

**From:** [Theresa Dougherty](#)  
**To:** [Dan Carlson](#); [Kelly Bacon \(CD\)](#)  
**Subject:** Hidden Point; Public Comment Extension Request  
**Date:** Wednesday, December 23, 2020 3:53:27 PM  
**Attachments:** [Kittitas County - Ext Req 12.23.2020.pdf](#)

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Dear Mr. Carlson and Ms. Bacon,

Please see attached request to extend the deadline for public comments regarding the Conditional Use Permit application CU-20-00005 Hidden Point. Please include this letter in the CUP file.

I appreciate your consideration.

Kindest regards,

Theresa Dougherty

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**Theresa Dougherty**

Attorney at Law

1272 Emerick Rd.

Cle Elum, WA 98922

[theresa.k.dougherty@gmail.com](mailto:theresa.k.dougherty@gmail.com)

206.617.5319

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## Theresa K. Dougherty

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1272 Emerick Rd., Cle Elum, WA 98922  
theresa.k.dougherty@gmail.com  
206.617.5319

December 23, 2020

### Via Email Only

Dan Carlson - [Dan.Carlson@co.kittitas.wa.us](mailto:Dan.Carlson@co.kittitas.wa.us)  
Kelly Bacon - [Kelly.Bacon.cd@co.kittitas.wa.us](mailto:Kelly.Bacon.cd@co.kittitas.wa.us)  
Kittitas County Community Development Services  
411 N Ruby St., Suite 2  
Ellensburg WA 98926

Re: Hidden Point LLC; CU-20-00005

Dear Mr. Carlson and Ms. Bacon:

I write to you today to formally request an extension of the public comment period for the Conditional Use Permit Application CU-20-00005, Hidden Point. The current deadline is 5 pm on January 4, 2021. For the reasons set forth below, I request an extension through January 27, 2021 to allow receipt and meaningful review of the materials discussed below.

Notice of Application was provided on December 17, 2020 with a deadline to submit comments of 5 pm January 4, 2021. Since that time, I have inquired as to whether concerns and complaints regarding Hidden Point received before the CUP application was submitted (November 20, 2020) will be included in the CUP application file. I am personally aware of several complaints regarding Hidden Point prior to November 20, 2020. The complaints relate to code and zoning violations and community concerns about the Hidden Point project. These complaints and concerns from members of the community are highly relevant to the pending CUP application as they speak to the applicant's disregard for the character of the community. See KCC 17.60A.015 (CUP application review criteria).

Notwithstanding their relevance, the County states it will not be including these prior submissions in the CUP application file. A copy of this correspondence is attached hereto as Exhibit A. The County indicates that it will be seeking further clarification from its Prosecuting Attorney, but that such response may take up to two weeks, which falls *after* the deadline for public comment and supports an extension of the public comment period.

Community members were under the impression that complaints sent to the County prior to November 20, 2020 would be included in the review relating to the CUP application. It now appears that impression was incorrect. As a result, community members must now be informed that their prior complaints will not be reviewed as part of the CUP application and that they must re-submit all prior complaints, both of which require time and further support an extension of the comment period.

In addition to issues relating to prior submissions, I have made a public records request for documents relating to the Hidden Point parcels. Today I received notification that those records will not be provided until January 22, 2021, which is a month after the request was made and falls several weeks *after* the deadline to submit public comments. *But see* RCW 42.56.520 (requiring prompt disclosure). The content of those documents will inform my public comments and will also inform the decisionmaker's ultimate decision. My request and the County's response are attached hereto as Exhibit B.

December 23, 2020

Page 2 of 2

Lastly, due to the pandemic and holiday season, community members and local and state organizations are likely to struggle to provide a meaningful response in the time presently allotted. Many state agencies are operating on a modified schedule due to the pandemic, which is further curtailed by holiday closures and prescheduled vacations. Additional time will help ensure that a meaningful response will be provided by state and local agencies as well as community members. While the requested extension is beyond the scope contemplated in KCC 15A.03.060(2)(f), the pandemic presents an exigent circumstance not contemplated by the drafters. The holiday season further compounds the effects of the pandemic and effectively reduces the comment period to a timeframe much shorter than required by KCC 15A.03.060(2)(f).

Without access to all communications relating to the Hidden Point project and without a reasonable time to provide meaningful response, neither the community nor the decisionmaker will be able to make an informed decision. Closing the comment period without all relevant documents will prevent proper analysis and result in an uninformed decision, which is contrary to the intent of the CUP process. *See generally* KCC 17.60A.

For the above reasons, I respectfully request that the comment period for CUP application CU-20-00005 Hidden Point be extended to January 27, 2021. This will allow time for meaningful responses from interested parties in light of the factors summarized above.

Thank you for your consideration.

Kindest Regards,



Theresa Dougherty  
Attorney at Law

Enclosures



Theresa D &lt;theresa.k.dougherty@gmail.com&gt;

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## Prior Submissions

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**Theresa Dougherty** <theresa.k.dougherty@gmail.com>  
To: "Kelly Bacon (CD)" <kelly.bacon.cd@co.kittitas.wa.us>

Wed, Dec 23, 2020 at 12:55 PM

Kelly -

Thank you for your response. Please be advised that I will be filing a request to extend the comment period later today based in part on this issue. I intend to send that request to you and Dan Carlson, but please let me know if there is someone else I should send it to.

Continuing thanks for your assistance throughout this process.

Kind regards,

Theresa

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**Theresa Dougherty**

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On Wed, Dec 23, 2020 at 11:11 AM Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us> wrote:

Good morning Theresa,

Community Development Services has no precedent of including code enforcement documents or pre application submittal comments in the record. As previously mentioned, they can always resubmit any documentation during the comment period and it will become part of the record. KCC 15A.03.060(2)(f) notes a comment period of no less than 14 days and no more than 30 days to be included in the notice of application. WAC 365-196-845(9) does allow for the County to accept comments any time before the decision, and in this case we are choosing to do this beginning from the application submittal date, to prevent any confusion with multiple submittals of the same comments.

We will not accept public comments that were submitted prior to the application submittal, as we have no system for filing and retaining these comments without an associated application. Such a policy is necessary to ensure we do not lose track of public comments. KCC Title 15A does not include any language requiring previous code enforcement action documents to be included in the record of land use applications.

The Planning Official has submitted a request for clarification from the Prosecuting Attorney's Office. Sometimes their responses can take a couple of weeks. Once we have heard back from their office, I will let you know.

**EXHIBIT A**

Thank you for your patients.

## Kelly Bacon

### Planner I

#### Kittitas County Community Development Services

411 N. Ruby Street, Ste 2

Ellensburg, WA 98926

Office: (509) 962-7539

[Kelly.bacon.cd@co.kittitas.wa.us](mailto:Kelly.bacon.cd@co.kittitas.wa.us)

Please Note: In an effort to mitigate the spread of COVID-19 and the Governor's "Safe Start" reopening plan, Kittitas County Community Development Services is currently in Phase 3 and is open to the public in a limited capacity. At this time many of us are on a rotating schedule working from home and in the office; during this time I will do my best to respond to you as promptly as possible.

**From:** Theresa Dougherty <theresa.k.dougherty@gmail.com>

**Sent:** Wednesday, December 23, 2020 10:09 AM

**To:** Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us>

**Subject:** Re: Prior Submissions

Hello Kelly -

I am following-up again on my inquiry regarding prior submissions.

Thank you,

Theresa

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**Theresa Dougherty**

Attorney at Law

1272 Emerick Rd.

Cle Elum, WA 98922

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On Tue, Dec 22, 2020 at 9:59 AM Theresa Dougherty <theresa.k.dougherty@gmail.com> wrote:

Morning, Kelly!

Just following-up on our discussion last week regarding submissions prior to November 20.

Thanks!

Theresa

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**Theresa Dougherty**

Attorney at Law

1272 Emerick Rd.

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On Fri, Dec 18, 2020 at 4:26 PM Theresa Dougherty <theresa.k.dougherty@gmail.com> wrote:

Thanks, Kelly.

I look forward to hearing the results of your Monday discussion. In the event a decision is made not to include documents prior to Nov. 20, please let me know what the basis of that decision is, including any policy, KCC, RCW

**EXHIBIT A**

or other provision that is relied upon in making that decision.

Happy weekend to you as well!

Theresa

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**Theresa Dougherty**

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On Fri, Dec 18, 2020 at 4:03 PM Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us> wrote:

Hi Theresa,

Currently that is correct. I do have a message in with the Planning Official and Director of CDS to see if in any case documents from another process would be brought forth into the new application file. We intend to discuss this Monday and I will get back to you with more details. Currently they are not part of the CUP record of file. Any documentation submitted from the application submittal date of November 20, 2020 pertaining to the CUP is included in the file.

Hope you have a wonderful weekend.

Thank you,

**Kelly Bacon**

**Planner I**

**Kittitas County Community Development Services**

411 N. Ruby Street, Ste 2

Ellensburg, WA 98926

Office: (509) 962-7539

Kelly.bacon.cd@co.kittitas.wa.us

Please Note: In an effort to mitigate the spread of COVID-19 and the Governor's "Safe Start" reopening plan, Kittitas County Community Development Services is currently in Phase 3 and is open to the public in a limited capacity. At this time many of us are on a rotating schedule working from home and in the office; during this time I will do my best to respond to you as promptly as possible.

**From:** Theresa Dougherty <theresa.k.dougherty@gmail.com>

**Sent:** Friday, December 18, 2020 12:49 PM

**To:** Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us>

**Subject:** Re: Prior Submissions

Thanks, Kelly. Just to clarify, anything submitted to the County before the "application submittal date" is not in the CUP file as a comment, correct? Can you please confirm what the application submittal date was?

Thanks,

Theresa

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**Theresa Dougherty**

Attorney at Law

1272 Emerick Rd.

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On Fri, Dec 18, 2020 at 12:37 PM Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us> wrote:

Theresa,



All comments that have been received since the application for the Hidden Point CUP was applied for are included online. If there was a complaint filed with the Code Enforcement Officer Toni, those emails or letters would be part of the "file". If you would like those to be included in the CUP application file, yes they would need to be resubmitted.

When we spoke we discussed the Notice of Application had not yet been issued (this was done yesterday). Anything I received prior to the comment period but after the application submittal date are included.

Hopefully that clarifies. If you need additional assistance, please let me know.

Thank you,

## Kelly Bacon

### Planner I

#### Kittitas County Community Development Services

411 N. Ruby Street, Ste 2

Ellensburg, WA 98926

Office: (509) 962-7539

Kelly.bacon.cd@co.kittitas.wa.us

Please Note: In an effort to mitigate the spread of COVID-19 and the Governor's "Safe Start" reopening plan, Kittitas County Community Development Services is currently in Phase 3 and is open to the public in a limited capacity. At this time many of us are on a rotating schedule working from home and in the office; during this time I will do my best to respond to you as promptly as possible.

**From:** Theresa Dougherty <theresa.k.dougherty@gmail.com>

**Sent:** Friday, December 18, 2020 11:54 AM

**To:** Kelly Bacon (CD) <kelly.bacon.cd@co.kittitas.wa.us>

**Subject:** Prior Submissions

Hi Kelly -

I reviewed the materials online and see that none of the complaints predating this week are included. I was previously told that my husband's earlier complaints (from early November) would be included in the "file." Can you please clarify? For everyone who complained before this week, do they need to resubmit their comments?

Thanks,

Theresa

EXHIBIT A

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**Theresa Dougherty**

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message id: 38eb45916c6dcbdac24bb8719d004a14



Theresa D &lt;theresa.k.dougherty@gmail.com&gt;

**[Records Center] Public Records Request :: R000770-122120**

**Kittitas County Records Portal** <kittitascountywa@govqa.us>  
To: "theresa.k.dougherty@gmail.com" <theresa.k.dougherty@gmail.com>

Wed, Dec 23, 2020 at 10:06 AM

--- Please respond above this line ---

**Kittitas County Community Development Services  
Department**

RE: PUBLIC RECORDS REQUEST of December 21, 2020, Reference # R000770-122120

Dear Theresa Dougherty,

The Community Development Services Department received a public records request from you on December 21, 2020. You requested:

"Pursuant to Chapter 2.55 of the Kittitas County Code, please provide a copy of all of the following records that are not available on the County's website:

(1) All documents, inquiries, complaints, emails, permits, applications, correspondence, and notes that were created, received, or sent between November 1, 2018 and the present, and which relate to any or all of the following:

- a. Parcel 797634,
- b. Parcel 867634,
- c. Parcel 877634,
- d. Hidden Point,
- e. 2090 Emerick Rd., and/or
- f. 1754 Emerick Rd.

To the extent possible, please provide all requested documents in electronic format via the Kittitas County Records Portal or email. If any file is too large for email, or for any records that cannot be provided in electronic format, please mail records to the address below. Pursuant to KCC 2.55.050(4), should any requested record(s) or portion be exempt or prohibited from disclosure by law, please identify the basis for each exclusion.

If there are any fees for accessing, duplicating, supplying, or searching for the requested records these records, please inform me if the cost will exceed \$100. If provision of the requested records will take longer than five business days, please contact me with information about when copies of the requested records will be provided.

If you have any questions regarding this request, please contact me at (206) 617-5319 or [theresa.k.dougherty@gmail.com](mailto:theresa.k.dougherty@gmail.com). I look forward to receiving your response. Thank you for your consideration of this request.

Sincerely,  
Theresa Dougherty"

EXHIBIT B

As the Public Records Officer for the Community Development Services Department, I will be helping you with your records request.

Our procedure is to locate records, review them for exemptions, and then prepare them for your inspection and/or copying. After careful consideration of your request and our current workload, we reasonably believe that the records (if any) responsive to your request will be available on or before 1/22/2020. If the records become available in advance of this estimate, I will contact you promptly. Conversely, if we encounter a need to extend our estimate, I will contact you with a revised estimated date.

Thank you for your patience in awaiting this information. If you have any questions or need additional information, please feel free to reply to this email or call our office at 509-962-7506.

Sincerely,

Jessica Miller  
Administrative Assistant, Public Records Officer  
Community Development Services Department

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To monitor the progress or update this request please log into the Public Records Portal

