

Draft #2

October 23, 2014

Kittitas County Community Development Services Department
Doc Hansen
411 North Ruby Street
Ellensburg, WA 98926


RE: **Palomino Fields Plat (P-07-31)**

Dear Mr. Hansen

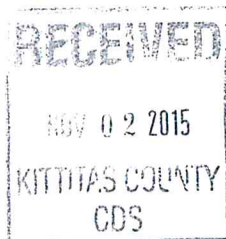
I would like to thank you for taking the time to meet and address the initial Development Agreement proposal for the Palomino Fields Plat.

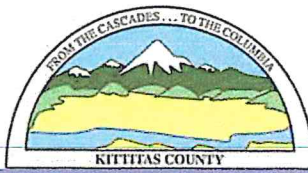
Please accept this Development Agreement application and associated materials for the Palomino Fields Plat (P-07-31, Res. 2008-160) in order to establish a phasing plan regarding our preliminary approved plat. We have prepared the Development Agreement as provided for in the Revised Code of Washington ("RCW") 36.70B.170 and pursuant to Kittitas County Code Chapter 15A.11 for your review.

If you have any additional inquiries please do not hesitate to contact me.


Chad Bala, Authorized Agent

cc: Pat Deneen, Landowner.





DEVELOPMENT AGREEMENT

(A legislative action allowing different or additional development regulation per KCC 15A.11)

A **preapplication conference** is encouraged for this permit. The more information the County has early in the development process, the easier it is to identify and work through issues and conduct an efficient review. To schedule a preapplication conference, complete and submit a Preapplication Conference Scheduling Form to CDS. Notes or summaries from preapplication conference should be included with this application.

Please type or print clearly in ink. Attach additional sheets as necessary. Pursuant to KCC 15A.03.040, a complete application is determined within 28 days of receipt of the application submittal packet and fee. The following items must be attached to the application packet.

WHEN IS A DEVELOPMENT AGREEMENT USED?

A development agreement is typically used for large, complex, or phased projects, or projects which were not contemplated by existing development regulations or application procedures. A development agreement may include provisions which are different or in addition to other county development regulations, as long as impacts are mitigation. Procedures are described in detail in Chapter 15A.11. The County shall only approve a development agreement by ordinance or resolution after a public hearing. The hearing shall be before the Board of County Commissioners, unless otherwise assigned.

REQUIRED ATTACHMENTS

- Site plan of the property with all proposed buildings, points of access, roads, parking areas, septic tank, drainfield, drainfield replacement area, areas to be cut and/or filled, natural features such as contours, streams, gullies, cliffs, etc.
- SEPA Checklist (if not exempt per KCC 15.04 or WAC 197-11-800)
- Project Narrative responding to Questions 9-11 on the following pages.

APPLICATION FEES:

Kittitas County Community Development Services (KCCDS)

Kittitas County Department of Public Works

Kittitas County Fire Marshal

\$ Total fees due for this application (One check made payable to KCCDS)

FOR STAFF USE ONLY

Application Received By (CDS Staff Signature): _____	DATE: _____	RECEIPT # _____	DATE STAMP IN BOX
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GENERAL APPLICATION INFORMATION

1. **Name, mailing address and day phone of land owner(s) of record:**
Landowner(s) signature(s) required on application form.

Name: Cle Elum Pines East & West LLC
Mailing Address: PO Box 808
City/State/ZIP: Cle Elum WA 98922
Day Time Phone: 509-260-0462
Email Address: pat@patrickdeneen.com

2. **Name, mailing address and day phone of authorized agent, if different from landowner of record:**
If an authorized agent is indicated, then the authorized agent's signature is required for application submittal.

Agent Name: Terra Design Group/Chad Bala
Mailing Address: PO Box 686
City/State/ZIP: Cle Elum WA 98922
Day Time Phone: 509-607-0617
Email Address: bala.ce@gmail.com/cbala@terradesigngro

3. **Name, mailing address and day phone of other contact person**
If different than land owner or authorized agent.

Name: _____
Mailing Address: _____
City/State/ZIP: _____
Day Time Phone: _____
Email Address: _____

4. **Street address of property:**

Address: Reecer Creek Road
City/State/ZIP: Ellensburg WA 98926

5. **Legal description of property (attach additional sheets as necessary):**

~~See Attached Packet~~ _____

6. **Tax parcel number:** See attached packet

7. **Property size:** 120 acres (acres)

8. **Land Use Information:**

Zoning: Ag-5 Comp Plan Land Use Designation: Rural Residential

DEVELOPMENT AGREEMENT

This Development Agreement (“Agreement”) is made and entered into this ____ day of _____, 2015, by the Cle Elum Pines East LLC & Cle Elum Pines West LLC, Washington Limited Liability Companies, hereafter referred to as “Applicant”; and KITTITAS COUNTY, 411 N. Ruby St, Suite 2, Ellensburg WA 98926, hereafter referred to as the “County.” This Agreement is made pursuant to the Revised Code of Washington (“RCW”) 36.70B.170 and chapter 15A.11 Kittitas County Code.

RECITALS

- A. Chapter 36.70B RCW (the “Development Agreement Statute”), and Chapter 15A.11 Kittitas County Code (“Code”) authorize the County to enter into an agreement regarding development of real property located within the County’s jurisdiction with all person having an ownership interest in or control of such real property.
- B. Applicant owns property located in a Portion of the W 1/2 of Section 27, T18N, R18E, WM. W.M. accessed off of Reecer Creek Road (the “Property”). The Property is comprised of Tax Parcel Nos. 18-18-27020-0001, 0002, 0003, 0015, 0016, 0017, and is legally described on Exhibit A, attached hereto.
- C. Applicant provided Kittitas County a complete application for the Palomino Plat as attached hereto as Exhibit H.
- D. Kittitas County Community Development Services issued a SEPA Mitigated Determination of Non-significance (MDNS) on September 8, 2008 Attached hereto as Exhibit B.
- E. Kittitas County Hearing Examiner recommended approval for the Palomino Fields preliminary plat (the Project) located on the property identified in Exhibit A. Said Hearing Examiner recommendations, dated October 21, 2008, are attached hereto as Exhibit C
- F. Kittitas County Board of County Commissioners (BOCC) passed Resolution 2008-160 on November 18, 2008 approving and adopting the Hearing Examiner’s recommendations for approved and granting approval of the Palomino Fields preliminary plat (P-07-31). Said Resolution is attached hereto as Exhibit D.

G. This Agreement identifies the Development Standards allowed for in Resolution 2008-160 and as further detailed in the Hearing Examiner Recommendations for the Project as shown in Exhibit C.

H. The Hearings Examiner recommendations as adopted by the BOCC, states in Exhibit C, on page 10, III Water and Septic, Item C, that the Group A Water System may be developed to serve this plat in phases.

I. The Hearings Examiner recommendations as adopted by the BOCC, states in Exhibit C, on page 10, III Water and Septic, Item D, that the Project will be provided sewage treatment through metered Community Septic Systems. There are options provided for Large Onsite Septic System(s) and reclaimed water facilities included in the Hearings Examiner recommendations.

J. Kittitas County, as provided for on Exhibit E attached hereto, has granted a one-year extension of the Palomino Fields preliminary plat (P-07-31).

K. The Applicant desires and intends to develop and sell the Property in five phases providing for the full development of the one hundred and twenty (120) parcel residential community, as approved under Resolution 2008-160, pursuant to Kittitas County Code 15A.11 and RCW 36.70B, known as Palomino Fields, including but not limited to the following elements: (i) single family attached and detached residences; and (ii) open space areas. Attached hereto as Exhibit F is the preliminary plat map of the foregoing development. Additionally, attached hereto as Exhibit G, is the phasing plan for the development of the Palomino Fields preliminary plat (P-07-31).

L. This Agreement establishes that the Phasing Plan, attached hereto as Exhibit G, is consistent with the County's comprehensive plan, zoning and development regulations, and is consistent with existing land use approval of the subject site.

M. Applicant desires to construct a model home and operate a real estate sales facility, which will meet the requirements of Washington State Law and operate as a Real Estate Office prior to or commencement with the initial stages of the development.

NOW, THEREFORE, in consideration of the recitals (which are incorporated into the Agreement by this reference) and for other good and valuable consideration, the

receipt and sufficiency of which are hereby acknowledged, the County and the Applicant agree as follows:

AGREEMENT

1. Effective Date and Termination.

1.1 Effective Date. The Effective Date of this Agreement is the last date upon which it was signed by the Parties hereto.

1.2 Term. This Agreement shall be effective for ten (10) years following the date of execution; provided, however, that the term of this Agreement shall be automatically extended for the effective life of any required permit or approval, plus any approved extensions thereof, for the development contemplated herein, so long as a complete application for such permit or approval has been received prior to the expiration date of this Agreement. Upon expiration of such period, or as may be extended above, this Development Agreement shall automatically terminate. Upon the County granting the Final Plat for the last phase of the Project this agreement shall automatically terminate.

1.3 Termination. This Agreement may be terminated, in writing, by mutual agreement of the Parties to this Agreement.

2. Definitions.

For purposes of this Agreement, the following terms, phrases, words, and their derivations shall have the meaning given herein where capitalized; words not defined herein shall have their ordinary and common meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words “shall” and “will” are mandatory and the word “may” is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumber provision. References to laws, ordinances or regulations shall be interpreted broadly to cover

government actions, however nominated, and include laws, ordinances and regulations now in force or hereinafter enacted or amended.

2.1. Agreement. “Agreement” means this *Development Agreement between Kittitas County, Washington and Cle Elum Pines East LLC & Cle Elum Pines West LLC*, approved by the Board of County Commissioners.

2.2. Applicant. “Applicant” means Cle Elum Pines East LLC & Cle Elum Pines West LLC, a Washington Corporation, or any of its transferees, successors or assigns.

2.3. County. “County” means Kittitas County, Washington.

2.4. Effective Date. “Effective Date” means set forth in Section 1.1 of this Agreement.

2.5. Open Space. “Open Space” means any land that is retained in a natural condition, or that is improved for outdoor recreational uses outside of residential node areas (including but not limited to associated infrastructure such as transmission lines, pumping facilities, and community septic facilities).

2.6. Parties. “Parties” means Kittitas County, Washington and Applicant, Cle Elum Pines East and Cle Elum Pine West, LLCs, a limited liability company (ies).

2.7. Project. “Project” means the Palomino Fields preliminary Plat as approved by the County through Resolution 2008-160 being a one hundred and twenty (120) unit residential community on the Property, including but not limited to: (i) single family attached and detached units and (ii) open space areas.

2.8. Property. “Property” means the site legally described in Exhibit A, attached hereto.

2.9. Utilities. “Utilities” includes, but is not limited to: all (i) storm water and drainage systems, infrastructure and facilities; (ii) community septic systems, infrastructure and facilities as approved by Kittitas County; (iii) dry utilities including power infrastructure and facilities, telecommunication systems, infrastructure and facilities; (iv) Group A domestic water systems; and (v) irrigation infrastructure and facilities.

3. Project Elements.

3.1. Permitted Uses; Any permitted use as allowed by the Kittitas County Zoning Code as the date vested by the applications and as permitted by Resolution 2008-160 as adopted by Kittitas County Board of County Commissioners on November 18, 2008 and attached hereto as Exhibit D.

3.2. Residential Densities; The Residential Densities for the Palomino Fields plat have been established by Kittitas County through the adoption of Resolution 2008-160 as adopted by Kittitas County Board of County Commissioners on November 18, 2008 and attached hereto as Exhibit D. The preliminary plat map, attached hereto as Exhibit F, shows the Residential Densities established for the Palomino Fields plat by said resolution. Barns, outbuildings, garages, shops and the like are allowed within the Palomino Fields Plat.

3.3. Nonresidential Densities and Intensities; The Non-Residential Densities and Intensities for the Palomino Fields plat have been established by Kittitas County through the adoption of Resolution 2008-160 as adopted by Kittitas County Board of County Commissioners on November 18, 2008 and attached hereto as Exhibit D. The preliminary plat map, attached hereto as Exhibit F, shows the Non-Residential Densities and Intensities established for the Palomino Fields plat by said resolution. Barns, outbuildings, garages, shops and the like are allowed within the Palomino Fields Plat.

3.4. Building Sizes; Individual residential buildings shall not exceed 6,500 square feet. Barns, outbuildings, garages, shops and the like are allowed within the Palomino Fields Plat.

4. Mitigation measures, development conditions, and other requirements under Chapter 43.21C RCW; The Palomino Fields plat shall meet the mitigation requirements as provided for in the SEPA Mitigated Determination of Non-significance (MDNS) issued on September 8, 2008 by Kittitas County and attached hereto as Exhibit B and those requirements for the Palomino Fields plat as proved for in Kittitas County Resolution 2008-160 as adopted by Kittitas County Board of County Commissioners on November 18, 2008 and attached hereto as Exhibit D.

5. Design Standards.

5.1. Drainage and Water quality requirements; The owner of each parcel shall be responsible to meet Eastern Washington Storm Water guidelines requirements as established for the Palomino Fields plat as it pertains to that individual parcel. Road drainage shall meet the Eastern Washington Storm Water guidelines.

5.2. Landscaping; The areas not containing residential structures and driveways may be landscaped with grasses, trees and other plants that do not require irrigation water that would exceed the irrigation allotment for the individual parcel.

5.3. Other Development Features; There may be an entry monument placed at the entry to the Palomino Fields plat. Other development features may be developed within the plat that are homogenous with residential development.

6. Road and sidewalk standards; Bowers Road shall be a public road that is extended into the plat. The Bowers Road extension shall meet Kittitas County Public Road Standards with said extension design being approved by Kittitas County. Internal roads may be developed as public or private roads as allowed by the Kittitas County Road Standards. All internal roads shall be designed and constructed to Kittitas County Road Standards. Sidewalks are not required within the Palomino Fields plat and will not be constructed.

7. Affordable housing; Affordable housing is not required nor will it be provided within the Palomino Fields plat.

8. Infrastructure requirements;

8.1. Domestic Water. Group A water systems, as defined by the WAC 246-294-010, include systems having 15 or more connections. Phase 1 of the Palomino Fields Plat, shall be served by a Group A water system per the statutory requirements and as approved by the Washington State Department of Health. The water system will be constructed in phases commensurate with the phased development as shown on Exhibit G attached hereto.

8.2. Irrigation Water. The first 8 lots of Phase 1, shall be provided irrigation water by Cascade Irrigation District. All other phases shall be provided irrigation by the Ellensburg Water Company. The irrigation distribution system shall be owned privately and the design, maintenance and operation of said irrigation distribution system shall be

approved by the district or company providing the irrigation water or, if the district does not have an approval process, designed by an engineer licensed in the State of Washington. The irrigation system will be constructed in phases commensurate with the phased development as shown on Exhibit G attached hereto.

8.3. Sewage Disposal. Sewage disposal shall be by Community Septic Systems, which may serve two to seven parcels as, designed by a licensed designer and approved by Kittitas County. The Community Septic Systems will be constructed in phases commensurate with the phased development as shown on Exhibit G attached hereto. The Community Septic Systems will not be required to be developed prior to final platting of each or any phase but may be constructed simultaneously with buildings as permitted by the Kittitas County building department. Prior to receiving Occupancy Permit for any building constructed the community septic system shall be completed.

8.4. Storm drainage. The owner of each parcel shall be responsible to meet the Eastern Washington Storm Water guidelines requirements as established for the Palomino Fields plat as it pertains to that individual parcel. Road drainage shall meet the Eastern Washington Storm Water guidelines. Applicant shall development the Palomino Fields plat in accordance with a storm water permit as issued by the Washington State Department of Ecology. Fire Protection. Sprinklers located in each residence will provide fire Protection. Neither system wide storage tanks nor fire hydrants are required for the Project.

8.5. Other Infrastructure Requirements. Utilities including but not limited to dry utilities such as power, phone and internet shall be provided to the property line of each parcel.

9. Parks and open space preservation. The Parks and open space preservation for the Palomino Fields plat have been established by Kittitas County through the adoption of Resolution 2008-160 as adopted by Kittitas County Board of County Commissioners on November 18, 2008 and attached hereto as Exhibit D.

10. Phasing. The project will be constructed and receive final plat approval in individual Phases. The description of the Phasing plan is provided in Exhibit G.

11. Development review processes, procedures and standards for implementing decisions, including methods of reimbursement to the county for review processes;

11.1. Standards For Implementing Decisions. Kittitas County shall base its decisions on the Kittitas County Code and implement said decisions on Ordinance as further defined and modified by this document.

11.2. Plat Application. The County has processed a plat application, and approved the Palomino Fields Plat pursuant to Resolution 2008-160.

11.3. Permit Applications. The County has reviewed, process and issued a decision on the Project development permit applications including preliminary plat, and SEPA review.

11.4. Engineering. The county will review and approve engineering designs of Road(s) and other eliminates with in the county right of way on roads to be taken on to the county public road system pursuant to the Kittitas County Code. Private roads will be constructed to the Kittitas County Private Road Standards.

11.5. The County will review and issue a grading permit pursuant to the Kittitas County Code.

11.6. Reimbursement To The County For Review Processes. Applicant has paid all applicable permit fees to the County and no additional fees are due the County. Applicant will pay recording costs for Final Platting Documents. Applicant will pay, pursuant to the fee structure adopted by Kittitas County, any other fees required to achieve final plat approval for each phase of the plat.

11.7. State Environmental Policy Act Review. As part of the Palomino Fields Plat approval process, the County issued a mitigated threshold decision pursuant to chapter 43.21C RCW..

11.8. Access. Access will be established from Reecer Creek Road along the North boundary line of the property by means of a new County right-of-way established from Reecer Creek Road in alignment with the existing Bowers Road.

11.9. Legal Structure of Project. At the conclusion of the development of the Palomino Fields community a Homeowner Association will be created to govern residential areas, community facilities, storm water facilities, and road improvements within residential nodes, and open space. The Group A water system shall be owned, operated and maintained by a entity established, owned and operated by a designate of the Applicant. Said designate shall establish operation procedures and rates as may

approved by the Washington State authorities having jurisdiction if and when required by state law.

11.10. Design Review. Design Review shall be provided for under a Declaration of Covenants, Conditions and Restrictions (“CC&Rs”). Design Review shall be determined by Applicant and shall be consistent with applicable Kittitas County Code. The Design Review provisions shall include standards for home design, materials, methods and construction, including but not limited to siting for wind and solar considerations, siting for view considerations, setbacks and height restriction. After the expiration of this Agreement, the Homeowner Association, if established, may have the right to adopt further Design Review restrictions as may be permitted consistent with the CC&Rs, Bylaws and Articles of Incorporation.

12. A Build-out or Vesting Period for Applicable Development Standards. The Applicant may construct one or more Phase(s) of the project per building season. The Project is anticipated to be completed within 5 years as described in Exhibit G.

13. Process for amending the development agreement. This agreement may be amended by mutual consent of all of the parties to this agreement.

14. Any Other Appropriate Development Requirement(s) or Procedure. Developer may further improve the property within Development Requirement(s) or Procedure the Developer establishes that are homogenous with residential development.

15. Applicant, or a designate of the Applicant, may construct a model home or real estate sales facility to be operated as a real estate sales office prior to or commencement with the initial stages of the development. Said facility shall be required to be operated under the laws of the state of Washington as a Real Estate Branch office and be licensed as same.

16. Miscellaneous and General Provisions.

16.1. Governing Law. This Agreement shall be governed by the laws of the State of Washington and the Kittitas County Codes as vested by the Palomino Fields application. Each party represents it has the respective power and authority and is duly authorized to sign and perform its obligations under this Agreement. The parties intend this Agreement to be interpreted to the full extent authorized by law as an exercise of the County’s authority to enter into development agreements. Neither this Agreement nor

any provision hereof may be waived, modified, amended or terminated except by a written agreement of the parties hereto.

16.2. Successors. This Agreement and the rights set forth herein run with the land and shall be binding upon and inure to the benefit of the County and the successor owners and assigns of the Development Site.

16.3. Enforcement. Any party to this Agreement may enforce the terms of this Agreement. No party shall be in default under this Agreement unless it has failed to perform for a period of twenty-one (21) days after written notice of default from the other party. (In some instances the performance period may be extended to allow a reasonable time period to cure the default.) Any notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. All parties to this agreement shall have all rights and remedies provided by law.

16.4. Notices. All notices or other communications under this Agreement shall be delivered to the addresses after each signature. Notices shall be in writing and either; (i) delivered personally, (ii) sent by facsimile transmission with an additional copy mailed first class, (iii) deposited in the U.S. Mail with certified mail postage prepaid and return receipt requested, or (iv) delivered by nationally recognized overnight delivery service with signature required. Notice by hand delivery or facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered seventy-two (72) hours after deposit. If sent by overnight delivery, notice shall be deemed delivered forty-eight (48) hours after deposit.

16.5. Counterparts and Recording. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Pursuant to RCW 36.70B.190, this Agreement or memorandum thereof shall be recorded with the Kittitas County Auditor and during the term of this Agreement shall be binding on the parties, their successors and assigns.

IN WITNESS THEREOF, this Agreement is effective on the date of the last signature below.

KITTITAS COUNTY

Approved as to form:

By

By

Name:

Name

Commissioner

Kittitas

County

Prosecuting

Attorney

Dated:

Dated:

Cle Elum Pines East LLC & Cle Elum Pines West LLC

By

Its:

Dated:

STATE OF WASHINGTON)

)

ss.

COUNTY OF KITTITAS)

)

I certify that I know or have satisfactory evidence that Patrick Deneen is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it as the Manger of Cle Elum Pines East LLC & Cle Elum Pines West LLC to be his/her free and voluntary act for the purposes mentioned in the instrument.

(Print

Name)

Notary Public, Residing at

My appointment expires