

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

**PRELIMINARY PLAT APPROVAL
Windbent Ranch Preliminary Plat LP-08-00016**

RESOLUTION

NO. 2009- 150

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 August 27, 2009 for the purpose of considering a preliminary plat known as the Windbent Ranch Preliminary Plat and described as follows:

The division of 25.65 acres into 8 lots, map number 18-19-32010-0003 located in a portion of Section 32, T18N R19E, W.M. in Kittitas County. Proponent: Andrew and Michelle Schmidt, landowners.

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 October 20, 2009 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. Andrew and Michelle Schmidt, landowners, applied for an 8-lot preliminary plat on approximately 25.65 acres of land that is zoned Agricultural-3.
2. The subject property is located east of Wilson Creek Road and south of Game Farm Road, in Ellensburg, WA 98926. The property is located in a portion of Section 32, T18N R19E, W.M. in Kittitas County. Map number: 18-19-32010-0003.
3. A complete long plat application was submitted to Community Development Services on April 24, 2008. The Notice of Application for the preliminary plat application was issued on June 22, 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.

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 August 11, 2009. The appeal period ended on August 25, 2009 at 5:00 p.m. No appeals were filed.
5. The Hearing Examiner conducted an open record hearing on August 27, 2009 to consider this matter where testimony was heard. On September 9, 2009 the Hearing Examiner issued a recommendation of preliminary plat approval for the Windbent Ranch Preliminary Plat (LP-08-00016).
6. The Board of County Commissioners conducted a closed record meeting on October 20, 2009 for the purpose of considering the preliminary plat known as the Windbent Ranch Preliminary Plat (LP-08-00016). A motion was made and seconded that the preliminary plat be approved subject to revising condition #28 of the Hearing Examiner's recommendation because the Board determined the wording should reference "objects" instead of "resources". The motion carried with a vote of 2-0.
7. The Board of County Commissioners revised condition #28 to read: "If any archeological objects as defined by RCW 27.53.030 are discovered or excavated, the owner/developer/contacter shall stop work immediately and notify the Kittitas County Department of Community Development Services and the Washington State Department of Archaeology and Historic Preservation as provided by RCW 27.53.020."
8. The Board of County Commissioners finds that additional conditions are not necessary to protect the public's interest.

NOW, THEREFORE BE IT RESOLVED: That the Kittitas County Board of Commissioners hereby grants preliminary plat approval to the Windbent Ranch Preliminary Plat (LP-08-00016) and adopts the Kittitas County Land Use Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval (See Exhibit A):

NOW THEREFORE,

BE IT HEREBY RESOLVED by the Board of County Commissioners of Kittitas County, Washington, that said preliminary plat designated as Windbent Ranch Preliminary Plat (LP-08-00016) and the same hereby is, approved with the proposed development configuration (See Exhibit B).

DATED this 15th day of December, 2009 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON


Alan A. Crankovich, Chairman

ABSENT
Paul Jewell, Vice Chairman



ATTEST:
CLERK OF THE BOARD

Julie A Kjorsvik
Julie A Kjorsvik

Mark McClain
Mark McClain, Commissioner

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-08-16)	LAW, DECISION AND
Windbent Ranch Preliminary Plat)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on August 27, 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. Andrew and Michelle Schmidt, landowners, have applied for an 8-lot preliminary plat on approximately 25.65 acres of land that is zoned Agricultural-3. The project is proposed to be served by individual well and individual septic systems. (Staff Report)
2. The applicant is Andrew & Michelle Schmidt, 300 Mission View Drive, Ellensburg, WA 98926. (Application materials)
3. The proposed lot sizes range from 3.01 acres to 4.58 acres. The project is proposed to be served by individual wells and individual on-site septic systems. (Staff Report)
4. The subject property is located east of Wilson Creek Road and south of Game Farm Road, in Ellensburg, WA 98926. The property is located in a portion of Section 32, T18N R19E, WM in Kittitas County. Map number: 18-19-32010-0003. (Staff Report)
5. Site Information:

Total Project Size:	25.65 acres
Number of Lots:	8
Zoning district	Agriculture-3
Domestic Water:	Individual wells
Sewage Disposal:	Individual on-site septic system
Power/Electricity:	Puget Sound Energy
Fire Protection:	Kittitas Valley Fire & Rescue
Irrigation District:	Kittitas Reclamation District

(Staff Report)

6. Site Characteristics: The area is flat and has been in agriculture use for many years. (Staff Report)
7. Surrounding Property:
North: Agricultural
South: Agricultural
East: Agricultural
West: Agricultural
(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 complete long plat application was submitted to Community Development Services on April 24, 2008. The Notice of Application for the preliminary plat application was issued on June 22, 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. (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 Determination of Non-Significance (DNS) was issued on August 11, 2009. The appeal period ended on August 25, 2009 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 and an administrative critical area review in accordance with KCC 17A and found no critical areas 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 July 1, 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, Department of Archaeology & Historic Preservation, Kittitas Valley Fire & Rescue, 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. 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. Public hearing after due legal notice was held on August 27, 2009. Appearing and testifying on behalf of the applicant was Wayne Nelson of Encompass Engineering & Surveying. Mr. Nelson testified that he was authorized to appear and speak on behalf of the applicant. Mr. Nelson stated that all proposed conditions of approval were acceptable. Mr. Nelson indicated that the applicant agreed that they would be sharing a well with the McIntyre Plat (Application LP-08-15) and limited to a combined 5,000 gallon per day withdrawal. (Open record public hearing testimony)
22. Also testifying on behalf of the applicant was the applicant himself, Andrew Schmidt. Mr. Schmidt indicated that metering of the well was acceptable. They have had the property in pasture over the past forty years and that the property is regularly tilled and that no artifacts have been uncovered. He indicated that an architectural study would be unduly burdensome. He requested that a condition be included that indicated that if artifacts were suspected or artifacts were uncovered, that all work would halt and appropriate agencies would be notified.
23. No member of the public testified at the hearing. (Hearing Examiner finding based on the record)

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, 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-08-16, Windbent Ranch 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 April 24, 2008 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: “
 - 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.”*
 - b. *“Metering will 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.”*
 - c. *“The 8-lot Windbent Ranch Plat (LP-08-16) and the 6-lot McIntyre Plat (LP-08-15) shall share a single ground water exemption of 5,000 gallons per day.”*
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. 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.
12. 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.
13. Any portion of the access easement that lies off the subject property shall be recorded and the AFN shown on the final plat.

14. Access from Game Farm Road to the cul-de-sac shall be constructed to meet or exceed the conditions of a High-Density Private Road that serves 15-40 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.
15. A cul-de-sac turn-around having an outside right-of-way or easement diameter of at least 110 feet shall be constructed at the closed end of all dead-end roads serving 3 or more lots. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2006 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.
16. 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.
17. 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.
18. The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
19. It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
20. 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. 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. Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
23. 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. 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."
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 reseeded 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-08-16.
28. ~~If any Native American grave sites or other archaeological resources are discovered or excavated, the owner/developer/contractor shall stop work immediately and notify the Kittitas County Department of Community Development Services and the Washington State Department of Archaeology and Historic Preservation in conformance with RCW 27.53.020. If any archeological objects as defined by RCW 27.53.030 are discovered or excavated, the owner/developer/contractor shall stop work immediately and notify the Kittitas County Department of Community Development Services and the Washington State Department of Archaeology and Historic Preservation as provided by RCW 27.53.020.~~

Dated this 9th day of September, 2009.

KITTITAS COUNTY HEARING EXAMINER

Andrew L. Kottkamp

Exhibit “B”

[illegible]

