cle Elum airport flights patterns in which a variety of airport aviation activities occur. Such airport aviation activities may impact the use of your property.

Land Use and Recreation

- a. The applicant will place 40% of the land, 15.89 acres, in Open Space for perpetuity and designate the open space area on the final Mylar.
- b. The applicant will provide active recreation activities such as trails throughout the designated open space area and project site.
- c. The applicant will provide formal recreation facilities in the form of a private lake as submitted in the application.
- d. Proposed Restrictive Covenants (CCRs), Homeowner's Association Bylaws and applicable documents, and proposals related to roads, Group A Water System, On Site Sewage, recreation and open space need to be reviewed, approved and recorded as appropriate for consistency with the applicant's proposal and KCC 16.09 for final approval. Any conditions of approval of the Group A Water System and On Site Sewage shall be a condition of the final plat approval and included as a plat note as appropriate.
- e. Pursuant to Kittitas County Code 17.74.060A, a Plat Note regarding the Right to Farm Ordinance is required. The note shall read as follows: "The subject property is within or near land used for agriculture on which a variety of commercial activities may occur that are not compatible with residential development for periods of varying duration. (RCW 36.70A.060(1)) Commercial natural resource activities performed in accordance with county, state and federal laws are not subject to legal action as public nuisances." (RCW 7.48.305).
- f. Pursuant to Kittitas County Code 16.18.080, a plat note regarding the irrigation systems is required for lots 3 acres or less in size. The note shall read as follows: "Lots shall be required to irrigate their individual lot or lots by the use of either a sprinkler irrigation system or a drip irrigation system (Ord. 84-6 (part), 1984)."
- g. Prior to excavation, the applicant shall submit documentation for review and approval to CDS containing a timeline, haul routes, and location, placement, stockpiling and use of excavated material. All excavation and stockpiling shall comply with federal, state and local regulations. All stockpiling sites and use of excavated material shall be reviewed through a separate critical areas review process as sites are identified by the applicant. It shall be the responsibility of the applicant to pay any applicable review fees and submit appropriate documentation for review.
- h. All proposals of the applicant as contained in their application that are not in conflict with these mitigations shall be conditions of approval and shall be considered as mitigations.
- i. Prior to final plat approval, any features of the project incurred as a result of bonus density shall be fully constructed or bonded for.

Air

A Fugitive Dust Control Plan (FDCP) shall be developed and implemented during construction of the project and duration of activity on the property in order to control blowing dust and dirt.

Light and Glare and Aesthetics

- a) Any on-site lighting shall be downward shaded and directed on-site. No mercury vapor lights shall be allowed.
- b) Metal roofs with a reflective glare shall not be allowed.

- c) Trees and landscaping should be planted and maintained along all streetscapes and the perimeter of the residential cluster in order to reduce impacts of lighting or glare on existing and future residential areas.

Plants and Wildlife

- a) If fencing is to be used, it should be a two-rail split fence design no greater than 42 inches in height in order to facilitate wildlife passage.
- b) Prohibit the placement of any new fences blocking the east-west migration within the PSE powerline corridor as allowed by PSE.

Noise

- 1) Construction activities shall comply with KCC 9.45 (noise). Construction activities shall comply with KCC 9.45 (noise). Construction hours shall be from 7:00am to 7:00 pm.
- 2) It is the developer's responsibility to dampen or deflect any traffic noise for this development. It shall not be the responsibility of WSDOT to create noise dampening facilities or structures within this development.
- 3) Noise: the project shall adhere to regulations in Kittitas County Code 9.45, RCW 70, and WAC 173.60.040. Regulations regarding noise shall be addressed in CC&R'S. Signage including noise regulations shall be posted on-site, and at a minimum shall be in the area in the proximity of the lake.

Cultural

If any items of possible cultural or historic significance are encountered during construction activities, work shall be immediately halted with the area and a large enough perimeter established in order to maintain the integrity of the site. Kittitas County Community Development Services, the State Historic Preservation Office and the Yakama Nation, as relevant, shall be immediately consulted.

Utilities and Services

- a) All lots must be provided with adequate fire flow.
- b) All development must comply with International Fire Code (IFC) and Appendices.
- c) Adequate fire protection systems shall be provided subject to requirements of the Kittitas County Fire Marshall and Fire District 7. The requirements for private water systems for fire suppression are subject to review and approval by the Fire Marshall and Fire District 7.
- d) The Group A Water System will abide by the requirements of the KC Fire Marshall and the local fire district for fire flow and placement of fire hydrants.
- e) The minimum road width shall not be less than 20' in width.
- f) "No Parking- Fire Lane" signs must be posted at all cul-de-sacs per International Fire Code requirements.
- g) All cul-de-sacs must have a minimum turning radius of 50 feet.
- h) Construction documents for the proposed systems for fire suppression shall be submitted to Fire District 7 and the Fire Marshall's Office for review and approval prior to construction.
- i) Mail routes shall be approved by the postmaster. The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. The postmaster shall also approve mailbox locations. Mailbox locations shall not create sight obstructions.

- j) The applicant shall work with the local school district to provide for a safe location and passageway for a school bus stop. This location shall be delineated on the final mylar.

47. The following note shall be placed on the face of the plat:

Landowners should expect to experience noise, vibrations, fumes, dust, the effects of lighting, and other effects associated with the operation of an airport or aircraft taking off and landing at an airport. No use shall be permitted that causes discharge into the air of fumes, smoke, dust, or similar which will obstruct the visibility and/or effect the operation of an aircraft or interfere with navigational facilities or equipment necessary to aircraft operation. No development or use shall occur that in anyway interferes with the safe operation of aircraft in the airspace and aviation ways of the Cle Elum Municipal Airport. Furthermore, the City of Cle Elum places purchasers and lessees on notice that it may, without approval or consent of landowners or lessees, increase, expand, enlarge or modify the size, approach, runway orientation and/or length, daily number of airport operations or the size and type of aircraft permitted to make use of the Cle Elum Municipal Airport.

48. All stormwater shall be retained on site and released only through the control mechanism identified in the stormwater plan.

Dated this 22nd day of December, 2009.

KITTITAS COUNTY HEARING EXAMINER

Andrew L. Kottkamp

Exhibit "B"

