

11241 Slater Ave NE, Ste. 200, Kirkland, WA 98033, Phone 425-821-3400
January 22, 2022



Dan Carlson, AICP
Community Development Services Director
Kittitas County
411 N Ruby street, Suite 2
Ellensburg, WA 98926

RECEIVED
JAN 21 2022

Kittitas County CDS

**Re: Black Horse at Whiskey Creek PUD – Phase 2-5 Final Plat
Final Plat Submittal Supplement Letter**

Dear Mr. Carlson:


D R Horton (DRH) is submitting the final plat application package for the remaining phases of Black Horse at Whiskey Creek. In the attached documents the submittal is referred to as Phase 2, however this combines what has been defined as Phase 2 through 5 in the Kittitas County Approved Minor Alteration Determination dated February 16, 2021. The final plat for Phase 1 was approved and recorded on December 21, 2021.

Absent previously issued minor adjustments, the Black Horse at Whiskey Creek PUD would have a final plat expiration date of February 5, 2022. The question has been raised as to whether the entire final plat must be submitted by that expiration date. DRH does not believe so based on the attached letter that was provided to Mr. Neil Caulkins, Kittitas County Deputy Prosecutor, in late December. We have received your clarification letter of January 20, 2022. We understand, agree and accept your analysis of the minor adjustment and requirements to hold recording of further final plat phases based on the monitoring period requirements. However, to assure the County and public of DR Horton's ability to complete final platting of the remaining phases, DR Horton submits the attached final plat for all remaining phases for the public record. This submittal in no way is intended to dispute the County's minor adjustments, but instead as complete disclosure.

DRH has added appropriate building permit, floodplain and monitoring notes to the final plat map that would be consistent with the proposal outlined and approved in the Minor Alteration Determination dated February 16, 2021 and the Voluntary Mitigation Agreement executed by DRH and Kittitas County dated November 2, 2021.

We understand the County may well reject this application as premature based on the clarification letter of January 20, 2022, minor adjustments and mitigation agreements in effect for the project. This showing, again, is made purely to demonstrate the ability otherwise to submit a complete final plat, not as any intent to supercede or challenge that letter, adjustments and agreements. Conversely, to the extent the County determines processing all or any portion of this final plat is appropriate, DRH will work with the County, EWC and other agencies in support of that processing.

Sincerely,
D. R. Horton


Jennifer Reiner, P.E.
Division VP – Land, Spokane & Central Washington

Via E-Mail

Mr. Neil Caulkins
Kittitas County Prosecuting Attorney's
Office
Neil.caulkins@co.kittitas.wa.us

December 21, 2021

Re: Black Horse at Whiskey Creek, Final Platting After Phase 1

Dear Neil:

Thank you for your review of the Black Horse final platting timelines and for the opportunity to weigh in. As you know, the Commissioners approved a Final Development Plan for the project in 2015. In 2018, and most recently in 2021, the Planning Director approved two Minor Adjustments to that Development Plan regarding final plat phasing and timing of those phases. There was no appeal of either the Development Plan or the two Minor Adjustments.

In 2020, the County also extended the final plat application timeline to February 5, 2022. In February 2021, the County issued its second Minor Adjustment for the PUD. The original Development Plan and both Minor Adjustments addressed both the PUD and final platting of the project.

The 2021 Minor Adjustment provided the most recent parameters for each phase of the Black Horse final plat. Notably, one of those parameters is that there will be no recording of any plat/plats south of 29th Avenue for 2 years from the final plat recording of Phase 1. Further phase recordings are also dependent on parameters tied to performance standards.

The County reiterated that 2-year delay between phases in its most recent mitigation agreement with DR Horton, November 2, 2021. Therein, the County again required Horton to wait at least 2 years from recording of Phase 1 of the final plat to record any phases south of 29th Avenue.

Under Code, a Development Plan was required for the Black Horse PUD/plat. The process for phased projects is set forth in Code:

Filing of final development plan - Phased PUDs. Applicants may develop a planned unit development in phases, provided a phasing plan is approved as part of the initial application. In such cases, a final development plan shall be submitted for phases in the time limit established in the approved phasing plan, unless an extension has been granted pursuant to subsections 3 or 4 below. If the PUD phase is associated with a plat with a longer submittal timeframe the longer timeframe shall apply, pursuant to RCW 58.17.140.

KCC 17.36.090(2).

Neil Caulkins
December 21, 2021
Page | 2

Under this Code, where a plat has a longer timeframe, that plat timeframe governs. Conversely, it must be concluded that where a PUD Development Plan has a longer timeframe, and particularly where the Development Plan integrates timing of final plat phases, the Development Plan timeframes must govern.

Here, as a result of the County's actions, the plat extension and development plan must be rectified. Where County decisions can be read consistently, they must be. The most reasonable way to rectify the Development Plan, as adjusted in 2021, with this final plat timeline, is that the final plat for Phase 1 had to be applied for by February 5, 2022. DR Horton has met that requirement, as evidenced by the Commissioner's approval of the Phase 1 final plat today. Further plat phases are hereafter governed by the Development Plan, as most recently set forth in the 2021 Minor Adjustment.

Again, thank you for the opportunity to comment on this aspect of the project. We are readily available to discuss further at your convenience.

Sincerely,



Duana T. Koloušková

Direct Tel: (425) 467-9966
Email: kolouskova@jmmklaw.com

12-21-21 Ltr to Caulkins re final plat and development plan.docx



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

January 20, 2022

DR Horton
Jennifer Reiner, P.E.
9503 E Montgomery Ave, Suite B
Spokane Valley, WA 99206

Sent via email: jreiner@drhorton.com

Subject: Blackhorse Phasing Clarification

Dear Ms. Reiner,

On January 12, 2022, Kittitas County Community Development Services (CDS) Planning Official received a verbal request for written clarity regarding the remaining phasing for Black Horse (RZ-06-00015). This letter is an effort to clarify the County position regarding Black Horse phasing and associated timelines.

On February 16, 2021 CDS approved a minor alteration to the Black Horse phasing timeline to accommodate a stormwater monitoring program. This adjustment included a 2-year monitoring program beginning with the recording date of phase 1. The agreement requires a delay in recording additional plats south of 29th avenue for phase 3 and included performance standards and floodplain removal criteria for phases 4 and 5.

Due to staff concerns regarding the original expiration date of February 5, 2022, CDS sought out a legal opinion from our County Prosecutor's Office. On December 22, 2021, CDS received confirmation from our legal council that the amended phasing schedule will allow for future phasing of the Black Horse project in accordance with the phasing timeline established in the letter issued by CDS on February 16, 2021 (noted above).

I hope this serves to clarify the County position on future Black Horse phasing.

Please let me know if you have questions.

Sincerely,

Jeremy Johnston
Community Development Services Planning Official

Cc: Mark Cook, P.E., Kittitas County Public Works Director
Jeremy Johnston, Planning Official
Chad Bala, Terra Design Group, Authorized Agent
Dan Carlson, AICP, Kittitas County CDS Director

via email
via email
via email
via email