



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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"Building Partnerships – Building Communities"

NOTICE OF DECISION

To: Interested Parties
Applicant

From: Lindsey Ozbolt, Staff Planner

Date: March 10, 2015

Subject: Final Development Plan for the Black Horse at Whiskey Creek Rezone (Z-06-00015) and Preliminary Plat (P-06-00022)

Pursuant to RCW 36.70B.130 and KCC 15A.06, notice is hereby given that on March 3, 2015 the Kittitas County Board of County Commissioners approved the Final Development Plan for the Black Horse at Whiskey Creek PUD Rezone (Z-06-00015) and Preliminary Plat (p-06-00022). The subject property is described as follows:

ALL OF AND PORTIONS OF A PARCEL LYING EAST OF REECER CREEK ROAD AND NORTH OF BENDER ROAD AT 1406 WEST BENDER ROAD, ELLENSBURG, WA 98926 WITHIN SECTION 27 described as being a portion of section 27 of T. 18 N., R. 18 E., W.M., in the County of Kittitas, State of Washington; all of map number 18-18-27010-0002.

Copies of the Kittitas County Board of Commissioners Resolution 2015-043 and related file documents may be examined at Kittitas County Community Development Services, 411 N. Ruby Suite 2, Ellensburg, WA 98926. (509) 962-7506 or online at this link: <http://www.co.kittitas.wa.us/cds/land-use/default.aspx>.

Issuance of this land use decision may be appealed by parties with standing, by filing a land use petition (LUPA) in Superior Court, and serving said petition on all required parties pursuant to RCW 36.70C and KCC 15A.08, within twenty-one days of the issuance of the land use decision. The last day to file a LUPA is March 23, 2015.

If you have any questions, please do not hesitate to contact our office at (509) 962-7506.

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

RESOLUTION

NO. 2015 - 043

IN THE MATTER OF APPROVAL OF THE FINAL DEVELOPMENT PLAN FOR THE BLACK HORSE AT WHISKEY CREEK PUD REZONE (Z-06-00015) AND PRELIMINARY PLAT (P-06-00022)

WHEREAS, On February 6, 2007 the Board of County Commissioners signed Ordinance 2007-06 granting approval of the Black Horse at Whiskey Creek PUD Rezone (Z-06-00015 and Preliminary Plat (P-06-00022)); and,

WHEREAS, according to Kittitas County Code 17.36.040, following approval of the preliminary development plan by the county and before lot sales or building construction commences, the developer (owner) shall submit a final development plan for approval by the Board of County Commissioners; and,

WHEREAS, the Planned Unit Development known as Black Horse at Whiskey Creek PUD Rezone (Z-06-00015) and Preliminary Plat (P-06-00022) and described as follows:

ALL OF AND PORTIONS OF A PARCEL LYING EAST OF REECER CREEK ROAD AND NORTH OF BENDER ROAD AT 1406 WEST BENDER ROAD, ELLENSBURG, WA 98926 WITHIN SECTION 27 described as being a portion of section 27 of T.18N., R.18E., W.M., in the County of Kittitas, State of Washington; all of map number 18-18-27010-0002; and,

WHEREAS, the Board of County Commissioners on January 20, 2015, February 3, 2015, and February 17, 2015 reviewed the final development plan on this matter; and,

WHEREAS, the following FINDINGS OF FACT have been made concerning said development:

1. The original proposal was a planned unit development on 73.34 acres with a preliminary plat of 375 lots.
2. Jennifer Reiner, authorized agent for SSHI, LLC dba D.R. Horton, land owner, submitted the final development plan to Community Development Services on December 12, 2013.
3. After multiple reviews and work with the applicant and various departments it has been determined that the plat will consist of 354 units and will be developed in four (4) phases.
4. The subject parcel is located east of Reecer Creek Road and north of Bender Road at 1406 West Bender Road, Ellensburg, WA 98926 in S. 27, T.18N., R.18E., W.M. in Kittitas County. Assessor map number 18-18-27010-0002.
5. On February 6, 2007 the Board of County Commissioners signed Ordinance 2007-06

granting approval of the Black Horse at Whiskey Creek PUD Rezone (Z-06-00015) and Preliminary Plat (P-06-00022).

- 6. According to Kittitas County Code 17.36.040, following approval of the preliminary development plan by the county and before lot sales or building construction commences, the developer (owner) shall submit a final development plan for approval by the Board of County Commissioners.
- 7. On January 20, 2015 the Board of County Commissioners conducted a closed record hearing on the final development plan and continued the hearing to February 3, 2015 where further deliberations took place, and then continued again to February 17, 2015.
- 8. On February 3, 2015 Commissioner O'Brien recused himself from the process due to ex parte communication.
- 9. To ensure retention of open space tracts, the commissioners clarified the development plan to include a plat note that states:

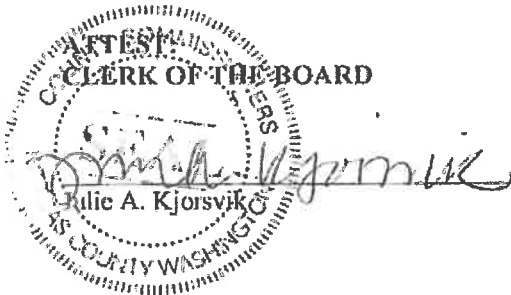
"The open space tracts shall be (1) owned in a proportionate and unseverable manner as tenants in common by each lot owner and (2) assessed, taxed, and foreclosed upon each building lot."

- 10. On February 17, 2015 the Board of County Commissioners approved the submitted final development plans in compliance with Ordinance 2007-06 with a vote of 2-0 with the open space retention clarification as specified above.

NOW THEREFORE,

BE IT HEREBY ORDAINED by the Board of County Commissioners of Kittitas County, Washington, after due deliberation and in the best interest of the public, does hereby approve the final development plan for the Black Horse at Whiskey Creek PUD Rezone (Z-06-00015) and Preliminary Plat (P-06-00022).

DATED this 3rd day of March, 2015 at Ellensburg, Washington.



**BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON**

Gary Berndt
Gary Berndt, Chairman

ABSTAINED

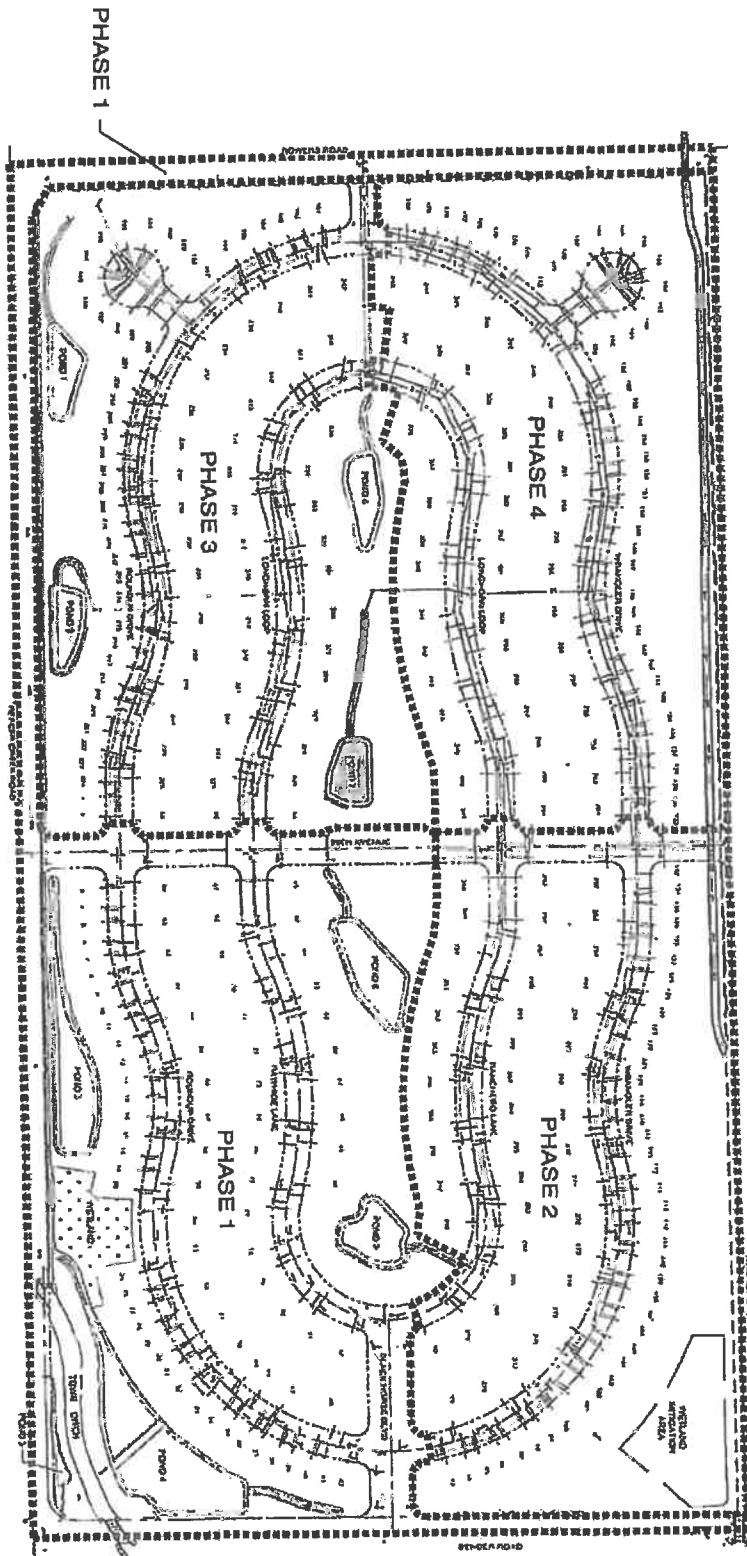
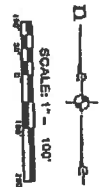
Obie O'Brien, Vice-Chairman
Paul Jewell, Commissioner

APPROVED AS TO FORM:

Greg Zempel WSBA #19125

Exhibit A

A PORTION OF SEC. 27, T. 18 N., R. 18 E., W.M.



LEGEND

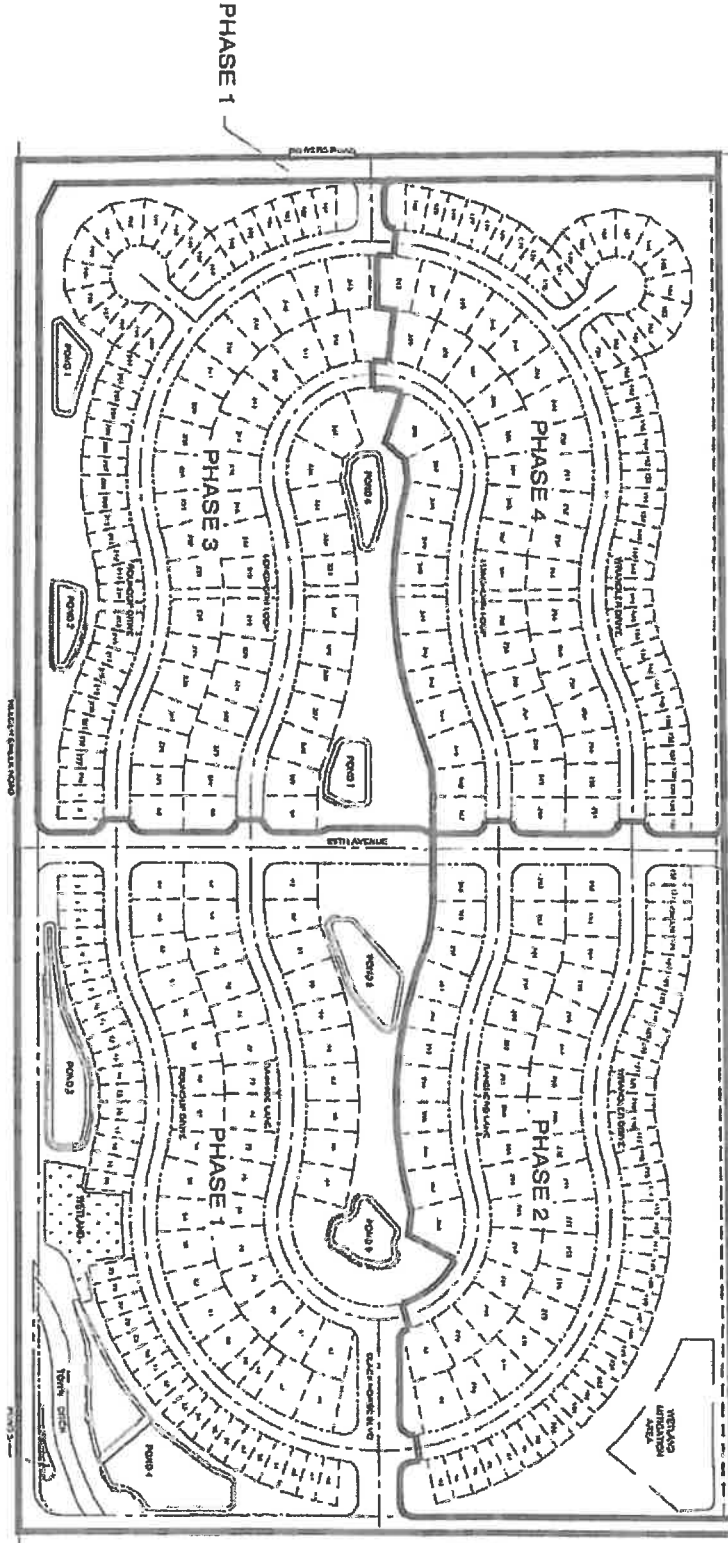
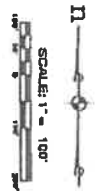
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RECEIVED
 DEC 19 2014
 KITTITAS COUNTY
 CDS

—updated w/ corrected road names
fill

<p>EN-75</p>	<p>D.R. HORTON</p> <p>BLACK HORSE AT WHISKEY CREEK</p> <p>UTILITY PHASING PLAN</p> <p>KITTITAS COUNTY WASHINGTON</p>	<p>ESM CONSULTING & ENGINEERS</p> <p>www.esmenv.com</p>	<p>DATE: 11/10/14</p> <p>BY: [Signature]</p> <p>CHECKED: [Signature]</p> <p>APPROVED: [Signature]</p>
			<p>PROJECT NO. 14-001</p> <p>DATE: 11/10/14</p> <p>BY: [Signature]</p> <p>CHECKED: [Signature]</p> <p>APPROVED: [Signature]</p>

A PORTION OF SEC. 27, T. 16 N., R. 18 E., W.M.



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KITTITAS COUNTY

CDS

updated w/ corrected road name *fill*

Small text at the top of the page, likely a header or reference code.

EN-74 <small>DATE: 11/10/14 DRAWN BY: [illegible] CHECKED BY: [illegible] APPROVED BY: [illegible]</small>	D.R. HORTON BLACK HORSE AT WHISKEY CREEK PLAT PHASING PLAN <small>KITTITAS COUNTY WASHINGTON</small>	 ESM CONSULTING ENGINEERS <small>1111 1st Street SW Pullman WA 99130 www.esmchl.com</small> <small>Paul L. Lammert, P.E. Mike Sweeney, P.E. Lisa Ruppel, P.E.</small>	<small>DATE: 11/10/14 DRAWN BY: [illegible] CHECKED BY: [illegible] APPROVED BY: [illegible]</small>
	<small>PROJECT NO.: [illegible] SHEET NO.: [illegible] TOTAL SHEETS: [illegible]</small>		

**Staging (Phasing) Plan
KCC 17.36.040 (1)**

The Black Horse project has been divided into four (4) phases as can be seen on the attached Plat Phasing Plan. Also attached is a Utility Phasing Plan which indicates the site development components that must be completed or bonded to record each Plat Phase.

Timing and items included in each phase are noted below. Please note that the following timelines are anticipated but may be adjusted due to market conditions. In addition, any site development component may be completed earlier than the dates shown below as long as all the proper permits are in hand.

Phase	Included	Timeline
1	<ul style="list-style-type: none"> • This Phase includes 81 lots as shown on the Plat Phasing Plan and the utilities shown on the Utility Phasing Plan. • This phase will also include the construction of the improvements for Bowers, Reeceer Creek and Bender Road. • The construction of the proposed ditch along the east side of the site that will convey flows from Bowers Road to Whiskey Creek will be included in this phase. • The construction of the new ditch along Reeceer Creek Road will be included in this phase. 	<ul style="list-style-type: none"> • The site work for this Phase will begin upon approval of the FPUD. • The final plat for this Phase is anticipated to record by June 2015. All site work in this phase will be either completed or bonded by recording. • The construction of the frontage improvements will be bonded with the recording of the plat. The work associated with the bond will be completed within 5 years of the bond date. • Home construction is anticipated start by June 2015 and home sales to begin by September 2015.
2	<ul style="list-style-type: none"> • This Phase includes 85 lots as shown on the Plat Phasing Plan and the utilities shown on the Utility Phasing Plan. • This phase will also include the construction of the wetland mitigation area which includes the berm to keep flood water directed to Whiskey Creek. 	<ul style="list-style-type: none"> • The site work for this Phase is anticipated to begin by January 2016. • The final plat for this Phase is anticipated to record by June 2016. All site work in this phase will be either completed or bonded by recording. • Home construction is anticipated start by June 2016 and home sales to begin by September 2016, depending upon market conditions.
3	<ul style="list-style-type: none"> • This Phase includes 93 lots as shown on the Plat Phasing Plan and the utilities shown on the Utility Phasing Plan. 	<ul style="list-style-type: none"> • The site work for this Phase is anticipated to begin by January 2017. • The final plat for this Phase is anticipated to record by February 2017. All site work in this phase will be bonded by recording. • Home construction is anticipated start by June 2017 and home sales to begin by September 2017, depending upon market conditions.
4	<ul style="list-style-type: none"> • This Phase includes 95 lots as shown on the Plat Phasing Plan and the utilities shown on the Utility Phasing Plan. 	<ul style="list-style-type: none"> • The site work for this Phase is anticipated to begin by January 2018. • The final plat for this Phase is anticipated to record by February 2017. All site work in this phase will be bonded by recording. • Home construction is anticipated start by June 2018 and home sales to begin by September 2018, depending upon market conditions.

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Exhibit B

Exhibit C

Black Horse at Whiskey Creek Compliance Review

INTRODUCTION

A. Project Overview

Planned unit development of originally 375; now 354 Single Family Units on 73.34 acres in four phases. Project received preliminary approval on February 6, 2007. Ordinance 2007-06. (RZ-06-00015 and Preliminary Plat P-06-00022)

B. Project Context

Project is located at 1406 West Reece Road, within Section 27 described as being a portion of Section 27 of T.18N., R.18E., W.M. in the County of Kittitas State of Washington; all of map number 18-18-27010-0002

C. Timing of Construction Activity

Ground work/construction shall only occur prior to FPUD approval if it is directly related to meeting a condition of approval. All other ground work/construction shall only occur if in conformance with County Code prior to Final Plat approval.

I. FINAL PLANNED UNIT DEVELOPMENT (FPUD)

RELEVANT CODE SECTIONS	ANALYSIS	FINDING
<p>A. Final Development Plan (KCC 17.36.040) Following approval of the preliminary development plan by the county and before lot sales or building construction commences, the developer (owner) shall submit a final development plan for approval by the board of county commissioners which shall include all of the following:</p> <p>1. A staging plan describing the timing or sequence of construction for all the elements of the plan. Subdivision lot sales may precede other elements of the development upon final plat approval</p>	<p>Numerous plan sheets provided which detail all the elements listed in criteria. File Index 28</p>	<p>In Compliance</p>
<p>2. A map or maps of the site drawn at a scale no smaller than one hundred feet to one inch showing the following:</p> <p>a. Preliminary engineering plans including site grading, road improvements, drainage and public utilities extensions;</p> <p>b. Arrangement of all buildings which shall be identified by type;</p> <p>c. Preliminary building plans including floor plans and exterior design and/or elevation views;</p> <p>d. Location and number of off-street parking areas including type and estimated cost of surfacing;</p> <p>e. The location and dimensions of roads and driveways including type and estimated cost of surfacing and road maintenance plans.</p> <p>f. The location and total area of common open spaces;</p> <p>g. Proposed location of fire protection facilities;</p> <p>h. Proposed storm drainage plan;</p>	<p>2. Maps are provided: a. Provided, Attached plan b. Provided, Attached plan c. Typical Building Floor Plans and Elevation not provided (Index # 28) ided. Tab 3 d. Location and Number of Driveways shown including information on surfacing or cost. Tab 4 e. Location and dimensions of roads and driveways Provided. No information on estimated cost of surfacing or road maintenance plans. Tab 4 f. The location and total area of common open spaces. Attached plan g. Proposed location of fire protection facilities; Attached plan h. Proposed storm drainage plan; Attached plan</p> <p>File Index 28</p>	<p>In Compliance</p>
<p>3. Certification from state and local health authorities that water and sewer systems are available to accommodate the development;</p>	<p>Reimbursement agreement provided signed 7/7/2008. TAB 7 File Index 28</p>	<p>In Compliance</p>

RELEVANT CODE SECTIONS	ANALYSIS	FINDING
4. Provisions to assure permanence and maintenance of common open spaces;	Provided Draft CC&R's for Approval by County. Requires recording as condition prior to sale of any lot. TAB 8 Provided. Condition that CC&R's be recorded and shown on face of final plat. Kittitas County does not regulate CC&Rs File Index 28	In Compliance. CC&Rs must be recorded prior to sale of any lots.
5. Statement of intent including estimated cost for landscaping and restoration of natural areas despoiled by construction including tree planting.	Provided at Tab 9 File Index 28	In Compliance

II. SEPA CONDITIONS

CONDITION	ANALYSIS	FINDING
I. Transportation		
A. Internal roads shall be constructed in accordance with Kittitas County or the City of Ellensburg standards, whichever is more restrictive.	Completed. Roads are designed to City Standards. Need to complete or bond for improvements prior to phased final plat approval.	In Compliance
B. Half street improvements, including sidewalk, full height curb and gutter, asphalt, street lighting, and storm drainage improvements will be required along Bender Road, Reece Creek Road and Bowers Road frontages of the development. The Developer shall install full street improvements, including sidewalk, curb and gutter, asphalt, street lighting, and storm drainage improvements along the interior streets.	Provided on Tabs 4 and 6. <u>Frontage improvements must either be constructed or bonded to the satisfaction of County PW prior to Phase 1 final plat approval.</u> See Tab 4 & 6 File Index 28	In Compliance. Applicant will need to satisfy County PW prior to final plat approvals.
C. Bowers Road and Reece Creek Road are both identified as arterials on the City's comprehensive plan. The developer will need to dedicate additional right of way on Reece Creek Road, from approximately the north side of the canal crossing and extending south to Bender Road. Arterial roadways are 48' wide face to face of full height curbs, with 7' sidewalks.	Completed See Tab 4. Shown on Civil plans. Dedication of ROW to be required prior to final plat. File Index 28	In Compliance
D. Bender road is identified as a collector, and also listed on the city bike plan. The existing right of way of Bender is 60' wide. The Bender Road improvements shall be 44' wide face to face of full height curbs, with 6' sidewalks.	Depicted on Civil Plan. Need to complete to bond for improvements prior to Final Plat.	In Compliance
E. All proposed interior roadways will be local access roadways, with 50' wide right of way. Local access roadways are 38' wide face to face of rolled curbs, with 5' sidewalks.	Complies. See Map DP-04. Need to complete to bond for improvements prior to Final Plat.	In Compliance

<p>F. The proposed Lariat Street on the preliminary site plan is proposed as an 80' wide right of way, and the proposed 29th Avenue is proposed as a 60' wide right of way. At time of project civil plans submittal, the developer shall provide a proposed roadway section at these two streets to the City.</p>	<p>File Index 28 Complies. See Map DP-04. Need to complete to bond for improvements prior to Final Plat File Index 28</p>	<p>In Compliance</p>
<p>G. The proposed roadway names shown on the preliminary plat map have been reviewed and approved by the City of Ellensburg and the fire departments.</p>	<p>Complies. See Map DP-04. Need to verify with Staff that names are approved. Need to complete to bond for improvements in final plat. All road names on latest site plan are available. File Index 28</p>	<p>In Compliance.</p>
<p>H. The developer shall include on their site plan the 185 foot long right turn lane from Bender Road into the development with appropriate striping. The developer shall include on their site plan the 160 foot long right turn taper from Reecer Creek Road into the development as described in the GTC Traffic Impact Analysis for the development.</p>	<p>Depicted on Civil plans. Need to complete to bond for improvements File Index 28</p>	<p>In Compliance</p>
<p>I. Prior to final plat approval the developer shall pay 15,000 towards the total estimated current cost for offsite traffic improvements of 200,000 (a semi-actuated signal at the intersection of Reecer Creek Road and University Way). This amount is 7.5% of the total cost to construct and install the signal to include mast arms, detection loops, and advance warning signs. The County will invest these funds until the signal is constructed in approximately six years in order to keep up with inflation.</p>	<p>Noted in plan. Payment required prior final plat recording. File Index 28</p>	<p>In Compliance</p>
<p>II. Light and Glare</p>	<p>Noted in plan. File Index 28</p>	<p>In Compliance</p>
<p>A. Any proposed lighting should be shaded and directed down towards the site.</p>	<p>Noted in plan. Street lighting plans are included in the civil set being reviewed by Public Works. File Index 28</p>	<p>In Compliance</p>
<p>B. Street lighting shall conform to the city street lighting requirements and standards.</p>	<p>Noted in Plan. A Corps permit is in process, project number NWS 2008-76 for this project. The HOA will be provided maintenance requirements for the wetlands and open space areas. Need completed USACE permit approval prior to Final Plat Approval; or bond for improvements. Once the USACE permit is final a copy shall be submitted to CDS for our records. Need to incorporate language that the HOA will maintain any wetland and/or mitigation tracts in conformance with the mitigation plan and any conditions of the USACE permit into CC&R's. Maintenance of CC&R's will be permanent condition of occupancy. This cannot be added until the USACE permit</p>	<p>In Compliance for FFUD approval. Applicant needs to provide final USACE</p>
<p>III. Water and Septic</p>	<p>A. Any filling of the onsite Category IV wetland will be in accordance with Kittitas County Code 17A: Critical Areas. Design and development of mitigations for the impact of wetlands shall be reviewed and approved prior to disturbance. Development mitigations shall be reviewed by the County, DDE, and other jurisdictional agencies. The mitigation plan shall contain a maintenance plan which demonstrates a physical and legal maintenance of the wetlands by the appropriate Homeowner's Association (HOA) or other entity.</p>	<p>In Compliance for FFUD approval. Applicant needs to provide final USACE</p>

<p>is issued.</p> <p>File Index 28</p> <p>A letter from CID and Ellensburg Water needs to be provided prior to Final Plat approval.</p>	<p>B. The development shall comply with Cascade Irrigation District and Ellensburg Water requirements, and shall not interfere with irrigation delivery to any downstream users. Prior to final approval, a certificate/letter of approval must be received by CDS from the Irrigation entity representative stating that the proposed development meets the irrigation entity requirements (K.C.C. 16.18.030).</p>	<p>approval prior to final plat approval; or bond for improvement s.</p> <p>In compliance for FPUD approval.</p> <p>Applicant needs to provide final Water letter from City and CID prior to Final Plat Approval.</p> <p>In Compliance</p>
<p>Complies. Email from Doug D'Hondt on 11/26/14.</p> <p>File Index 48</p> <p>Complies. See Tab 1. The engineering design has incorporated the required setback and it will be shown on the final plat map.</p> <p>Compliance to be verified prior to recording of final plat.</p> <p>File Index 28</p> <p>Complies. See Tab 5. Signage will be located along the Whiskey Creek buffer and it will also be noted in the CC&R's the restrictions for each Tract</p> <p>Maintenance of signage permanent condition of occupancy.</p> <p>File Index 28</p> <p>Complies, See Tab 1. The site grading has been designed to provide compensatory storage adjacent to Whiskey Creek for any filling within the floodplain. Verification from Public Works review of civil drawings per Doug D'Hondt email dated 11/26/14.</p> <p>File Index 28 & 48</p> <p>Completed. See Tab 6. The geotechnical report and stormwater drainage report have been provided to Public Works provides the required information. Verification from Public Works review of civil drawings per Doug D'Hondt.</p>	<p>C. The project shall comply with Kittitas County Code 17A: Critical Areas and 14.08: Flood Damage Prevention.</p> <p>D. A 100 foot setback from the Ordinary High Water Mark (OHWM) of Whiskey Creek. Location of wetlands and the boundary of the 100 year flood plain shall be shown on the final plat. The allowed uses within the Whiskey Creek buffer shall comply with applicable jurisdictional requirements and the appropriate permits shall be obtained as necessary.</p> <p>E. Proper signage shall be incorporated on-site and CC&R restrictions shall be put in place to encourage the maintenance of the buffer to retain the natural condition of Whiskey Creek.</p> <p>F. Site grading and development shall be designed as to minimize loss of existing flood storage or flood conveyance capacity, and shall have adequate drainage provided to reduce exposure to flood damage.</p> <p>G. The applicants design engineer shall determine groundwater elevations in the vicinity of proposed stormwater treatment and flow control facilities. The water surface elevation shall be utilized in the facility designs and shall be verified when groundwater is at its highest.</p>	<p>In Compliance</p> <p>In Compliance</p> <p>In Compliance</p> <p>In Compliance</p> <p>In Compliance</p> <p>In Compliance</p> <p>In Compliance</p> <p>In Compliance</p>

<p>H. Storm water and irrigation conveyance shall be kept separate.</p>	<p>email dated 11/26/14. File Index 28 & 48</p>	<p>In Compliance</p>
<p>I. Stormwater and surface runoff generated by this project must be retained and treated on-site in accordance with regulating agencies' standards.</p>	<p>Completed. See Tab 1. The final design for the stormwater conveyance through the site provides the means to keep the stormwater from the site development separate from the Town Ditch flows. Verification from Public Works review of civil drawings per Doug D'Hondt email dated 11/26/14. File Index 28 & 48</p>	<p>In Compliance</p>
<p>J. Stormwater shall not be discharged to Whiskey Creek or on-site wetlands without treatment.</p>	<p>Completed, See Tab 6. DP-07 shows the pond locations and provides design methodology File Index 28</p>	<p>In Compliance</p>
<p>K. The project shall comply with all requirements of the Department of Ecology Storm Water Manual for Eastern Washington, County and the City of Ellensburg standards for stormwater, whichever is more stringent; and shall be collected, retained and disposed of on-site accordingly.</p>	<p>Completed, See Tab 6 No onsite runoff is proposed to be discharged directly to either Whiskey Creek or the onsite wetland. All water must be treated per WAR Permit - 009906. See plan sheet DP-07. File Index 28</p>	<p>In Compliance</p>
<p>L. The developer shall provide for the ongoing maintenance of drainage swales and shall identify long term maintenance in CCRs. A plat note shall be included in the final plat as follows: As long as the detention tract is privately and not publicly owned, the detention tract shall be maintained by the Homeowner's Associations (HOA), as per the latest Department of Ecology's "Best Management Practices" Manual.</p>	<p>Completed See Tab 6 The project has a NPDES permit, WAR-009906 and will meet all County/City stormwater standards. File Index 28</p>	<p>In Compliance</p>
<p>M. Erosion control measures must be in place prior to any clearing, grading or construction.</p>	<p>Completed. See Tab 6. All drainage ponds and swales within the plat will be required to be maintained by HOA as will be noted on the final plat and in the CCR's. File Index 28</p>	<p>In Compliance</p>
<p>N. The project shall meet the requirements for a NPDES Construction Storm Water permit.</p>	<p>Complies. See Tab 1. The approved site development plans will include TESC requirements and all work will be in compliance with NPDES permit number WAR-009906. Conditions of permit will be incorporated into and enforced on all future construction permit actions. File Index 28</p>	<p>In Compliance</p>
<p>O. On-site drainage features associated with construction shall be designed such that off-site adjacent wetlands are not dewatered or impacted.</p>	<p>Complies. See Tab 10. Project is currently under NPDES permit number WAR-009907. Conditions of permit will be enforced through individual permit actions. File Index 28</p>	<p>In Compliance</p>

<p>P. The project shall comply with the requirements of the Army Corps of Engineers Nationwide Permit.</p>	<p>File Index 28</p> <p>A Corps permit is in process, project number NWS 2008-76. Final plat cannot be approved until Corps Permit has been issued or the improvements have been bonded for. All conditions of the USACE permit shall be incorporated into permit conditions for subsequent construction permits.</p> <p>File Index 28</p> <p>Applicant needs to provide final USACE approval prior to final plat approval or bonded for.</p>	<p>In compliance for FPUD approval.</p>
<p>IV. Noise and Aesthetics</p>		
<p>A. All county noise ordinances shall apply to the project.</p>	<p>Agreed</p>	<p>In Compliance</p>
<p>B. Construction activities shall comply with KCC 9.45 (Noise).</p>	<p>Agreed</p>	<p>In Compliance</p>
<p>C. Landscaping shall be provided consisting of a mixture of native plantings, and mixed deciduous and conifer trees as reflected in the draft landscaping plan in order to provide a buffer to the surrounding area.</p>	<p>Completed. See Tab 9. Landscaping plans have been provide to the County for review and provide a buffer to the adjacent parcels.</p> <p>File Index 28</p>	<p>In Compliance.</p>
<p>V. Land Use and Recreation</p>		
<p>A. A final development plan pursuant to Kittitas County Code 17.36.040 shall be submitted for approval by the Board of County Commissioners.</p>	<p>Complies</p>	<p>In Compliance</p>
<p>B. All proposals of the applicant included within their application that are not in conflict with these mitigations shall be conditions of approval and shall be considered as mitigations.</p>	<p>Complies</p>	<p>In Compliance</p>
<p>C. Pursuant to Kittitas County Code 17.74.060A, a Plat Note regarding the Right to Farm Ordinance is required. The note shall read as follows: "The subject property is within or near land used for agriculture on which a variety of commercial activities may occur that are not compatible with residential development for periods of varying duration. (RCW 36.70A.060(1)) Commercial natural resource activities performed in accordance with county, state and federal laws are not subject to legal action as public nuisances." (RCW 7.48.305).</p>	<p>Complies. The note will be added to the final plat map prior to recording.</p>	<p>In Compliance</p>
<p>VI. Utilities and Service</p>		
<p>A. As required in the outside utility agreement, the installation of utility, street and other public improvements shall conform to the standards and specifications approved by the City of Ellensburg and such development</p>	<p>Completed. A Developer Extension Agreement and Latecomer's has been entered into with the City of Ellensburg and all plans are in conformance and will be</p>	<p>In Compliance</p>

standards shall use the current City development design requirements as the standard for review of the development	further verified in subsequent building code reviews. See Tab 7 File Index 28	
B. The project shall be served by City water and sewer services. The applicant shall work with the city to establish the appropriate connections per the City of Ellensburg processes and standards.	Completed. The project currently has City sewer and water at the site. See Tab 1 & 7 File Index 28	In Compliance
C. All requirements from the local fire jurisdictions shall be incorporated into the project. This project shall comply with International Fire Code (IFC) and Appendices.	Completed. The project has been designed in accordance with applicable fire codes to be further verified in subsequent building code reviews. See Tab 5 File Index 28	In Compliance
D. No parking "fire lane" shall be posted within 20 feet of all internal intersections. The signs must comply with IFC Appendix D.	Agreed	In Compliance
E. The subject property shall conform to the minimum requirements for fire apparatus access.	Completed See Tab 4 & 5. Map DP-04 & Map DP-06 show the fire hydrant locations. File Index 28	In Compliance
F. Location and amount of fire hydrants on-site shall meet local fire jurisdiction requirements.	Completed. See Tab 5. Map DP-06 shows the location of the fire hydrants. File Index 28	In Compliance
G. Mail routes shall be approved by the postmaster. The postmaster shall also approve mailbox locations. Mailbox locations shall not create sight obstructions.	Completed. See Map DP-04 in Final Development Plan. File Index 28	In Compliance
H. The applicant shall work with the local school district to provide for a safe location and passageway for a school bus stop. This location shall be delineated on the final mylar.	Completed. The school district has been contacted and the bus stop locations have been determined. File Index 28	In Compliance

Exhibit D

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

ORDINANCE NO. 2007 - 06

**BLACK HORSE AT WHISKEY CREEK REZONE (Z-06-15)
AND PRELIMINARY PLAT (P-06-22)**

**IN THE MATTER OF AMENDING THE KITTITAS COUNTY ZONING ATLAS FOR A
PORTION OF SECTION 27 OF TOWNSHIP 18 N., RANGE 18 E., FROM AGRICULTURE-3 TO
PLANNED UNIT DEVELOPMENT
AND DIVISION OF THE PLANNED UNIT DEVELOPMENT INTO 375 LOTS**

WHEREAS, according to Kittitas County Code Titles 15A & 17, relating to general rezones, adopted pursuant to RCW 36.70B & 36.70 respectively, and according to Kittitas County Code Title 16, relating to Subdivision of Land, adopted pursuant to RCW 58.17, an open record hearing was held by the Kittitas County Planning Commission on December 12, 2006 for the purpose of considering a zone change consisting of approximately 73.34 acres from Agriculture-3 to Planned Unit Development (PUD), and a 375-lot preliminary plat of the Planned Unit Development and described as follows:

ALL OF AND PORTIONS OF A PARCEL LYING EAST OF REECER CREEK DRIVE AND NORTH OF BENDER ROAD AT 1406 WEST BENDER ROAD, ELLENSBURG, WA 98926 WITHIN SECTION 27 described as being a portion of section 27 of T.18N., R.18E., W.M., in the County of Kittitas, State of Washington; all of map number 18-18-27010-002. And,

WHEREAS, testimony was taken from those persons present who wished to be heard during said open record hearing before the Planning Commission; 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 zone change; and,

WHEREAS, the Planning Commission recommended approval of said proposed rezone and preliminary plat in a 4-0 decision; and,

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on January 16, 2007 to consider the Planning Commission's recommendation on this matter; and,

WHEREAS, the following FINDINGS OF FACT and CONCLUSIONS AT LAW have been made concerning said proposed rezone and preliminary plat:

1. Jennifer Steig, authorized agent for SSH, LLC dba D.R. Horton, landowner has submitted applications for the following: 1. Black Horse at Whiskey Creek Rezone (Z-06-15), rezone from Agriculture-3 to Planned Unit Development (PUD) for approximately 73.34 acres, and 2.

Black Horse at Whiskey Creek Preliminary Plat (P-06-22) which is a 375-lot subdivision.

2. The subject property is located east of Reecer Creek Drive and north of Bender Rd at 1406 West Bender Rd, Ellensburg, WA 98926 in Section 27, T18N., R18E., W.M. in Kittitas County. Parcel number 18-18-27010-0002.
3. Pursuant to KCC 17.36: Planned Unit Development any persons or corporation applying for a planned unit development zone shall file a preliminary development plan with an application for zone change. The total acreage for the proposed PUD is 73.34 acres with a total of 375 units being proposed. The submitted application is proposing a phased approach into two phases.
4. Pursuant to KCC 17.36.040: final development plan for Planned Unit Development, following approval of the preliminary development plan by the county and before lot sales or building construction commences, the developer (owner) shall submit a final development plan for approval by the Board of County Commissioners.
5. The subject property was used in the past for agricultural and grazing activities. Currently on-site is a single family residence and associated accessory structures. Surrounding uses include a mixture of uses which includes residential and agricultural.
6. Zoning to the north is Agriculture-3, west and south is suburban, and zoning to the east is Agriculture-3.
7. A Notice of Application was issued on June 14, 2006 by Kittitas County Community Development Services. 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.
8. Written comments were solicited and the final date to submit written comments was on July 17, 2006 by 5:00pm. Comments were received and have been made part of the project record.
9. Based on the review of the submitted application materials (including an environmental checklist), correspondence received during the 30 day comment period and other information on file with our office, a SEPA Mitigated Determination of Non-Significance (MDNS) was issued by Kittitas County Community Development Services on October 31, 2006. No SEPA Appeals were received. The mitigations contained within the SEPA are as follows:

I. Transportation

- A. Internal roads shall be constructed in accordance with Kittitas County or the City of Ellensburg standards, whichever is more restrictive.
- B. Half street improvements, including sidewalk, full height curb and gutter, asphalt, street lighting, and storm drainage improvements will be required along Bender Road, Reecer Creek Road and Bowers Road frontages of the development. The developer shall install full street improvements, including sidewalk, curb and gutter, asphalt, street lighting, and storm drainage improvements along the interior

streets.

- C. Bowers Road and Reecer Creek Road are both identified as arterials on the City's comprehensive plan. The developer will need to dedicate additional right of way on Reecer Creek Road, from approximately the north side of the canal crossing and extending south to Bender Road. Arterial roadways are 48' wide face to face of full height curbs, with 7' sidewalks.
- D. Bender Road is identified as a collector, and also listed on the city bike plan. The existing right of way of Bender is 60' wide. The Bender Road improvements shall be 44' wide face to face of full height curbs, with 6' sidewalks.
- E. All proposed interior roadways will be local access roadways, with 50' wide right of way. Local access roadways are 38' wide face to face of rolled curbs, with 5' sidewalks.
- F. The proposed Lariat Street on the preliminary site plan is proposed as an 80' wide right of way, and the proposed 29th Avenue is proposed as a 60' wide right of way. At time of project civil plans submittal, the developer shall provide a proposed roadway section at these two streets to the city.
- G. The proposed roadway names shown on the preliminary plat map have been reviewed and approved by the City of Ellensburg and the fire department.
- H. The developer shall include on their site plan the 185 foot long right turn lane from Bender Road into the development with appropriate striping. The developer shall include on their site plan the 160 foot long right turn taper from Reecer Creek Road into the development as described in the GTC Traffic Impact Analysis for the development. Improvements shall be built or bonded prior to final approval.
- I. Prior to final plat approval the developer shall pay \$15,000 towards the total estimated current cost for offsite traffic improvements of \$200,000 (a semi-actuated signal at the intersection of Reecer Creek Road and University Way). This amount is 7.5% of the total cost to construct and install the signal to include mast arms, detection loops, and advance warning signs. The County will invest these funds until the signal is constructed in approximately six years in order to keep up with inflation

II. Light and Glare

- A. Any proposed lighting should be shaded and directed down towards the site.
- B. Street lighting shall conform to city street lighting requirements and standards.

III. Water

- A. Any filling of the onsite Category IV wetland will be in accordance with Kittitas County Code 17A: Critical Areas. Design and development of mitigations for the impact of wetlands shall be reviewed and approved prior to disturbance. Development mitigations shall be reviewed by the County, DOE, and other jurisdictional agencies. The mitigation plan shall contain a maintenance plan which demonstrates a physical and legal maintenance of the wetlands by the appropriate Homeowner's Association (HOA) or other entity.
- B. The development shall comply with Cascade Irrigation District and Ellensburg Water requirements, and shall not interfere with irrigation delivery to any downstream users. Prior to final approval, a certificate/letter of approval must be received by CDS from the irrigation entity representative stating that the proposed

- development meets the irrigation entity requirements (KCC 16.18.030).
- C. The project shall comply with Kittitas County Code 17A: Critical Areas and 14.08: Flood Damage Prevention.
 - D. A 100 foot setback from the Ordinary High Water Mark (OHWM) of Whiskey Creek, location of wetlands and the boundary of the 100 year flood plain shall be shown on the final mylar. The allowed uses within the Whiskey Creek buffer shall comply with applicable jurisdictional requirements and the appropriate permits shall be obtained as necessary.
 - E. Proper signage shall be incorporated on-site and CC&R restrictions shall be put in place to encourage the maintenance of the buffer to retain the natural condition of Whiskey Creek.
 - F. Site grading and development shall be designed as to minimize loss of existing flood storage or flood conveyance capacity, and shall have adequate drainage provided to reduce exposure to flood damage.
 - G. The applicants design engineer shall determine groundwater elevations in the vicinity of proposed stormwater treatment and flow control facilities. The water surface elevation shall be utilized in the facility designs and shall be verified when groundwater is at its highest.
 - H. Storm water and irrigation conveyance shall be kept separate.
 - I. Stormwater and surface runoff generated by this project must be retained and treated on-site in accordance with regulating agencies' standards.
 - J. Stormwater shall not be discharged to Whiskey Creek or on-site wetlands without treatment.
 - K. The project shall comply with all requirements of the Department of Ecology Storm Water Manual for Eastern Washington, County and the City of Ellensburg standards for stormwater, whichever is more stringent; and shall be collected, retained and disposed of on-site accordingly.
 - L. The developer shall provide for the ongoing maintenance of drainage swales and shall identify long term maintenance in CCRs. A plat note shall be included in the final mylar as follows *As long as the detention tract is privately and not publicly owned, the detention tract shall be maintained by the Homeowner's Associations (HOA), as per the latest Department of Ecology's "Best Management Practices" Manual.*
 - M. Erosion control measures must be in place prior to any clearing, grading or construction.
 - N. The project shall meet the requirements for a NPDES Construction Storm Water permit.
 - O. On-site drainage features associated with construction shall be designed such that off-site adjacent wetlands are not dewatered or impacted.
 - P. The project shall comply with the requirements of the Army Corps of Engineers Nationwide Permit.

IV. Noise and Aesthetics

- A. All county noise ordinances shall apply to the project.
- B. Construction activities shall comply with KCC 9.45 (Noise).
- C. Landscaping shall be provided consisting of a mixture of native plantings, and mixed deciduous and conifer trees as reflected in the draft landscaping plan in

order to provide a buffer to the surrounding area.

V. Land Use

- A. A final development plan pursuant to Kittitas County Code 17.36.040 shall be submitted for approval by the Board of County Commissioners.
- B. All proposals of the applicant included within their application that are not in conflict with these mitigations shall be conditions of approval and shall be considered as mitigations.
- C. Pursuant to Kittitas County Code 17.74.060A, a Plat Note regarding the Right to Farm Ordinance is required. The note shall read as follows: "The subject property is within or near land used for agriculture on which a variety of commercial activities may occur that are not compatible with residential development for periods of varying duration. (RCW 36.70A.060(1)) Commercial natural resource activities performed in accordance with county, state and federal laws are not subject to legal action as public nuisances." (RCW 7.48.305).

VII. Utilities and Services

- A. As required in the outside utility agreement, the installation of utility, street and other public improvements shall conform to the standards and specifications approved by the City of Ellensburg and such development standards shall use the current City development design requirements as the standard for review of the development.
 - B. The project shall be served by City water and sewer services. The applicant shall work with the city to establish the appropriate connections per the City of Ellensburg processes and standards.
 - C. All requirements from the local fire jurisdictions shall be incorporated into the project. This project shall comply with International Fire Code (IFC) and Appendices.
 - D. "No parking; fire lane" shall be posted within 20 feet of all internal intersections. The signs must comply with IFC Appendix D.
 - E. The subject property shall conform to the minimum requirements for fire apparatus access.
 - F. Location and amount of fire hydrants on-site shall meet local fire jurisdiction requirements.
 - G. Mail routes shall be approved by the postmaster. The postmaster shall also approve mailbox locations. Mailbox locations shall not create sight obstructions.
 - H. The applicant shall work with the local school district to provide for a safe location and passageway for a school bus stop. This location shall be delineated on the final mylar.
10. An administrative site analysis was completed by the staff planner in compliance with Title 17A. The subject property is impacted by Whiskey Creek along the lower southeast boundary line, the 100 year flood plain the southeast corner of the subject property, and Palustrine Emergent Seasonal (PEMC) wetlands. The following are findings from the review: **Whiskey Creek:** Whiskey Creek, a Type 3 waster, is located on the subject property. All development will need to comply with the KCC 17A: Critical Areas, KCC 14.08: Flood Damage Prevention and SEPA mitigations. **Wetlands:** Category IV wetlands

have been identified on-site per the submitted wetlands analysis and addendum, and per review and consultation with the Washington State Department of Ecology. All development will need to comply with the KCC 17A: Critical Areas, KCC 14.08: Flood Damage Prevention and SEPA mitigations. 100 year flood plain: The 100 year floodplain is located within the subject property, particularly in relation to Whiskey Creek. All development will need to comply with the KCC 17A: Critical Areas, KCC 14.08: Flood Damage Prevention and SEPA mitigations.

11. A hearing was originally scheduled before the Kittitas County Planning Commission for November 14, 2006, and due to lack of quorum the hearing was continued to November 28, 2006. The November 28, 2006 hearing was continued to December 12, 2006 due to lack of quorum. The Kittitas County Planning Commission held a public hearing on December 12, 2006 to consider this matter and testimony was taken from those persons who wished to be heard.
12. The Planning Commission finds that the proposed rezone is consistent with the underlying Comprehensive Plan designation of Urban Ellensburg.
13. The Planning Commission finds that the proposed rezone does meet all seven criteria of Kittitas County Code 17.98.020(E) as outlined below:
 - A. *The proposed amendment is compatible with the comprehensive plan. The proposed zone is compatible with the land use designation of Urban Ellensburg. The subject property is located within the Urban Growth Area of Ellensburg.*
 - B. *The proposed amendment bears a substantial relation to the public health, safety or welfare. The project contained within this application is within the Ellensburg Urban Growth Area and will be served by municipal water and sewer if the application is approved. An "Outside Utility Agreement, Annexation Covenant" between the City of Ellensburg and the owners of the subject property was signed on April 19th, 2006.*
 - C. *The proposed amendment has merit and value for Kittitas County or a sub-area of the county. The subject property is located within the Urban Growth Area of the City of Ellensburg and will be served by urban levels of service.*
 - D. *The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property. The subject property is located within the Urban Growth Area where urban levels of development are supported. The proposal allows for reasonable development of the subject property that will be served by municipal services.*
 - E. *The subject property is suitable for development in general conformance with zoning standards for the proposed zone. The subject property is located within the Urban Growth Area of the City of Ellensburg. An "Outside Utility Agreement, Annexation Covenant" between the City of Ellensburg for municipal services has been signed.*
 - F. *The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property. The subject property was used in the past for agricultural and grazing activities. Currently on-site is a single family residence and associated accessory structures. Surrounding uses include a mixture of uses which includes residential and agricultural. Zoning to*

the north is Agriculture-3, west and south is suburban, and zoning to the east is Agriculture-3. Mitigations are contained with the SEPA MDNS that addresses impacts to properties in the immediate vicinity of the property.

G. The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties. Per the SEPA MDNS: The development shall comply with Cascade Irrigation District and Ellensburg Water requirements, and shall not interfere with irrigation delivery to any downstream users. Prior to final approval, a certificate/letter of approval must be received by CDS from the irrigation entity representative stating that the proposed development meets the irrigation entity requirements (KCC 16.18.030).

14. Additional conditions are not necessary to protect the public's interest.

15. Public testimony was heard.

NOW THEREFORE,

BE IT HEREBY ORDAINED by the Board of County Commissioners of Kittitas County, Washington, after due deliberation and in the best interest of the public, does hereby approve said zone change consisting of approximately 73.34 acres from Agriculture-3 to Planned Unit Development (PUD) known as the Black Horse at Whiskey Creek Rezone (Z-06-15), and a 375-lot preliminary plat known as the Black Horse at Whiskey Creek Plat (P-06-22), and does hereby authorize the amendment of the Kittitas County Zoning Map as set forth in attached Exhibit A and does hereby approve the proposed development configuration for the preliminary plat as set forth in attached Exhibit B.

DATED this 16th day of February, 2007 at Ellensburg, Washington.



APPROVED AS TO FORM:

Greg Zempel WSBA #19125

BOARD OF COUNTY COMMISSIONERS
KITTTAS COUNTY, WASHINGTON

Alan A. Crankovich, Chairman

David B. Bowen, Vice-Chairman

Mark McClain, Commissioner

**Exhibit A: Black Horse at Whiskey Creek Rezone (Z-06-15) and Preliminary Plat (P-06-22)
Property locator maps**

