

KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS

IN THE MATTER OF

Otto Sieber Short Plat
SP-08-00052

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FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Board of County Commissioners on July 6, 2009 and August 5, 2009, the Board of County Commissioners having taken evidence hereby makes the following Findings of Fact, Conclusions of Law, and Decision as follows:

1. On April 28, 2009 the Kittitas County Community Development Services granted conditional preliminary approval to the Otto Sieber short plat SP-08-00052; and
2. The conditional preliminary approval included conditions #7 (requiring a cultural resource survey) and #8 (requiring cessation of ground disturbance should cultural or archaeological material be discovered); and
3. Mr. Sieber filed a timely appeal of the imposition of condition #7 to the Kittitas County Board of County Commissioners; and
4. After proper notice, an appeal hearing was held on July 6, 2009 at which testimony was taken from Mr. Sieber, Mr. Jeff Watson from Community Development Services, and various representatives and archaeologists associated with the Yakima Confederated Tribes; and
5. Kittitas County was represented by Jeff Watson; and
6. At this hearing, testimony was taken from all who wished to speak, and arguments were heard from Mr. Watson and the attorneys for the appellant and the tribe; and
7. The record was closed and the hearing was continued until August 5, 2009 for board deliberation; and
8. The Kittitas County Board of County Commissioners had read the items submitted into the record, the briefing submitted by the parties, heard the testimony and arguments presented; and

9. The Board of County Commissioners deliberated over the matter at the close of the public portion of the hearing.

Now therefore be it resolved that the Kittitas County Board of County Commissioners enters the following conclusions of law:

1. The Kittitas County Board of County Commissioners has authority to hear the appeal of an administrative decision by a non-elected County official under Ch. 15.04 KCC.
2. The site in question is neither an archaeological site nor an archaeological resource under state law as no archaeological objects are known to be located there and Ch. 27.53 RCW is not concerned with the presence of plants.
3. The site has been previously disturbed extensively (it being formerly a quarry) and so the likelihood of anything remaining in tact after such disturbance is very remote.
4. There was not sufficient foundation laid for the presence or significance of sites reportedly in the vicinity of the subject property.
5. RCW 27.53.070 clearly discourages field investigations (which were described in testimony as the same as cultural surveys) on private property, and the interpretation from the archaeologists that this only means by people untrained in archaeology were not tenable.

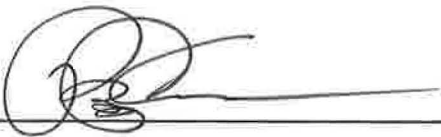
Based on the above Findings of Fact and Conclusions of Law, the Kittitas County Board of County Commissioners hereby declare that CDS shall issue a new conditional preliminary approval of the Otto Sieber Short Plat 08-00052 without the cultural survey condition (previously #7). Additionally, the new conditional preliminary approval shall amend the wording of the condition previously known as #8 to read as follows:

“Should ground disturbing or other activities related to the short plat result in the discovery of cultural or archaeological materials or items of historical significance, work shall be stopped in the immediate area and contact made with the WA DAHP. Work shall remain suspended until the find is assessed and appropriate consultation is conducted. Should human remains be discovered, as directed by RCW 27.44.040, work shall be immediately halted in the area and contact made with the coroner and local law enforcement immediately.”

DATED this 6th day of October, 2009 at Ellensburg, Washington.


BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON


Alan A. Crankovich, Chairman


Paul Jewell, Vice- Chairman


Mark McClain, Commissioner




Julie A Kjorsvik

APPROVED AS TO FORM:


Neil A. Caulkins WSBA #31759