

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

**PRELIMINARY PLAT APPROVAL
QUAKING ASPEN PRELIMINARY PLAT (P-08-06)**

RESOLUTION

NO. 2011-_____

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 9, 2010 for the purpose of considering a preliminary plat known as the Quaking Aspen Preliminary Plat and described as follows:

The division of 38.24 acres into 8 lots, located west of Nelson Siding Road on Old Cedars Road, Cle Elum, WA, in a portion of Section 19, T20N R14E, WM in Kittitas County. Map numbers: 20-14-19040-0005, 20-14-19040-0011, 20-14-19040-0012, 20-14-19010-0018, 20-14-19010-0019 and 20-14-19010-0020. Proponent: Chuck Cruse of Cruse & Associates, authorized agent for Jacqueline M. O'Conner, 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 1, 2011 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. Chuck Cruse of Cruse & Associates, authorized agent for Jacqueline M. O'Conner, landowner, have applied for an 8-lot plat on approximately 38.24 acres of land that is zoned Rural-3. The project is proposed to be served by an individual wells and individual on-site septic systems. The proposed lots range in size from approximately 3.0 acres to 6.21 acres in size.
2. The property is located west of Nelson Siding Road on Old Cedars Road, Cle Elum, WA, in a portion of Section 19, T20N R14E, WM in Kittitas County. Map numbers: 20-14-19040-0005, 20-14-19040-0011, 20-14-19040-0012, 20-14-19010-0018, 20-14-19010-0019 and 20-14-19010-0020.

3. A complete long plat application was submitted to Community Development Services on February 7, 2008. The Notice of Application was issued on August 10, 2009. Said notice was published in the official county newspaper of record and was also mailed to jurisdictional government agencies, adjacent property owners as required and other interested parties. The last day to submit written comments was August 25, 2009.
4. This application is categorically exempt from SEPA review pursuant to KCC 15.04.090 and WAC 197-11-800(1)(c)(i).
5. The Hearing Examiner conducted an open record hearing on December 9, 2010 to consider this matter where testimony was heard. On December 21, 2010 the Hearing Examiner issued a recommendation of preliminary plat approval for the Quaking Aspen Preliminary Plat (P-0-06).
6. The Board of County Commissioners conducted a closed record meeting on February 1, 2011 for the purpose of considering the preliminary plat known as the Quaking Aspen Preliminary Plat (P-08-06). A motion was made and seconded that the preliminary plat be approved subject to modifying condition #16 of the Hearing Examiner's Findings of Fact, Conclusions of Law, Decision and Conditions of Approval, the motion carried with a vote of 3 to 0.
7. 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 Quaking Aspen Preliminary Plat (P-08-06) 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) and the same hereby is, approved with the proposed development configuration (See Exhibit B).

DATED this _____ day of _____, 2011 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITITAS COUNTY, WASHINGTON

Paul Jewell, Chairman

Alan A. Crankovich, Vice Chairman

Obie O'Brien, Commissioner

ATTEST:
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
LP-08-06)	LAW, DECISION AND
Quaking Aspen Preliminary Plat)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on December 9, 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. Chuck Cruse of Cruse & Associates, authorized agent for Jacqueline M. O’Conner, landowner, have applied for an 8-lot plat on approximately 38.24 acres of land that is zoned Rural-3. The project is proposed to be served by an individual wells and individual on-site septic systems. (Staff report)
2. The applicant is Chuck Cruse, Cruse & Associates, authorized agent for Jacqueline M. O’Conner, property owner. (Staff report)
3. The subject property is located west of Nelson Siding Road on Old Cedars Road, Cle Elum, WA, in a portion of Section 19, T20N R14E, WM in Kittitas County. Map numbers: 20-14-19040-0005, 20-14-19040-0011, 20-14-19040-0012, 20-14-19010-0018, 20-14-19010-0019 and 20-14-19010-0020. (Staff report)
4. The proposed lots range in size from approximately 3.0 acres to 6.21 acres in size. The project is proposed to be served by individual wells and individual on-site septic systems. (Staff report)
5. Site Information:

Total Project Size:	38.24 acres
Number of Lots:	8
Zoning district	Rural 3
Domestic Water:	Individual wells
Sewage Disposal:	Individual on-site septic systems
Power/Electricity:	Puget Sound Energy
Fire Protection:	None

Irrigation District:
(Staff report)

Kittitas Reclamation District

6. Site Characteristics: The area is characterized as mountain terrain. (Staff report)
7. Surrounding Property:
North: Residential
South: Residential
East: Vacant
West: Vacant
(Staff report)
8. The Comprehensive Plan designation is Rural. (Staff report)
9. The subject property is zoned Rural 3, which allows for one residential unit per 3 acres and one-half acres for platted cluster subdivisions served by public water and sewer systems. All subdivision lots under three acres in size must be served by public water and sewer systems (KCC 17.30.040). (Staff report)
10. A complete long plat application was submitted to Community Development Services on February 7, 2008. The Notice of Application for the preliminary plat application was issued on August 10, 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 25, 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. This application is categorically exempt from SEPA review pursuant to KCC 15.04.090 and WAC 197-11-800(1)(c)(i). (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 individual or community septic systems. Staff has conducted and an administrative critical area review in accordance with KCC 17A and found a large wetland complex on the subject properties. (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 October 22, 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 Fish & Wildlife, Army Corps of Engineers, Kittitas County Department of Public

Works, Fire Marshal's Office 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. An open record public hearing after due legal notice was held on December 9, 2010. (Open record public hearing)
21. Appearing and testifying on behalf of the applicant was John Ufkes, Attorney at Law. Mr. Ufkes testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Ufkes offered Exhibit 16 with attachments. This exhibit was admitted into the record. Mr. Ufkes testified as to the description of the photographs and as all being true and accurate depictions of the scene they portray. Mr. Ufkes further testified that the applicant had no objection to any of the proposed conditions of approval. (Open record public hearing testimony)
22. Also testifying on behalf of the applicant was Ed Sewall of Sewall Wetland Consulting, Inc. Mr. Sewall offered Exhibit 17, with attachments, which was admitted into the record. Mr. Sewall discussed photographs contained in Exhibit 17 and described for the Hearing Examiner how those aerial photographs taken in 2001 and 2006 demonstrate that very little, if any, trees had been removed and that the trees that had been removed were due to a beaver dam in the vicinity that had caused the demise of a limited number of trees. (Open record public hearing testimony)
23. Mr. Sewall also indicated that his buffer recommendation was 50 feet. Although the wetland is categorized as a Category 1, function-wise, in Mr. Sewall's opinion, it is a Category 2. Category 1 buffers are in the range of 50 to 250 feet while Category 2 buffers are in the range of 25 to 100 feet. Mr. Sewall believed that a 50-foot buffer would adequately protect the functions of the wetland and still would be within the parameters of the buffers for a Category 1 wetland. (Open record public hearing testimony)
24. Mr. Sewall also testified that this proposed use on the subject property is residential and therefore will not be an intense use of the property. Mr. Sewall indicated that the owner would be willing to plant additional trees on the buffer line to further protect the wetland buffer area. (Open record public hearing testimony)
25. Finally, the applicant agreed that all of the proposed lots have sufficient buildable space for normal residential development and accessory buildings without the need for a future variance. (Open record public hearing testimony)
26. No member of the public appeared at this hearing. (Hearing Examiner finding based on the record)

27. 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)
28. 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)
29. 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)
30. 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-08-06, Quaking Aspen 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. Certificate of Title: A certificate of title of the property proposed to be platted shall be submitted with the final plat.
3. Lot Closures: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
4. Conditions, Covenants, and Restrictions: Prior to final plat approval, a copy of the proposed final Conditions, Covenants, and Restrictions shall be submitted to Community Development Services for review and approval.

Critical Areas:

5. Wetland Impacts: All wetland areas and buffers shall be shown on the face of the final plat.

Stormwater and Drainage

6. Erosion control measures must be in place prior to any clearing, grading or construction. These control measures must be effective to prevent soil from being carried into surface water by storm water runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants.
7. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.
8. 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.
9. Stormwater and surface runoff generated by this project shall be retained or detained and treated on-site in accordance with regulating agencies' standards.
10. Best management practices must be used to prevent any sediment, oil, gas, or other pollutants from entering surface or ground water.

11. All waters/waterways/ditches/springs located on the subject property shall be delineated and shown on the final mylars

Transportation and Infrastructure

12. Old Cedars Road will serve less than 41 lots and a second access will not be required.
13. Old Cedars Road shall be constructed to meet or exceed the conditions of a High-Density Private Road that serves 15-40 tax parcels. See 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.

Water and Sewer

14. The final plat notes shall include the following statements:

The approval of this division of land includes 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.

AND

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.

15. Adequate Potable Water Supply Statement: Final approval is conditioned upon the developer/owner of the plat providing proof of potable water. Proof of potable water can be provided through several different ways depending on the source of water proposed as described and outlined in the Board of County Commissioners Resolution 2010-082.

16. Final approval of this plat is conditioned upon the applicant obtaining a Determination of Water Neutrality from the Washington State Department of Ecology. At final approval, if the applicant can show that under the then existing Upper Kittitas County Ground Water Rule such a determination is not required, then the applicant may be released from this condition. In order to secure such a release the applicant must prove that either the withdraw had already commenced before July 16th, 2009 or that the Upper Kittitas county Ground Water Rule has changed and that under the new rule the applicant is not required to obtain a Determination of Water Neutrality and the applicant has meet all the conditions that are required by the new rule.

Fire Safety

17. Design & construction must comply with Kittitas County Code, Kittitas County Zoning, the 2006 International Fire & Building Codes, and all other development agreements.
18. Given the provided pre-review documents, these residences will require fire flow of 1000 gpm (Gallons/Minute) for duration of no less than 30 minutes. A reduction in required fire flow of 50 percent is allowed when the buildings are provided with an approved automatic sprinkler system.
19. An approved water supply capable of supplying the required fire flow for fire protection shall be provided. A standpipe or hydrant system with an adequate source of water (supply), a distribution system and adequate pressure for delivery shall be installed for this plat. Hydrant spacing shall comply with International Fire Code and its appendices' requirements.
20. A separate permit & deposit shall be required for installation of the hydrant/standpipe system.
21. The Kittitas County Fire Marshal's Office will require a minimum of (3) three complete sets of plans for full review; (1) Office Copy, (1) Permit Copy, (1) Fire Department Copy.
22. This property is located outside of a fire district. As such, all future development must meet the International Urban Wild Land Code for building construction, defensible space allocation, access, etc.,
23. No slope or grade greater than 12% shall be allowed.

Air Quality

24. WAC 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the site. Dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts, or damaging property or business.
25. According to County standards, a water truck shall be available during construction to minimize dust emissions.

Hearing Examiner

26. The applicant shall, at applicant's sole expense, purchase, plant and maintain trees, of native varieties, spaced sufficiently to provide additional buffering from the wetland located on the subject property. Said trees to be planted at the 50-foot buffer line. These tree varieties and spacing are subject to approval by Kittitas County Community Development Services.

Dated this 21st day of December, 2010.

KITTITAS COUNTY HEARING EXAMINER

Andrew L. Kottkamp

Exhibit "B"

