

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

**PRELIMINARY PLAT APPROVAL
THE LESH PLAT (LP-09-04)**

RESOLUTION

NO. 2010- 53

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 February 11, 2010 for the purpose of considering a preliminary plat known as The Lesh Plat and described as follows:

*The division of 42.91 acres into 8 lots located in a portion of Section 9, T.19N, R.15E, W.M.; Kittitas County map numbers 19-15-09050-0003 and 19-15-09050-0004.
Proponent: Phillip Lesh, 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 April 6, 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. Phillip Lesh, landowner, applied for an 8-lot long plat on approximately 42.91 acres of land that is zoned Rural-5. The project is proposed to be served by individual well and individual septic systems.
2. The subject property is located southwest of the city of Cle Elum, east of Cle Elum Ridge Road, off of Rocky Mountain Road in a portion of Section 9, T.19N, R.15E, W.M.; Kittitas County map numbers 19-15-09050-0003 and 19-15-09050-0004.

3. A complete long plat application was submitted to Community Development Services on June 8, 2009. The application was deemed complete on July 15, 2009. The Notice of Application for the preliminary plat application was issued on July 29, 2009. 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 August 13, 2009.
4. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on January 14, 2010. The appeal period ended on January 29, 2010 at 5:00 p.m. No appeals were filed.
5. The Hearing Examiner conducted an open record hearing on February 11, 2010 to consider this matter where testimony was heard. On February 19, 2010 the Hearing Examiner issued a recommendation of preliminary plat approval for The Lesh Preliminary Plat (LP-09-04).
6. The Board of County Commissioners conducted a closed record meeting on April 6, 2010 for the purpose of considering the preliminary plat known as The Lesh Preliminary Plat (LP-09-04). A motion was made and seconded that the preliminary plat be approved subject to changes to the Hearing Examiner's recommended conditions #8 & 9 (see Exhibit A), the motion carried with a vote of 3-0.
7. The Board of County Commissioner's motion to approve was to strike condition #8 of the Hearing Examiner's recommended conditions of approval and add the following language to condition #9:

All applicants for subdivision utilizing wells shall have a note placed on the face of the final mylars that states:

- a. ~~"The approval of this division of land included no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law."~~
- a. "All wells must be drilled, flow capacity known (minimum of a 4 hour pump test), water storage mitigations resolved and bacteriological and nitrate test must be performed and satisfactory to be used for domestic use. Final mylars must have well head protection zone(s) established."
- b. "Metering ~~will~~ may be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements."

NOW, THEREFORE BE IT RESOLVED: That the Kittitas County Board of Commissioners hereby grants preliminary plat approval to The Lesh Preliminary Plat (LP-09-04) 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 4th day of May, 2010 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITITAS COUNTY, WASHINGTON

Mark McClain
Mark McClain, Chairman

Paul Jewell
Paul Jewell, Vice Chairman

Alan A. Crankovich
Alan A. Crankovich, Commissioner



Julie A Kjorsvik
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
LP-09-04)	LAW, DECISION AND
The Lesh Preliminary Plat)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on February 11, 2010, 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. Phillip Lesh, landowner, applied for an 8-lot long plat on approximately 42.91 acres of land that is zoned Rural-5. The project is proposed to be served by individual well and individual septic systems. (Staff report)
2. The applicant is Phillip Lesh, 520 43rd Ave, NW, Gig Harbor, WA 09335. (Application materials)
3. The subject property is located southwest of the city of Cle Elum, east of Cle Elum Ridge Road, off of Rocky Mountain Road in a portion of Section 9, T.19N, R.15E, W.M.; Kittitas County map numbers 19-15-09050-0003 and 19-15-09050-0004. (Staff report)
4. The proposed lots range in size from 5.20 to 5.60 acres in size. The project is proposed to be served by individual well and individual septic systems. (Staff report)

5. Site Information:

Total Project Size:	42.91 acres
Number of Lots:	8
Zoning district	Rural-5
Domestic Water:	Individual wells
Sewage Disposal:	Individual on-site septic system
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District #7
Irrigation District:	None

(Staff report)
6. Site Characteristics: The area is characterized as mountain terrain. (Staff report)
7. Surrounding Property:

<u>North:</u>	Residential
<u>South:</u>	Vacant
<u>East:</u>	Vacant
<u>West:</u>	Vacant

(Staff report)
8. The Comprehensive Plan designation is Rural. (Staff report)
9. The subject property is zoned Rural-5, which allows for one residential unit per 5 acres. (Staff report)
10. A complete long plat application was submitted to Community Development Services on June 8, 2009. The application was deemed complete on July 15, 2009. The Notice of Application for the preliminary plat application was issued on July 29, 2009. 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 August 13, 2009. (Staff report)
11. In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner and is included as part of the record. (Staff report)
12. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on January 14, 2010. The appeal period ended on January 29, 2010 at 5:00 p.m. No appeals were filed. (Staff report)

13. 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 individual wells and on-site septic systems. Staff has conducted an administrative critical area review in accordance with KCC 17A and found areas of steep slopes in excess of 50% slope on site. (Staff report)
14. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.12 for Preliminary Plats. (Staff report)
15. All roads are required to meet all Kittitas County Road Standards as outlined in the November 4, 2009 memorandum issued by the Department of Public Works. As conditioned, the proposal is consistent with the provisions of KCC Title 12. Staff report)
16. The following agencies provided comments during the comment period: Department of Ecology, USDA Forest Service, Kittitas County Department of Public Works, and Environmental Health. These comments have been included as conditions of approval to address these agency concerns. (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. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
19. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
20. Public hearing after due legal notice was held on February 11, 2010. Appearing and testifying on behalf of the applicant was Mark Kirkpatrick of Encompass Engineering. Mr. Kirkpatrick indicated that he was the authorized agent of the applicant. He testified that all proposed conditions of approval were acceptable. He testified that all of the proposed lots have adequate buildable area without the need for a variance. He also testified that some of the lots would have bedroom number restrictions and/or limits due to septic issues. (Open record public hearing testimony)
21. No members of the public testified at the hearing. (Hearing Examiner finding based on the record)
22. 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)

23. 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)
24. 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)
25. 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, 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 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.
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 LP-09-04, The Lesh Preliminary 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 June 8, 2009 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. All current and future landowners must comply with the International Fire Code.
5. 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.
6. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
7. Proof of potable water must be shown prior to final plat approval.
8. ~~For final approval of an individual well, the submittal of well logs or a hydrogeological report with documentation/evidence to support the claim regarding adequate availability of groundwater for the proposed number of potable water wells is required. This report shall be submitted by a Professional Engineer who practices in the field of hydrology or by a licensed Hydrogeologist.~~

9. All applicants for subdivision utilizing wells shall have a note placed on the face of the final mylars that states:

~~*b. The approval of this division of land included no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law."*~~

c. "All wells must be drilled, flow capacity known (minimum of a 4 hour pump test), water storage mitigations resolved and bacteriological and nitrate test must be performed and satisfactory to be used for domestic use. Final mylars must have well head protection zone(s) established."

d. "Metering will ~~will~~ may be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements."

10. The Final Plat shall meet all requirements as listed in Chapter 16.20 of the Subdivision Code; including content, format, etc. The following items will be required on the Final Plat Submittal:

- a. Adjacent Property Owners: The adjacent property owners and surrounding properties shall be on the face of the final short plat. (K.C.C.16.20.040, 10, Plat drawing, Adjacent Owners).
- b. Surrounding Area: All surrounding property shall be shown in dotted lines and letters with names of plats, roads, adjoining lots, canals, and etc., and if un-platted shall be so indicated. (K.C.C.16.20.040, 11, Plat drawing, Surrounding Area).

11. Second Access: A second access is required of this project. Prior to final approval, the applicant must submit a route that has easement or other access rights secured and recorded to Public Works for approval. The second access must conform to Kittitas County Road Standards and the second access requirements as clarified by the Board of County Commissioners on April 2, 2007. The BOCC clarified KCRS 12.01.095(2) with the following requirements: 1) If the second access is restricted to emergency access only, it must meet or exceed the following requirements: 60' easement, 20' roadway width, BST/ACP surface, and a paved apron. Access restrictions such as gates or bollards must be approved by the Fire Marshall; 2) If the second access is to be used for ingress and egress, it must meet the same standards of the first access.

Kittitas County Public Works may apply additional conditions to the second access prior to approval. If the second access does not conform to Kittitas County Road Standards, the project may be required to be reopened to public comment due to changed circumstances.

12. Timing of Improvements: This application is subject to the latest revision of the Kittitas County Road Standards, dated 9/6/05. The following conditions apply and must be completed prior to the issuance of a building permit for any of the residence within this plat. A Performance Bond or acceptable financial guarantee may be used, in lieu of the required improvements, per the conditions outlined in the current Kittitas County Road Standards.
13. 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.
14. Second Access: The second access route shall be shown on the final plat or within the vicinity map.
15. Improvements to South Cle Elum Ridge Road and Rocky Mountain Road: From Westside Road to the entrance to the Plat, access roads shall be constructed as High Density Private Roads that serve 40+ lots.
16. Emergency Turnaround: A cul-de-sac or hammerhead turn-around shall be constructed at the end of Rocky Mountain Road. A cul-de-sac shall have an outside right-of-way or easement diameter of at least 110 feet and the driving surface shall be at least 96 feet in diameter. Hammerheads and cul-de-sacs must also conform to the requirements specified by the 2006 International Fire Code. Contact the Fire Marshal regarding any additional turnaround requirements.
17. 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.
18. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
19. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.

20. 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.
21. 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.
22. Fire Protection: Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
23. 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.
24. SEPA MDNS Conditions: 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 January 14, 2010. The following are the mitigations contained within the MDNS and shall be conditions of approval:

I. Transportation

Second Access: A second access is required of this project. Prior to final approval, the applicant must submit a route that has an easement or other access rights secured and recorded to Public Works for approval. The second access must conform to Kittitas County Road Standards and the Board of County Commissioners' clarification made on April 2, 2007 of KCRS 12.01.095(2), regarding second accesses, includes the following requirements: 1) If the second access is restricted to emergency access only, it must meet or exceed the following requirements: 60' easement, 20' roadway width, BST/ACP surface, and a paved apron. Access restrictions such as gates or bollards must be approved by the Fire Marshall; 2) If the second access is to be used for ingress and egress, it must meet the same standards of the first access.

Kittitas County Public Works may apply additional conditions to the second access prior to approval. If the second access does not conform to Kittitas County Road Standards, the project may be required to be reopened to public comment due to changed circumstances.

II. Light and Aesthetics

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

III. Noise

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

25. 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."
26. 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.
27. Both sheets shall reflect the Plat number: LP-09-00004.

Dated this 19th day of February, 2010.

KITTITAS COUNTY HEARING EXAMINER

Andrew L. Kottkamp

Exhibit "B"

[illegible]