

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

**PRELIMINARY PLAT APPROVAL
Palomino Fields (P-07-31)**

RESOLUTION

NO. 2008- 160

WHEREAS, according to Kittitas County Code Chapter 16, relating to the Subdivision of Land, adopted pursuant to RCW 58.17, an open record hearing was held by the Kittitas County Hearing Examiner on October 9, 2008 for the purpose of considering a preliminary plat known as the Palomino Fields Preliminary Plat and described as follows:

The division of 120.08 acres into 120 lots, map numbers 18-18-27020-0001, 0002, 0003, 0015, 0016 and 0017 located in portions of Section 27, T18N, R18E, WM in Kittitas County. Proponent: Terra Design Group, authorized agent for Cle Elum Pines West, LLC and Cle Elum Pines East, LLC, and Michael Cordner, landowners.

WHEREAS, public testimony was heard from those persons present; and,

WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such platting; and,

WHEREAS, the Hearing Examiner recommended approval of said proposed subdivision; and,

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on November 18, 2008 to consider the Hearing Examiner's recommendation on this matter; and,

WHEREAS, the Kittitas County Board of Commissioners make the following FINDINGS OF FACT and CONCLUSIONS AT LAW concerning said proposed preliminary plat:

1. Terra Design Group, authorized agent for Cle Elum Pines West, LLC & Cle Elum Pines East, LLC and Michael Cordner, landowners, has submitted a Preliminary Plat application to subdivide approximately 120.8 acres into 120-lots. The proposed lot sizes range from 0.75 acres to 1.23 acres.
2. The property is located north of Dry Creek Road and west of Reeber Creek Road which comprises portions of the W ½ of Section 27, T18N, R18E, WM in Kittitas County. Map numbers 18-18-27020-0001, 0002, 0003, 0015, 0016, 0017. Currier Creek flows

through the property.

3. The subject property is currently zoned Urban Residential. The project was submitted under and is vested to the Suburban Zone KCC 17.20. The project is proposed to be served by a Group A water system and community drain fields transitioning to a Class A Reclaimed Water System as adequate flow is established.
4. The Notice of Application for the preliminary plat application was issued on June 29, 2007. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on July 19 2007.
5. A re-notice of application was issued on January 28, 2008 with the comment period ending on February 14, 2008. The purpose of the re-notice was to reflect changes that Kittitas County Public Works had requested for road alignment. 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.
6. A second re-notice of application was issued on July 10, 2008 with the comment period ending on July 29, 2008. The purpose of the second re-notice was to reflect changes that Kittitas County Public Works had requested for road alignment and an approved Road Variance with required conditions to be shown on the preliminary plat map. 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
7. Kittitas County issued a Mitigated Determination of Nonsignificance (MDNS) on September 8, 2008 in accordance with WAC 197-11-355 (Optional DNS process). There were no appeals of the SEPA MDNS filed.
8. The Hearing Examiner conducted an open record hearing on October 9, 2008 to consider this matter where testimony was heard. On October 21, 2008 the Hearing Examiner issued a recommendation of preliminary plat approval for the Palomino Fields Preliminary Plat (P-07-31).
9. The Board of County Commissioners conducted a closed record meeting on November 18, 2008 for the purpose of considering the preliminary plat known as the Palomino Fields Preliminary Plat (P-07-31). A motion was made and seconded that the preliminary plat be approved. The motion carried with a vote of 3-0.
10. The Board of County Commissioners finds that additional conditions are not necessary to protect the public's interest.

NOW, THEREFORE BE IT RESOLVED, that the Kittitas County Board of Commissioners hereby grants preliminary plat approval to the Palomino Fields Plat (P-07-31) and adopts the

Kittitas County Land Use Hearing Examiner's Recommended Finds of Fact, Conclusions of Law, Decision and Conditions of Approval (See Exhibit A):


BE IT FURTHER RESOLVED by the Board of County Commissioners of Kittitas County, Washington, that said preliminary plat designated as Palomino Fields Plat (P-07-31) and the same hereby is, approved with the proposed development configuration (See Exhibit B).

DATED this 18th day of November, 2008 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITTTAS COUNTY, WASHINGTON

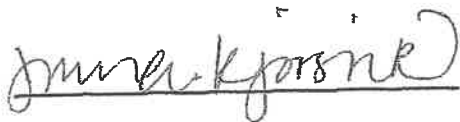

Mark McClain, Chairman


Alan A. Crankovich, Vice Chairman


Linda K. Huber, Commissioner



ATTEST:
CLERK OF THE BOARD



APPROVED AS TO FORM: 

Julie A Kjorsvik

Greg Zempel WSBA #19125





**KITTITAS COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF) **RECOMMENDED FINDINGS OF**
) **FACT, CONCLUSIONS OF LAW**
P-07-31) **DECISION AND**
Palomino Fields Preliminary Plat) **CONDITIONS OF APPROVAL**

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on October 9, 2008, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. Terra Design Group, authorized agent for Cle Elum Pines West & East LLC's and Michael Cordner, landowners, has submitted a Preliminary Plat application to subdivide approximately 120.8 acres into 120-lots. The proposed lot sizes range from 0.75 acres to 1.23 acres. (Application)
2. The applicant is Cle Elum Pines East & West, LLC's, P.O. Box 808, Cle Elum, WA 98922. (Application)
3. The subject property is currently zoned Urban Residential. The project was submitted under and is vested to the Suburban Zone KCC 17.20. The project is proposed to be served by a Group A water system and community drain fields transitioning to a Class A Reclaimed Water System as adequate flow is established. (Application)
4. The property is located north of Dry Creek Road and west of Reecer Creek Road comprising a portion of the W 1/2 of Section 27, T. 18N., R 18E., W.M. in Kittitas County. Tax parcel number(s) # 18-18-27020-0002, 0003, 0015, 0016, 0017, 0001. Currier Creek flows thru the property. (Application / Kittitas County Assessor)
5. Site Information:

Total Project Size:	120.8 acres
Number of Lots:	120
Zoning district	Urban Residential (Vested under Suburban)

Domestic Water:	Group A community system
Sewage Disposal:	Community septic transitioning to a Class A Reclaimed Water System
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District #2
Irrigation District:	Ellensburg Water Company

(All from Application)

6. Site Characteristics: The topography of the site and surrounding properties is planar with a gentle slope of 1 to 2%. Currier Creek flows through the project from north to south. There are some existing structures on site. These structures use to be part of the previous landowners church facilities. There is also a large abandoned structure that was placed on the property under the previous ownership. The Town Ditch (Ellensburg Water Company) canal runs along the eastern edge of the property. Eventually this property abuts up against the John Wayne Trail to the south. Some of this ground has not been farmed recently and other portions of this property are currently being farmed. (Application / Staff investigation/Staff Report)

7. Surrounding Property:

<u>North:</u>	Vacant
<u>Northeast:</u>	Residential lots
<u>South:</u>	John Wayne Trail; South of the John Wayne Trail Residential lots
<u>East:</u>	Town Ditch Canal and four residential lots East of Reecer Creek Road BlackHorse @ Whiskey Creek 300 plus residential Planned Unit Development
<u>West:</u>	Agricultural ground

(Staff Report)

8. The Comprehensive Plan designation is Rural. (Staff Report)

9. The subject property is zoned Urban Residential (the project was vested under the Suburban Code (KCC 17.20) prior to the zone change), which allows for an average of one acre minimum lot size. (Staff Report)

10. A long plat and SEPA checklist was submitted to Community Development Services and deemed complete on May 25, 2007. (Application / Staff Report)

11. The Notice of Application for the preliminary plat application was issued on June 29, 2007. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other

interested parties. The last day to submit written comments was on July 19, 2007.
(Staff Report)

12. A Renotice was issued on January 28, 2008 with the comment period ending on February 14, 2008 reflecting changes that Kittitas County Public Works had requested for road alignment. 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. All comments received from those comment periods were considered by the Hearing Examiner. (Staff Report)
13. A Second Renotice was issued on July 10, 2008 with the comment period ending on July 29, 2008 reflecting changes that Kittitas County Public Works had requested for road alignment and an approved Road Variance with required conditions to be shown on the preliminary plat map. 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. All comments received from those comment periods were considered by the Hearing Examiner. (Staff Report and Hearing Examiner finding)
14. Kittitas County issued a Mitigated Determination of Nonsignificance (MDNS) on September 8, 2008 as in accordance with WAC 197-11-355 (Optional DNS process). There were no appeals of the SEPA MDNS filed. (Staff Report and Hearing Examiner finding)
15. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. Adequate provisions will be provided to minimize impacts to Currier Creek. The lots will be served by a Group A water system and community drain fields transitioning to a Class A Reclaimed Water System. Staff has conducted an administrative critical area review in accordance with KCC 17A and found four wetlands on the subject property. Currier Creek also flows thru the development and a 100 foot buffer shall be maintained to protect the creek. (Staff Report and Hearing Examiner finding)
16. As conditioned, this proposal is consistent with the Kittitas County Subdivision Code Chapter 16.12 for Preliminary Plats. (Hearing Examiner finding)
17. As conditioned, this proposal is consistent with the Kittitas County Environmental Health Title 15. (Hearing Examiner finding)
18. As conditioned, this proposal is consistent with the Kittitas County Critical Areas Code Title 17A. (Hearing Examiner finding)

19. As conditioned, this proposal is consistent with the Kittitas County Flood Damage Prevention Code Title 14.08. (Hearing Examiner finding)
20. As conditioned, this proposal is consistent with the Kittitas County Zoning Code Title 17. (Hearing Examiner finding)
21. This proposal is consistent with and is vested to the Kittitas County Code 17.20, Suburban Zone as it existed on the date the application was deemed complete (May 25, 2007). (Hearing Examiner finding)
22. This proposal is consistent with the Kittitas County Irrigation & Sprinkling Code 16.18. (Hearing Examiner finding)
23. The Kittitas County Department of Public Works has identified that Bowers Road as constructed be classified as a Collector. The road is required to meet all Kittitas County Road Standards as outlined in the memorandum issued by the Department of Public Works prior to issuance of a building permit. As conditioned, the proposal is consistent with the provisions of KCC Title 12. (Kittitas County Department of Public Works comments, Staff Report and Hearing Examiner finding)
24. The Kittitas County Department of Public Works required and approved a Traffic Impact Analysis (TIA), and has requested the imposition of all recommended mitigation measures as conditions of approval. As conditioned, there is no detrimental impact to the public health, safety and welfare. (Kittitas County Department of Public Works comments, Staff Report and Hearing Examiner finding)
25. The following agencies provided comments during the comment period: Department of Ecology, Yakama Nation, Washington State Department of Archaeology & Historic Preservation, Kittitas County Department of Public Works, and Kittitas County Environmental Health. As the Hearing Examiner deemed appropriate, these comments have been included as conditions of approval. (Staff Report and Hearing Examiner finding)
26. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval. (Hearing Examiner finding)
27. The entire Planning Staff file was admitted into the record at the public hearing. (Hearing Examiner finding at open record public hearing)
28. The Kittitas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval. (Staff Report and Staff presentation at open record public hearing)

29. Public hearing after due legal notice was held on October 9, 2008. Appearing and testifying on behalf of the applicant was Chad Bala of Terra Design Group, Inc. in Cle Elum. Mr. Bala testified that he was an agent authorized to appear and speak on behalf of the applicant, Cle Elum Pines West & East, LLC's. Mr. Bala submitted a notebook of records that were consecutively numbered 1 through 563. This notebook and all the materials contained therein were admitted into the record. This notebook was admitted as Exhibit 3 to the hearing. (Chad Bala testimony at open record public hearing)
30. Exhibits at the hearing were:
- 30.1 Exhibit 1 is an October 9, 2008, letter from Jan Sharar to the Kittitas County Hearing Examiner.
- 30.2 Exhibit 2 is the Public Works PowerPoint presentation.
- 30.4 Exhibit 4 is October 9, 2008, letter from Ron and Debbie Kuhn to the Hearing Examiner.
(Chad Bala testimony at open record public hearing)
- 31 Mr. Bala testified that none of the proposed lots would require a variance due to the buildable area of the lot, riparian setbacks and setbacks related to the septic system, in order to build a single family residence and any accessory structures. This included but was not limited to proposed lots 32, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55. Mr. Bala testified that on behalf of the applicant there were no objection to any of the proposed conditions of approval. (Chad Bala testimony at open record public hearing)
32. Also testifying on behalf of the applicant was Mark Nelson, P.O. Box 394, Cle Elum, WA 98922. Mr. Nelson was the designer of the septic system to serve this project. Mr. Nelson testified consistent with the application materials on file. Mr. Nelson emphasized that the large on-site sewage system (L.O.S.S.) would be subject to approval by Department of Health. The reclaimed water system would be subject to approval by Department of Ecology and Department of Health. Both the community septic system and the reclaimed water system would require additional permits from other agencies with jurisdiction prior to construction and implementation of those utilities. (Mark Nelson testimony at open record public hearing)
33. Speaking on behalf of the applicant was attorney Jeff Slothower. Mr. Slothower provided argument regarding the vesting issue. Mr. Slothower pointed out that as of the date of the determination of a complete application, that the applicant vested to the applicable zoning regulations in existence at that time. The applicant is complying with those regulations in the development of this project. (Jeff Slothower presentation at open record public hearing)

34. There was some question by the Hearing Examiner regarding a commitment of neighboring property owners to allow the extension of Bowers Road through the neighboring parcel to the west as well as to allow portions of the community septic system and/or reclaimed water system to be located on that separate parcel. Mr. Slothower indicated that it would be acceptable to the applicant to condition final plat approval upon the applicant's securing from the adjacent property owner sufficient permanent rights-of-way and/or easements or other rights to use the adjoining property owner's property for the extension of Bowers Road and for the community septic system and/or reclaimed water system. (Hearing Examiner finding of fact and testimony of Jeff Slothower at open record public hearing)
35. Testifying in favor of the project was Margo Cordner. Mrs. Cordner testified that she has been a real estate agent in Kittitas County for over 19 years. She testified that she thought that this site would provide attractive settings for homeowners in that the lot sizes were up to one acre which were large enough to have a country feel but not so large as to discourage a homeowner from caring for their property as to weed control, etc. (Testimony of Margo Cordner at open record public hearing)
36. Testifying in opposition to the project was Debbie Kuhn. Ms. Kuhn testified that she felt that the zoning for this area should be illegal because it serves special interests. She testified that this project would constitute urban sprawl into a rural area and that there is insufficient demand for houses in this Kittitas County area. She testified as to concerns regarding flooding and infiltration of wells. She provided testimony about canal failures in the area. She testified regarding concerns about grading and filling south of her property, to the north of the project area. She generally spoke of a desire to protect their rural lifestyle from this urban development. (Testimony of Debbie Kuhn at open record public hearing)
37. Testifying in opposition to the project was Vicky Loiseau. Ms. Loiseau testified consistent with two letters that had been submitted into the record prior to the public hearing. She owns two acres south of the project area and south of John Wayne Trail. She believes that her views to the north will be compromised by this project if tall trees or tall homes are constructed. She provided testimony regarding another development on Courier Creek where parks and walking trails were supposed to be constructed but have not. She also testified that areas where developments have been approved but have not yet been built lay in weeds. She had questions as to when the parks within the development were to be built and where access to the John Wayne Trail would occur. She was concerned about asbestos in the house on the subject property that is to be removed. (Testimony of Vicky Loiseau at open record public hearing)

38. Also testifying in opposition to the project was Mike Smith. Mr. Smith offered Exhibit 5 into the record. Exhibit 5 is an October 9, 2008, letter from Mr. Smith, the Community Development Director for the City of Ellensburg. Mr. Smith testified that the project area is not within the Ellensburg Urban Growth Area but that the 120 lots proposed for this development are, in his opinion, urban in nature. Mr. Smith testified that the Town of Thorp has been identified as an Urban Growth Node and has 163 lots of record ranging from 7,000 square feet to 160 acres. Mr. Smith also testified that if this development is approved and is not built in conformity with City of Ellensburg road standards or the ability to connect to City of Ellensburg Water & Sewer, that this will impede the City's growth towards this area. Mr. Smith testified that the City of Ellensburg cannot provide water or sewer to this project because it is not within the Urban Growth Area. (Testimony of Mike Smith at open record public hearing)
39. Mr. Smith testified as to several questions he had about the project. These included what he believed was a lack of information regarding the details of the phasing plan, what infrastructure would be required in each phase, where the large on-site sewage system would be located and the failure of the County to require Bender Road to be extended pursuant to this project. Mr. Smith had concerns about the secondary emergency access road going into the project area. Mr. Smith disagreed with conclusions of the Traffic Impact Analysis. He further had concerns about Bowers Road remaining a private road until it is extended through the adjoining property to Faust Road. Mr. Smith recommended that, for the reasons stated within his testimony and in his letter to the Hearing Examiner that he recommended that the application be denied. (Testimony of Mike Smith at open record public hearing)
40. Testifying in opposition to the project was Shirleen Sterkel. Ms. Sterkel testified that they live just west of the end of Bender Road. One of her concerns was regarding the gate for the secondary emergency access. She was concerned that it would not be locked and that it would turn into a way for the residents to shorten their trip to Ellensburg. She testified that Reecer already has significant noise issues, especially with pickup trucks traveling late at night. She is concerned about increased noise with this development. (Testimony of Shirleen Sterkel at open record public hearing)
41. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located. (Hearing Examiner finding)
42. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval. (Hearing Examiner finding)

43. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities. (Hearing Examiner finding)
44. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference. (Hearing Examiner finding)

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, Title 14.08, and Title 12 Roads and Bridges and is not detrimental to the public health, safety and welfare of Kittitas County.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
8. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
9. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Kittitas County Code or the Comprehensive Plan.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

Based on the above Findings of Fact and Conclusions of Law, the Hearing Examiner hereby recommends that Application P-07-31, Palomino Fields Preliminary Plat, be **APPROVED** subject to the following Conditions of Approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file dated September 26, 2008 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.
5. Based on the comments received during the public comment period and other information submitted with this project permit application, a SEPA Mitigated Determination of Nonsignificance (MDNS) was issued by Community Development Services on September 8, 2008. The following are the mitigations contained within the MDNS and shall be conditions of approval:

I. Transportation

- A. The applicant shall be responsible for meeting or exceeding all conditions and requirements set forth by the Department of Public Works.
- B. The applicant will provide a proportionate share contribution to the improvement at the Reecer Creek Road and University Way intersection according to the approved transportation impact analysis.
- C. The applicant will abide by the conditions as approved under the Palomino Road Variance -08-18 including:
 - a. Improvements to the Bowers Road and Reecer Creek Road intersection including a right hand turn lane and acceleration lane:

- b. A temporary Cul-de-Sac will be installed at the end of Bowers Road extension.
- c. The applicant will guarantee a thru route from Reecer Creek Road to Faust Road, to be built with future development.
- d. A temporary access at Bender Road will be built, gated and for emergency use only.

II. Air

- A. If the applicant plans to burn trees or debris from the property, the applicant shall obtain a burn permit from the Department of Ecology. Only natural unprocessed vegetation may be burned in an outdoor fire. It is the applicant's responsibility to contact the Department of Ecology regarding this permit.

III. Water & Septic

- A. Activities such as road widening, stump pulling and clearing, grading and fill work and utility placements may require an NPDES Construction Stormwater Permit issued by the Department of Ecology prior to start of construction. This permit requires the preparation of a Stormwater Pollution Prevention Plan. It is the applicant's responsibility to contact the Department of Ecology regarding this requirement.
- B. Prior to any grading, clearing or construction, erosion control measures shall be in place and shall be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. The erosion control sediment plan shall be a part of the Stormwater Prevention Plan, as referenced in item A.
- C. The applicant will develop a Group A Water System for the project. The Group A Water System shall be designed by a licensed engineer and approved by the Washington State Department of Health. The Group A water system shall be approved prior to final plat approval. The Group A water system may be built in phases as provided for in the approved Group A Comprehensive Water System Plan as required by DOH, pursuant to WAC 246. Demonstration of adequate water rights in relation to development of a Group A Water System shall be completed prior to final approval. Except for the existing exempt well that currently serves the property no other exempt wells shall be developed to service the project. Any deviations to the water system requirements shall undergo further environmental and plat review.
- D. The applicant will provide sewage treatment through metered Community Septic Systems or metered Large On-Site Septic Systems pursuant to WAC

246-272B "Large-On-Site Septic System Regulations". The type of meters used will be prescribed by Kittitas County. The initial phases of the project will be served by Community Septic Systems or Large On-Site Septic Systems designed by a licensed septic designer and approved by the Kittitas County Environmental Health Department, pursuant to KCC 13 or by the Washington State Department of Health pursuant to WAC 246. These Community Septic Systems or Large On-Site Septic Systems shall be located on an adjacent parcel of land, for a seamless transition into a possible Class A Reclaimed Water System Facility.

- E. Prior to final approval, identification of community septic areas along with completed site evaluations will be required by the Kittitas County Environmental Health Department.
- F. If a Large On-Site Septic System (LOSS) system is pursued, the appropriate approval documents from the Washington State Department of Health will be required prior to final approval by the Kittitas County Environmental Health Department.
- G. Class A Reclaimed Water Facility. Pursuant to WAC 173-240-050 & RCW 90.46, a Class A Reclaimed Water Facility may be developed and approved by the Washington State Department of Health and Washington State Department of Ecology. The system, located on an adjacent parcel of land, will contain the following trigger points:
 - a. When the effluent volume reaches a monthly average of 8,000 gallons per day the applicant will be required to start the planning process for this facility. No additional building permits will be issued until the Washington State Department of Health or the Washington State Department of Ecology has confirmed that the planning process for the facility has started.
 - b. When the effluent volume reaches a monthly average of 10,000 gallons per day the applicant will be required to have completed the planning process for the facility. In addition the applicant will be required to start creating engineering and construction drawings for the facility. No additional building permits will be issued until the Washington State Department of Health or the Washington State Department of Ecology has confirmed that the planning process for the facility has been completed and that the applicant has started the engineering and construction drawings.
 - c. When the effluent volume reaches a monthly average of 12,000 gallons per day the applicant will be required to have completed the engineering and construction plans for this facility. No additional building permits will be issued until the Washington State Department of Health or the

- Washington State Department of Ecology has confirmed that the engineering and construction plans for the facility have been completed.
- d. When the effluent volume reaches a monthly average of 14,000 gallons per day the applicant will be required to have obtained a building permit for the facility and to have started the construction of the facility. No additional building permits will be issued until the Kittitas County Building Department has confirmed that a building permit for the facility has been issued and that construction has started.
 - e. When the effluent volume reaches a monthly average of 15,000 gallons per day the applicant will be required to have completed and have an operational reclaimed facility. No additional building permits will be issued until the Washington State Department of Health or the Washington State Department of Ecology has confirmed that the facility is operational.
 - f. The applicant will record and provide to Community Development Services the recorded meter readings for each Community Septic System or Large On Site Septic System on a quarterly basis.
- H. If the applicant wishes to access city systems in the future, all improvements shall be developed to current city standards.
- I. Metering shall be required on all residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements (Memorandum of Agreement between Kittitas County and Washington State).
- J. The approval of this division of land includes no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law.
- K. Washington Administrative Code (WAC) 173-150 provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If the water supply in your area becomes limited your use could be curtailed by those with senior water rights.
- IV. Historic and Cultural Preservation**
- A. Prior to any ground breaking activity on the subject property, the applicant shall consult with the Yakama Nation regarding an archaeological survey of the subject property due to a high potential for cultural resource sites at the proposed subdivision. Documentation shall be submitted to Community Development Services to be maintained in the project file.

V. Light and Aesthetics

- A. All outdoor lighting shall be shielded and directed downward to minimize the effect to nearby residential properties.

VI. Noise

- A. Construction activities shall comply with KCC 9.45 (Noise). Construction hours shall be from 7:00am to 7:00pm.

VII. Land and Shoreline Use

- A. Wetland and Wildlife study will be required, prior to final approval, establishing the appropriate buffers regarding sensitive areas as determined by the consultant.
- B. One hundred foot buffers will be established along Currier Creek and shown on the final mylars.
- C. A riparian management plan that would incorporate signage for Currier Creek will be completed prior to final approval.
- D. All waterways/waters/ditches located on the subject property, regardless of their designation of intermittent, perennial or ephemeral shall be delineated and shown on the final mylars. Improvements to such water features shall not impact on-site and off-site use.
- E. A Hydraulic Project Approval (HPA) from the Department of Fish & Wildlife shall be required for all work affecting watercourses, including those that do not flow year-round. This includes, but is not limited to, work associated with construction of bridges, culverts, drainage facilities, outfalls and other construction affecting the bed, bank or flow of watercourses.
- F. The applicant shall consult with the Department of Fish & Wildlife to determine the appropriate size of culvert needed for the crossing of any stream or watercourse on the subject property. Prior to final approval the applicant will provide documentation that said crossings meet the proposed standards.

VIII. Public Safety

- A. The applicant shall consult with the local school district and provide for and depict on the final mylars a safe location for a bus stop.

- B. Any future development shall comply with the International Fire Code (IFC) and its Appendices and Referenced Standards, Kittitas County Code, and Kittitas County Road Standards and shall adhere to the strictest of said standards.

IX. Parks and Recreation

- A. The proposal will include 4-5 pocket parks spaced throughout the platted development. The pocket parks shall be dedicated as open space for perpetuity.
 - B. The applicant shall add 120 trees that shall be placed sporadically through the development. The trees shall serve as a buffer along the John Wayne Trail. The applicant shall replace any trees that die within the first three years.
6. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
 7. Proof of potable water must be shown prior to final plat approval.
 8. All applicants for subdivision utilizing wells shall have a note placed on the face of the final mylar that states: "Kittitas County relies on its record that a supply of potable water exists. The approval of this division of land includes no guarantee or assurance that there is a legal right to withdraw groundwater within the land division."
 9. The Final Plat shall meet all requirements as listed in Chapter 16.20 of the Subdivision Code; including content, format, etc. The following items will be required on the Final Plat Submittal:
 - a. Adjacent Property Owners: The adjacent property owners and surrounding properties shall be on the face of the final short plat. (K.C.C.16.20.040, 10, Plat drawing, Adjacent Owners).
 - b. Surrounding Area: All surrounding property shall be shown in dotted lines and letters with names of plats, roads, adjoining lots, canals, and etc., and if un-platted shall be so indicated. (K.C.C.16.20.040, 11, Plat drawing, Surrounding Area).
 10. Bowers Road: Bowers Road from Reecer Creek Road to Faust Road has been identified as a future county road corridor in the Kittitas County Transportation Plan.

If the Bowers Road extension is desired to become a county road, the road shall be constructed to a minimum 22' wide roadway with 2' paved shoulders, for a total minimum width of 26', and follow the procedures outlined below. At the time Bowers Road is brought onto the county road system, it will be classified as a Rural Minor Collector with a speed limit of 25 mph and an access spacing requirement of 150'. The road must be constructed prior to petitioning the County Commissioners to take the road on system. There is no guarantee the road will be accepted onto the county road system.

11. Public Road Improvements: The following public road improvements are required as a result of this development and as mitigation for Road Variance 08-18.
 - a. The Bowers Road extension will include a right hand turn lane onto Reecer Creek Road south.
 - b. Reecer Creek Road will be widened for the construction of an acceleration lane in the southbound lane.
 - c. A temporary cul-de-sac will be constructed at the termination of the Bowers Road extension.
 - d. Access to Faust Road will be guaranteed through an easement or right-of-way dedicated to the County. The Bowers Road extension to Faust Road will be constructed in the future as a result of subsequent development.

12. Temporary Cul-de-Sac: A temporary cul-de-sac turn-around having an outside right-of-way easement diameter of at least 110 feet shall be constructed at the west end of the Bowers Road extension. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2006 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.

13. Road Plans: The developer shall submit road plans for all public road improvements, including Bowers Road, as follows: Plan and profile drawings for all roads shall be submitted to the County Engineer on mylar sheets twenty-two inches by thirty-six inches in size, and receive approval before proceeding with construction. The drawing standards used in preparing the drawings shall conform to the current drawing standards employed by the Department of Public Works. All plans for roads, drainage, and utility construction are to be designed and prepared by a licensed professional engineer. Staking for road construction and adequate survey control for utility construction shall be provided at the subdivider's expense. No work may be started until such plans are approved. See current Kittitas County Road Standards 12.08 for more detailed information..

14. Public Road Construction, Testing and Inspection: Prior to construction the developer shall schedule a pre-construction meeting with the Department of Public Works. No work may be started prior to the meeting. Testing services shall be retained by the

19. John Wayne Trail: The applicant shall contact Washington State Parks and provide documentation of any requirements such as fencing and pedestrian access along the trail prior to final approval. An approved access permit shall be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right of way.
20. Private Road Certification: Private roads serving any of the lots within this development shall be inspected and certified by a licensed professional engineer for conformance with current Kittitas County Road Standards, 9/6/05 edition. Kittitas County Public Works shall require this road certification to be completed prior to the issuance of a building permit for any of the structures within the proposed plat.
21. Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
- Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
 - The surface requirement is for a minimum gravel surface depth of 6".
 - Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - Any further subdivision or lots to be served by proposed access may result in further access requirements.
- Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
- The roadway shall be a minimum of 8' wide with gravel surface.
 - Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - Any further subdivision or lots to be served by proposed access may result in further access requirements.
22. Plat Notes: The following plat notes shall be included on the final plat:
- Entire private road shall achieve 95% compaction and shall be inspected and certified by a licensed engineer in the State of Washington specifying that the road meets current Kittitas County Road Standards prior to the issuance of building permit for this plat.
 - Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel.
23. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.

24. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
25. Access Permit: An approved access permit shall be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right of way.
26. Addressing: Contact the Kittitas County Rural Addressing Coordinator at (509) 962-7523 to obtain addresses prior to obtaining a building permit. A parcel cannot receive a building permit or utilities until such parcel is identified with a 911 address.
27. Mailbox Placement: The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.
28. Prior to final plat approval, the applicant shall secure from the property owner to the west of the subject property, sufficient right-of-way for the extension of Bowers Road through the adjoining property to Faust Road. This right-of-way shall be in an amount and form suitable to the Kittitas County Engineer and Prosecuting Attorney.
29. Prior to final plat approval, the applicant shall secure from the property owner to the west of the applicant's property, a permanent legal right to locate all or portions of the community septic system and/or reclaimed water system in an amount, location and form acceptable to Washington State Department of Health, Washington State Department of Ecology, Kittitas County Public Works, Kittitas County Planning Department and Kittitas County Prosecuting Attorney.

Dated this 21st day of October, 2008.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

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

**SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR PALOMINO
FIELDS PLAT BY AND BETWEEN KITTITAS COUNTY, WASHINGTON,
CLE ELUM PINES EAST LLC, AND CLE ELUM PINES WEST LLC**

RESOLUTION

NO. 2018- 045

WHEREAS, the Kittitas County Board of County Commissioners approved the Development Agreement for Palomino Fields Plat (DA-15-00001) with Resolution 2016-073 on June 7, 2016; and

WHEREAS, the Kittitas County Board of County Commissioners approved a revised Phasing Plan to allow for flexibility to maximize site soil conditions addressing treatment and disposal of improved site stormwater runoff by amending the approved Development Agreement for Palomino Fields Plat with Resolution 2017-081 on May 2, 2017; and

WHEREAS, since recording of the amended Palomino Fields Development Agreement, it was discovered that a number of scrivener errors existed in the document and that clarification was necessary regarding lot configurations and public and private road standards to ensure consistency with the previous approvals for the Palomino Fields Plat (Res. No. 2008-160, Res. No. 206-073, and Res. No. 2017-081); and

WHEREAS, Community Development Services supports the clarification and scrivener error changes provided in the Second Amendment to the Development Agreement for Palomino Fields as follows:

1. Item G and H were added to the Recitals section to reference the previously approved development agreement resolutions,
2. Item L in the Recitals section was amended to explain why this second amendment to the development agreement is necessary,
3. Item 3.2 in the Agreement section was amended to clarify that density may be moved or reconfigured consistent with the previously approved resolutions for the Palomino Fields Plat,
4. Item 6 in the Agreement section was amended to clarify that public or private roads may be utilized pursuant to the requirements of the Kittitas County Road Standards,
5. Item 10 in the Agreement section clarifies flexibility with the order of the phasing plan to meet the intent of Resolution 2017-081,
6. Items 11.4 and 11.7 in the Agreement section was amended to clarify that public or private

roads may be utilized pursuant to the requirements of the Kittitas County Road Standards;
and

NOW, THEREFORE BE IT HEREBY RESOLVED that the Kittitas County Board of Commissioners hereby grants approval of the Second Amendment to the Development Agreement for Palomino Fields as attached to correct scrivener errors and provide clarification regarding lot configurations and public and private road standards to ensure consistency for the Palomino Fields Plat.

DATED this 17th day of April, 2018 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON

ABSENT

Laura Osiadacz, Chairman

Obie O'Brien, Vice Chairman

Paul Jewell, Commissioner

ATTEST:

APPROVED AS TO FORM:

Clerk of the Board- Julie Kjorsvik

Deputy Clerk of the Board- Mandy Buchholz



Greg Zempel WSBA #19125

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is made and entered into this 17th day of April, 2018 by the Cle Elum Pines East LLC and Cle Elum Pines West LLC, Washington Limited Liability Companies, hereafter referred to as "Applicant"; and Kittitas County, 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 between the County and all parties having an ownership interest in or control of property described in Exhibit A.
- B. The Applicant owns property located in a Portion of the W 1/2 of Section 27, T18N, R18E, 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; and 0017, and is legally described on Exhibit A, attached hereto.
- C. The Applicant submitted Kittitas County a complete application for the Palomino Fields Plat.
- D. Kittitas County Community Development Services issued a SEPA Mitigated Determination of Non-Significance (MDNS) on September 8, 2008.
- E. An open Public Hearing was held before the Kittitas County Hearing Examiner on October 9, 2008 and on October 21, 2008 recommended approval for the Palomino Fields preliminary plat.
- F. Kittitas County Board of County Commissioners (BOCC) passed Resolution No. 2008- 160 on November 18, 2008, adopting the Hearing Examiner's recommendations for approval of the Palomino Fields preliminary plat (P-07-31). Said Resolution is attached hereto as Exhibit B.
- G. Kittitas County Board of County Commissioners (BOCC) passed Resolution No. 2016- 073 on June 7th, 2016, approving a Development Agreement (DA-15-00001) for the Palomino Fields preliminary plat (P-07-31) to allow phasing. Said Resolution is attached hereto as Exhibit C.
- H. Kittitas County Board of County Commissioners (BOCC) passed Resolution No. 2017- 081 on May 2nd, 2017, amending the Palomino Fields Development Agreement (DA-15-00001) with regards to site soil conditions, stormwater and flood plain issues. Said Resolution is attached hereto as Exhibit D.
- I. This Agreement recognizes the conditions to be met in Resolution No. 2008-160 and requires the completion of those conditions to finalize every division within each phase of the approved plat.
- J. The Hearings Examiner recommendation as adopted by the BOCC, states that the Group A Water System may be developed to serve this plat in phases.
- K. The Applicant desires and intends to develop and sell the Property in five (5) consecutive phases that include individual divisions (plats) within each phase, where each final plat will meet the requirements of Kittitas County Code Title 16 and providing for the full development of the one hundred and twenty (120) residential parcels as approved under Resolution No. 2008-160.
- L. This Agreement corrects scrivener errors and provides clarifications regarding lot configuration due to stormwater and floodplain and public and private road standards, therefore being consistent with the County's comprehensive plan, zoning and development regulations, and is consistent with existing land use approval of the subject site.

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 five (5) years consistent with Exhibit E "Phasing Plan"; provided, however, that the term of the Agreement may be extended should the Applicant seek and justify requests for extension to the satisfaction of the Director prior to the expiration of the term. 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 at any time, in writing, by mutual agreement of the Parties to this Agreement.

2. **Definitions.** For the 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 meaning as provided in Webster's Dictionary. 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, 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 and Cle Elum Pines West LLC, as it relates to the Palomino Fields plat in Resolution No. 2008-160 approved by the Board of County Commissioners.
 - 2.2 **Applicant.** "Applicant" means Cle Elum Pines East LLC and 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 **Director.** "Director" means the Director of the Community Development Services (CDS) of Kittitas County or the person providing the function of the Director of CDS.
 - 2.5 **Effective Date.** "Effective Date" means set forth in Section 1.1 of this Agreement.
 - 2.6 **Open Space.** "Open Space" means any land that is retained in a natural condition, or this 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).
 - 2.7 **Parties.** "Parties" means Kittitas County, Washington and Applicant, Cle Elum Pines East LLC and Cle Elum Pines West LLC, a limited liability company (ies).
 - 2.8 **Project.** "Project" means the Palomino Fields Preliminary Plat as approved by the County through Resolution No. 2008-160, being a one hundred and twenty (120) unit residential community on the Property, including but not limited to: (i) single family units and (ii) open space areas.
 - 2.9 **Property.** "Property" means the site legally described in Exhibit A, attached hereto.

- 2.10 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 at the date vested by the applications and as permitted by Resolution No. 2008-160 attached hereto as Exhibit B.
 - 3.2 Residential Densities. The Residential Densities for the Palomino Fields Plat have been established by Kittitas County through the adoption of Resolution No. 2008-160. The approved preliminary plat map, attached hereto as Exhibit C, shows the approximate locations and boundaries of lots established for the Palomino Fields Plat by said Resolution. This density may be moved, adjusted, and reconfigured to address soil site conditions, stormwater scenarios, along with possible floodplain preservation on existing and adjacent lands all being consistent with the previous approved Resolutions (Res. No. 2008-160, Res. 2016-073 & Res. No. 2017-081. Barns, outbuildings, garages, shops and the like are allowed within the Palomino Fields Plat.
 - 3.3 Non-Residential 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 No. 2008-160. The preliminary plat map, Exhibit C, shows the Non-Residential Densities and Intensities established for the Palomino Fields Plat by said Resolution.
 - 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. The Palomino Fields Plat shall meet the mitigation requirements as provided for in the SEPA Mitigated Determination of Non-Significance (MDNS) issued on September 4, 2008 by Kittitas County and attached hereto as Exhibit D and those requirements for the Palomino Fields Plat as provided for in Kittitas County Resolution No. 2008-160.
5. Development Standards.
 - 5.1 Drainage and Water Quality Requirements. The owner of each parcel shall be responsible to meet Eastern Washington Storm Water guideline requirements as established for the Palomino Fields Plat as it pertains to that individual parcel. Road drainage shall be the Eastern Washington Storm Water guidelines.
 - 5.2 Landscaping. The areas not containing residential structures and driveways shall become owned by residents and 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. Maintenance or non-maintenance of such landscaping shall be the responsibility of residents of the development and will not be the responsibility of the County.
 - 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 is homogenous with residential development.
6. Road and Sidewalk Standards. Bowers Road, if desired to become a public road, shall meet Kittitas County Road Standards with said extension design being approved by Kittitas County and adopted onto the County Public Road System by Kittitas County Board of County Commissioners by the appropriate process. 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 are not being constructed as a condition of this Agreement.

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 WAC 246-294-010, include systems having 15 or more connections. Phases 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 E attached hereto.
 - 8.2 **Irrigation Water.** The first eight (8) lots of Phase 1, shall be provided irrigation water by Cascade Irrigation District. All other phases shall be provided irrigation water 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 shown on Exhibit G attached hereto.
 - 8.3 **Sewage Disposal.** Any Community Septic Systems, which may serve two to seven parcels, will be 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 E. The Community Septic Systems will not be required to be developed prior to final platting of each or any phase but will be constructed simultaneously with buildings as permitted by the Kittitas County Community Development Services Department and the Kittitas County Health Department. Prior to receiving Occupancy Permit for any building constructed the community septic system shall be completed and approved by the Kittitas County Health Department.
 - 8.4 **Storm Drainage.** The owner of each parcel shall be responsible to maintain the storm water field established for the Palomino Fields Plat as it pertains to that individual parcel. Road drainage shall meet the Eastern Washington Storm Water guidelines. The Applicant shall develop the Palomino Fields Plat in accordance with a storm water permit issued by the Washington State Department of Ecology. Storm water systems shall be designed in each phase to manage total storm water of completed phases that is generated by a 24-hour, 25-year storm event.
 - 8.5 **Fire Protection.** Sprinklers shall be located in each residence to provide Fire Protection for the residence and will be constructed to current standards. Neither system wide storage tanks nor fire hydrants are required for the Project.
 - 8.6 **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 No. 2008-160. The identified open space tracts shall be proportionately owned by tenants in common, and retained by each home owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation.
10. **Phasing.** The Project will be constructed and receive final plat approval through the development of individual divisions (plats) within each of the five (5) Phases. The description of the Phasing

Plan is provided in Exhibit E. Phasing may occur consecutively in the order as shown in Exhibit E. The Applicant can complete more than one phase with each final plat submittal.

11. Development Review Processes, Procedures and Standards for Implementing Decisions.
 - 11.1 Standards for Implementing Decisions. Kittitas County shall base its decisions on the Kittitas County Code and per decisions in Resolution No. 2008-160 as further modified for phased development by this document.
 - 11.2 Plat Application. The County will process final plats for each phase of the approved preliminary plat as defined in Kittitas County Code Title 16. Each final plat will be assessed processing fees as exist at the time of submittal.
 - 11.3 SEPA Determination. The County has reviewed, processed and issued a Mitigated Determination of Non-Significance (MDNS) for the preliminary Palomino Fields subdivision and such determination shall be used for impact evaluation. Each final plat will be evaluated in terms of its contribution to the 24- hour, 25-year storm event for the accumulation of all final plats within the Palomino Fields project.
 - 11.4 Roads. Consistent with the conditions for Palomino Fields noted in Resolution No. 2008-160, the County will review and approved engineering designs of road(s) and other infrastructure elements within the County Right of Way. Any private or public roads within the project will be constructed to the Kittitas County Private or Public Road Standards. If a county public road is proposed, the road must be constructed prior to petitioning the County Commissioners to take the road onto system. There is no guarantee, per county code, that a road will be accepted onto the county road system.
 - 11.5 Grading. The County will review any grading permit necessary to meet the Kittitas County Code.
 - 11.6 Reimbursement To The County For Review Processes. The Applicant will pay, pursuant to the fee structure adopted by Kittitas County, any feed required to achieve final plat approval for each phase of the plat.
 - 11.7 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, if the Kittitas County Commissioners decide to take this road on as part of the county road system per county code, established from Reecer Creek Road in alignment with the existing Bowers Road and as indicated within the approved preliminary Palomino Fields Plat.
 - 11.8 Homeowner Association. 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 an entity established, owned and operated by a designate of the Applicant. Said designate shall establish operation procedures and rates as may be approved by the Washington State authorities having jurisdiction if and when required by State Law.
 - 11.9 Design Review. Design Review shall be provided for under a Declaration of Covenants, Conditions and Restrictions ("CC&Rs"). Design Review shall be determined by the 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 my be permitted consistent with the CC&Rs, Bylaws and Articles of Incorporation. Kittitas County Code will apply if CC&Rs are less restrictive than requirements of the Kittitas County Code.

12. A Build-Out or Vesting Period for Applicable Development Standards. The Applicant may construct one or more divisions within Phase(s) of the project per building season. The Project is anticipated to be completed within 5 years.
13. Process for Amending the Development Agreement. This Agreement may be amended by mutual consent of all of the parties to this Agreement and will follow Kittitas County Code.
14. Any Other Appropriate Development Requirement(s) or Procedure. Any developer may further improve the property within Palomino Fields characteristic to residential development which meets Kittitas County Code and conditions for Palomino fields noted in Resolution No. 2008-160.
15. Model Home. The Applicant, or a designate of the Applicant, may construct a model home, real estate sales facility, or a temporary construction office to be operating for construction or real estate office purposes prior to, or in commencement with, the initial stages of the development. Said facility (ies) shall be required to be operated and licensed as a real estate office under the laws of the State of Washington or by Kittitas County Code as applicable. Upon completion of the final plat of the final phase, or upon selling of the last lot, the model home, real estate sale facility, or construction offices will be decommissioned or transferred over as one of the one hundred and twenty (120) single family residences.16.
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 Code as vested by the Palomino Fields application. Each party represented 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 the successive owners and assignees of the development.
 - 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. 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 (2) 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.
Approved as to form:

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

KITTITAS COUNTY

Approved as to form:

Name: *Christina*
~~Laure Osiodacz, Chairman~~
Dated: 4/17/18

By _____
Name _____
County Prosecuting Attorney
Dated: _____

CLE ELUM PINES EAST LLC & CLE ELUM PINES WEST LLC

By: *Pat*
Its: Pat DENSON, Manager
Dated: 4-13-18

BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON

RESOLUTION NO. 2017 - 081

TITLE: Palomino Fields Revised Development Agreement

WHEREAS: The Kittitas County Board of County Commissioners approved the Phasing Plan within the Development Agreement for Palomino Fields Plat with Resolution 2016-073 as Exhibit E; and

WHEREAS: Current site information suggests environmental impacts can be minimized by tasking suitable site soils for disposal of improved development runoff; and

WHEREAS: The current phasing plan within the Development Agreement requires completion of one phase of development prior to beginning the next phase of development; and

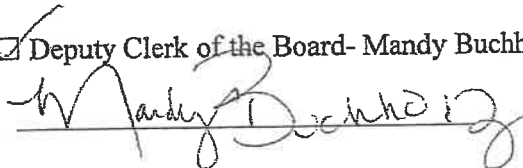
WHEREAS: Public Works supports adding flexibility to the Phasing plan of the Development Agreement allowing divisions within phases for maximizing site soil conditions addressing treatment and disposal of improved site stormwater runoff;

NOW; THEREFORE BE IT RESOLVED that the Board of County Commissioners, in the best interest of the public, does hereby revise the phasing plan within the Development Agreement for Palomino Fields plat allowing for divisions of platting to occur within the allowed phases and the extension of the time period for the Palomino Fields Development due this allowance.

DATED this 2nd day of May, 2017, at Ellensburg, Washington.




- Clerk of the Board- Julie Kjorsvik
 Deputy Clerk of the Board- Mandy Buchholz


Mandy Buchholz

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON


Paul Jewell, Chairman


Laura Osiadacz, Vice-Chairman


Obie O'Brien, Commissioner

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is made and entered into this 2nd day of May, 2017, by the Cle Elum Pines East LLC and Cle Elum Pines West LLC, Washington Limited Liability Companies, hereafter referred to as "Applicant"; and Kittitas County, 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 between the County and all parties having an ownership interest in or control of property described in Exhibit A.
- B. The Applicant owns property located in a Portion of the W ½ of Section 27, T18N, R18E, 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; and 0017, and is legally described on Exhibit A, attached hereto.
- C. The Applicant submitted Kittitas County a complete application for the Palomino Plat.
- D. Kittitas County Community Development Services issued a SEPA Mitigated Determination of Non-Significance (MDNS) on September 8, 2008.
- E. An open Public Hearing was held before the Kittitas County Hearing Examiner on October 9, 2008 and on October 21, 2008 recommended approval for the Palomino Fields preliminary plat.
- F. Kittitas County Board of County Commissioners (BOCC) passed Resolution No. 2008-160 on November 18, 2008, adopting the Hearing Examiner's recommendations for approval of the Palomino Fields preliminary plat (P-07-31). Said Resolution is attached hereto as Exhibit B.
- G. This Agreement recognizes the conditions to be met in Resolution No. 2008-160 and requires the completion of those conditions to finalize every division within each phase of the approved plat.
- H. The Hearings Examiner recommendation as adopted by the BOCC, states that the Group A Water System may be developed to serve this plat in phases.
- I. The Applicant desires and intends to develop and sell the Property in five (5) consecutive phases that include individual divisions (plats) within each phase, where each final plat will meet the requirements of Kittitas County Code Title 16 and providing for the full development of the one hundred and twenty (120) residential parcels as approved under Resolution No. 2008-160.
- J. This Agreement establishes that the Phasing Plan, attached hereto as Exhibit E, is consistent with the County's comprehensive plan, zoning and development regulations, and is consistent with existing land use approval of the subject site.

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 five (5) years consistent with Exhibit E "Phasing Plan"; provided, however, that the term of the Agreement may be extended should the Applicant seek and justify requests for extension to the satisfaction of the Director prior to the expiration of the term. 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 at any time, in writing, by mutual agreement of the Parties to this Agreement.

2. Definitions. For the 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 meaning as provided in Webster's Dictionary. 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, 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 and Cle Elum Pines West LLC*, as it relates to the Palomino Fields plat in Resolution No. 2008-160 approved by the Board of County Commissioners.
 - 2.2 Applicant. "Applicant" means Cle Elum Pines East LLC and 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 Director. "Director" means the Director of the Community Development Services (CDS) of Kittitas County or the person providing the function of the Director of CDS.
- 2.5 Effective Date. "Effective Date" means set forth in Section 1.1 of this Agreement.
- 2.6 Open Space. "Open Space" means any land that is retained in a natural condition, or this 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).
- 2.7 Parties. "Parties" means Kittitas County, Washington and Applicant, Cle Elum Pines East LLC and Cle Elum Pines West LLC, a limited liability company (ies).
- 2.8 Project. "Project" means the Palomino Fields Preliminary Plat as approved by the County through Resolution No. 2008-160, being a one hundred and twenty (120) unit residential community on the Property, including but not limited to: (i) single family units and (ii) open space areas.
- 2.9 Property. "Property" means the site legally described in Exhibit A, attached hereto.
- 2.10 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 at the date vested by the applications and as permitted by Resolution No. 2008-160 attached hereto as Exhibit B.
- 3.2 Residential Densities. The Residential Densities for the Palomino Fields Plat have been established by Kittitas County through the adoption of Resolution No. 2008-160. The approved preliminary plat map, attached hereto as Exhibit C, shows the approximate locations and boundaries of lots 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 Non-Residential 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 No. 2008-160. The preliminary plat map, Exhibit C, shows the Non-Residential Densities and Intensities established for the Palomino Fields Plat by said Resolution.

- 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.** The Palomino Fields Plat shall meet the mitigation requirements as provided for in the SEPA Mitigated Determination of Non-Significance (MDNS) issued on September 4, 2008 by Kittitas County and attached hereto as Exhibit D and those requirements for the Palomino Fields Plat as provided for in Kittitas County Resolution No. 2008-160.
5. **Development Standards.**
 - 5.1 **Drainage and Water Quality Requirements.** The owner of each parcel shall be responsible to meet Eastern Washington Storm Water guideline requirements as established for the Palomino Fields Plat as it pertains to that individual parcel. Road drainage shall be the Eastern Washington Storm Water guidelines.
 - 5.2 **Landscaping.** The areas not containing residential structures and driveways shall become owned by residents and 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. Maintenance or non-maintenance of such landscaping shall be the responsibility of residents of the development and will not be the responsibility of the County.
 - 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 is 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 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 are not being constructed as a condition of this Agreement.
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 WAC 246-294-010, include systems having 15 or more connections. Phases 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 E attached hereto.

- 8.2 Irrigation Water. The first eight (8) lots of Phase 1, shall be provided irrigation water by Cascade Irrigation District. All other phases shall be provided irrigation water 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 shown on Exhibit G attached hereto.
 - 8.3 Sewage Disposal. Any Community Septic Systems, which may serve two to seven parcels, will be 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 E. The Community Septic Systems will not be required to be developed prior to final platting of each or any phase but will be constructed simultaneously with buildings as permitted by the Kittitas County Community Development Services Department and the Kittitas County Health Department. Prior to receiving Occupancy Permit for any building constructed the community septic system shall be completed and approved by the Kittitas County Health Department.
 - 8.4 Storm Drainage. The owner of each parcel shall be responsible to maintain the storm water field established for the Palomino Fields Plat as it pertains to that individual parcel. Road drainage shall meet the Eastern Washington Storm Water guidelines. The Applicant shall develop the Palomino Fields Plat in accordance with a storm water permit issued by the Washington State Department of Ecology. Storm water systems shall be designed in each phase to manage total storm water of completed phases that is generated by a 24-hour, 25-year storm event.
 - 8.5 Fire Protection. Sprinklers shall be located in each residence to provide Fire Protection for the residence and will be constructed to current standards. Neither system wide storage tanks nor fire hydrants are required for the Project.
 - 8.6 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 No. 2008-160. The identified open space tracts shall be proportionately

owned by tenants in common, and retained by each home owner, and will be assessed, taxed, and foreclosed upon each building lot not fulfilling their obligation.

10. Phasing. The Project will be constructed and receive final plat approval through the development of individual divisions (plats) within each of the five (5) Phases. The description of the Phasing Plan is provided in Exhibit E. Phasing will occur consecutively in the order as shown in Exhibit E. The Applicant can complete more than one phase with each final plat submittal.
11. Development Review Processes, Procedures and Standards for Implementing Decisions.
 - 11.1 Standards for Implementing Decisions. Kittitas County shall base its decisions on the Kittitas County Code and per decisions in Resolution No. 2008-160 as further modified for phased development by this document.
 - 11.2 Plat Application. The County will process final plats for each phase of the approved preliminary plat as defined in Kittitas County Code Title 16. Each final plat will be assessed processing fees as exist at the time of submittal.
 - 11.3 SEPA Determination. The County has reviewed, processed and issued a Mitigated Determination of Non-Significance (MDNS) for the preliminary Palomino Fields subdivision and such determination shall be used for impact evaluation. Each final plat will be evaluated in terms of its contribution to the 24-hour, 25-year storm event for the accumulation of all final plats within the Palomino Fields project.
 - 11.4 Roads. The County will review and approved engineering designs of road(s) and other infrastructure elements within the County Right of Way. Any private or public roads within the project will be constructed to the Kittitas County Private Road Standards.
 - 11.5 Grading. The County will review any grading permit necessary to meet the Kittitas County Code.
 - 11.6 Reimbursement To The County For Review Processes. The Applicant will pay, pursuant to the fee structure adopted by Kittitas County, any feed required to achieve final plat approval for each phase of the plat.
 - 11.7 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 and as indicated within the approved preliminary Palomino Fields Plat.
 - 11.8 Homeowner Association. 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 an entity established, owned and operated by a

designate of the Applicant. Said designate shall establish operation procedures and rates as may be approved by the Washington State authorities having jurisdiction if and when required by State Law.

- 11.9 Design Review. Design Review shall be provided for under a Declaration of Covenants, Conditions and Restrictions ("CC&Rs"). Design Review shall be determined by the 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. Kittitas County Code will apply if CC&Rs are less restrictive than requirements of the Kittitas County Code.

12. A Build-Out or Vesting Period for Applicable Development Standards. The Applicant may construct one or more divisions within Phase(s) of the project per building season. The Project is anticipated to be completed within 5 years.
13. Process for Amending the Development Agreement. This Agreement may be amended by mutual consent of all of the parties to this Agreement and will follow Kittitas County Code.
14. Any Other Appropriate Development Requirement(s) or Procedure. Any developer may further improve the property within Palomino Fields characteristic to residential development which meets Kittitas County Code and conditions for Palomino fields noted in Resolution No. 2008-160.
15. Model Home. The Applicant, or a designate of the Applicant, may construct a model home, real estate sales facility, or a temporary construction office to be operating for construction or real estate office purposes prior to, or in commencement with, the initial stages of the development. Said facility (ies) shall be required to be operated and licensed as a real estate office under the laws of the State of Washington or by Kittitas County Code as applicable. Upon completion of the final plat of the final phase, or upon selling of the last lot, the model home, real estate sale facility, or construction offices will be decommissioned or transferred over as one of the one hundred and twenty (120) single family residences.


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 Code as vested by the Palomino Fields application. Each party represented 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 the successive owners and assignees of the development.
- 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. 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 (2) 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:

Name: 
Paul Jewell, Chairman
Dated: 5/2/17

By _____
Name _____
County Prosecuting Attorney
Dated: _____

CLE ELUM PINES EAST LLC & CLE ELUM PINES WEST LLC


By: 
Its: Manager
Dated: 4-27-17

Exhibit A

DEDICATION
 KNOW ALL MEN BY THESE PRESENTS that we, the undersigned people with interest in the herein described property, do hereby declare, subdivide and plot as herein described, and dedicate to the use of the public forever all roads, streets, avenues, places or whatever public property shown hereon.
 IN WITNESS WHEREOF, We have set our hands and seals.

CLE ELLUM PINES EAST, LLC, A WASHINGTON LIMITED LIABILITY COMPANY
 ACKNOWLEDGMENT
 STATE OF WASHINGTON)
 COUNTY OF _____) s.s.

On this _____ day of _____, 200____ before me, the undersigned a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, President and one known to be the _____, Secretary, respectively of the corporation that executed the foregoing instrument, and acknowledged to me that the instrument to be the true and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ authorized to execute the said instrument and that the seal affixed (if any) to this corporate deed of _____ was valid and official and he/she attested the day and year first above written.

Notary Public in and for the State of Washington, residing at _____ by appointment expires _____

DEDICATION
 KNOW ALL MEN BY THESE PRESENTS that we, the undersigned people with interest in the herein described property, do hereby declare, subdivide and plot as herein described, and dedicate to the use of the public forever all roads, streets, avenues, places or whatever public property shown hereon.
 IN WITNESS WHEREOF, We have set our hands and seals.

CLE ELLUM PINES WEST, LLC, A WASHINGTON LIMITED LIABILITY COMPANY
 ACKNOWLEDGMENT
 STATE OF WASHINGTON)
 COUNTY OF _____) s.s.

On this _____ day of _____, 200____ before me, the undersigned a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, President and one known to be the _____, Secretary, respectively of the corporation that executed the foregoing instrument, and acknowledged to me that the instrument to be the true and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that _____ authorized to execute the said instrument and that the seal affixed (if any) to this corporate deed of _____ was valid and official and he/she attested the day and year first above written.

Notary Public in and for the State of Washington, residing at _____ by appointment expires _____

PALOMINO FIELDS PLAT
 PTM, W/2 OF SECTION 27, T.18N, R.18E, W.1M,
 KITITAS COUNTY, STATE OF WASHINGTON

EXISTING LEGAL DESCRIPTIONS:

PARCEL 1:
 THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON

AND
 THE NORTHWEST QUARTER OF SECTION 27, IN TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, EXCEPTING THEREFROM:

A TRACT OF LAND BOUNDARY BY A LINE DESCRIBED AS FOLLOWS, COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 27 AND RUNNING NORTH 87°15'00" WEST 132 FEET TO POINT A, THENCE NORTH 87°15'00" WEST 132 FEET TO POINT B, THENCE NORTH 87°15'00" WEST 132 FEET TO POINT C, THENCE EAST 724 FEET TO POINT D, THENCE SOUTH 244.09 FEET TO THE POINT OF COMMENCEMENT.

PARCEL 2:
 THE RIGHT OF WAY OF THE COWAL OF THE ELLSBOROUGH WATER COMPANY (TRIM DITCH)

AND
 THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, EXCEPTING THEREFROM:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE PLAT OF THE NORTHWESTERNLY BOUNDARY LINE OF THE RIGHT OF WAY OF THE COWAL OF THE ELLSBOROUGH WATER COMPANY, HEREIN REFERRED TO AS "THE COWAL BOUNDARY LINE OF SAID COMPANY".

PARCels 3:

PARCELS 3, 4, 5 AND 6 OF THAT CERTAIN SHEDD AS RECORDED FEBRUARY 20, 1987, IN BOOK 22 OF SURVEYS PAGES 174 AND 175 UNDER ALIENOR'S FILE NO. 1987020004, RECORDS OF THE COUNTY OF KITITAS, STATE OF WASHINGTON, EXCEPTING ANY PART OF SAID PARCELS 3, 4, 5 AND 6 AS SHOWN ON THE PLAT OF SAID PARCELS 3, 4, 5 AND 6 AS RECORDED FEBRUARY 20, 1987, IN BOOK 22 OF SURVEYS PAGES 174 AND 175 UNDER ALIENOR'S FILE NO. 2004100004, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON.

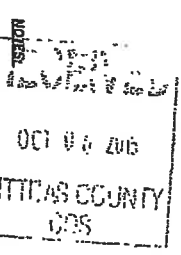
TRACT 1:

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:
 A TRACT OF LAND BOUNDARY BY A LINE DESCRIBED AT THE NORTHWEST CORNER OF SAID SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE PLAT OF SAID SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, EXCEPTING THEREFROM:

TRACT 2:

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:
 A TRACT OF LAND BOUNDARY BY A LINE DESCRIBED AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, AS SHOWN ON THE PLAT OF SAID SECTION 27, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.1M, IN THE COUNTY OF KITITAS, STATE OF WASHINGTON, EXCEPTING THEREFROM:

NOTE:
 THE DEDICATED UTILITIES AS SHOWN AND ONLY APPROXIMATE AND ARE BASED ON THE BEST AVAILABLE INFORMATION. IT SHALL BE THE RESPONSIBILITY OF THE USER TO VERIFY THE STATE, THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES PRIOR TO STARTING CONSTRUCTION, OR ANY INTERFERENCES.
 Call Before You Dig
 1-800-853-4344



P-08-XX

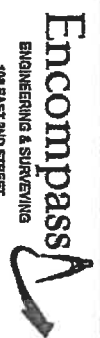
RECEIVING NUMBER

1. THE SURVEY WAS PREPARED USING A KNOWN DISTANCE TOTAL STATION. THE CONTROLLING HORNSHORN AND REFERENCE POINTS SHOWN HEREON WERE LOCATED, STAKED AND CHECKED FROM A CLOSED FIELD TRAILER IN EXCESS OF 110,000 LINEAL FEET AFTER ADJUSTMENT.
2. A PUBLIC UTILITY EXPOSURE 10 FEET IN WIDTH IS ASSUMED TO BE LOCATED ALONG THE 10 FOOT EXPOSURE SHOWN AND SHALL BE DIVIDED 5 FEET ON EACH SIDE OF HIGHWAY LOT LINES.
3. PER NOT 12,010-0 LABORERS ARE RESPONSIBLE FOR CONTROLLING AND PREVENTING THE SPREAD OF NOxious WEEDS. ACCORDINGLY, THE KITITAS COUNTY AGRODUS NEED ADJUST RECOMMENDATIONS RESPECTIVE OF WEEDS DISTURBED BY DEVELOPMENT TO PRECLUDE THE PROLIFERATION OF NOxious WEEDS.
4. ANY FURTHER SUBDIVISION OR LOT TO BE SAVED BY PROPOSED ACCESS MAY RESULT IN FURTHER ACCESS RECOMMENDATIONS. SEE KITITAS COUNTY ROAD STANDARDS.
5. AN APPROVED ACCESS PERMIT WILL BE REQUIRED FROM THE DEPARTMENT OF PUBLIC WORKS PRIOR TO GRANTING ANY NEW OR EXISTING ACCESS ON PERFORMING WORK WITHIN THE COUNTY ROAD RIGHT-OF-WAY.
6. THIS SURVEY DOES NOT PURPORT TO SHOW ALL EASMENTS OF RECORD OR OTHERWISE.
7. MAINTENANCE OF THE ACCESS IS THE RESPONSIBILITY OF RIDGE WHO SHOULD REPAIR ITS USE.
8. RIVERSHAW TO ROW 02, 04, 06, THE CULMINATE EFFECT OF RIDGE WHO SHOULD REPAIR ITS DEVELOPMENT SHALL NOT EXCEED ROAD STANDARDS PER LAW.

RECORDER'S CERTIFICATE
 Filed for record this _____ day of _____, 20____ at _____ in Book _____ of _____ of the request of _____
 DAVID P. NELSON
 Surveyor's Name

SURVEYOR'S CERTIFICATE
 I, _____, _____
 County Auditor
 Deputy County Auditor

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of, **CLE ELLUM PINES EAST, LLC**,
 in Kititas County, Washington.
 DAVID P. NELSON
 Certificate No. 18092 DATE _____



100 EAST 2ND STREET
 CLE ELLUM, WA 99022
 PHONE: (509) 874-7433
 FAX: (509) 874-7419

PALOMINO FIELDS PLAT
 PTM, W/2 OF SECTION 27, T.18N, R.18E, W.1M,
 KITITAS COUNTY, STATE OF WASHINGTON

OWN BY	DATE	JOB NO.
GW/ST	06/08	07094
CHD BY	SCALE	SHEET
D. NELSON	1"=200'	3 of 3



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

**DEVELOPMENT AGREEMENT
for
PALOMINO FIELDS PHASING OF FINAL PLAT**

RESOLUTION

NO. 2016- 073

WHEREAS, Chapter RCW 36.70B and Chapter 15A.11 Kittitas County Code authorizes the County to enter into an agreement regarding development of real property located within a jurisdiction between that jurisdiction and parties having ownership or control of such real property; and

WHEREAS, the owners of Cle Elum Pines East, LLC and Cle Elum Pines West, LLC, the applicant, owns property in a portion of the west ½ of Section 27, T18N, R18E, W.M accessed off of Reecer Creek Road located at Map Numbers 18-18-270-0001 thru 03 and 0015 thru 0017; and

WHEREAS, the applicant submitted a complete application, received a mitigated determination of non-significance, and approval from the Board of County Commissioners for a preliminary plat proposing 120 lots on 120.7 acres through the project known as Palomino Fields; and

WHEREAS, the applicant on June 15, 2015 received an extension to finalize the plat to November 18, 2016; and

WHEREAS, the applicant on October 6, 2015 made application for a development agreement to phase the final plat process for the approved preliminary plat, and was deemed complete on November 2, 2015; and

WHEREAS, proper notice of the application and SEPA Determination of Nonsignificance for the proposed development agreement was issued on April 28, 2016 and was accepted on May 12, 2016; and

WHEREAS, notice for a public hearing was made and on May 3, 2016 date for public hearing to evaluate the proposed development agreement was set for May 17, 2016 to hear comments and consider the approval of the proposed development agreement; and

WHEREAS, an open record public hearing was held by the Board of County Commissioners on May 17, 2016 to consider any public comments and staff recommendation on this matter; and,

WHEREAS, the Kittitas County Board of Commissioners make the following FINDINGS OF FACT and CONCLUSIONS AT LAW concerning said proposed development agreement:

1. The Applicant provided Kittitas County a complete application for the Palomino Fields preliminary plat June 28, 2007. After studies on the impacts of the proposed project were reviewed in conjunction with the environmental checklist, Kittitas County Community Development Services issued a SEPA Mitigated Determination of Non-significance (MDNS) on September 8, 2008.
2. The Kittitas County Hearing Examiner held public hearing on October 9, 2008 and recommended approval for the Palomino Fields preliminary plat with conditions on October 21, 2008. The Kittitas County Board of County Commissioners (BOCC) passed Resolution 2008-160 on November 18, 2008 approving the preliminary Palomino Fields plat and adopting the Hearing Examiner's recommendations.
3. A Development Agreement application proposing to divide the property into five (5) phases for final platting was submitted on October 6, 2015 and deemed complete on November 2, 2015.
4. A Notice of Application was issued and published in the Daily Record newspaper on March 29, 2016 and written comments to be received until April 28, 2016. This notice was mailed to jurisdictional government agencies, adjacent property owners and other interested parties.
5. Comments were received during the comment period from the Department of Ecology, Kittitas County Health, Washington Department of Fish and Wildlife and from a neighboring property owner. All comments were considered and are provided on file for review. Three of the four comments related to the project approved in 2008 and only one, from the Department of Fish and Wildlife, provide comment to the proposed phasing of the approved plat.
6. Based upon review of the submitted application materials and information provided from the approved plat application, a Determination of Non-Significance (DNS) regarding the proposed Development Agreement for phasing of the plat was issued on April 28, 2016. The appeal period on the threshold determination ended on May 12, 2016. No appeal was filed.
7. After proper notification, the Board of County Commissioners held an open record public hearing on May 17, 2016 for proposal DA-2016-00001, the Development

Agreement for phasing completion of final platting of the approved Palomino Fields preliminary plat. The hearing was continued to June 7, 2016.

8. Additional changes were made to the proposed phased Development Agreement for clarification, and presented to the Board at that closed hearing for their consideration.
9. The Board of County Commissioners finds that conditions approved in the original plat be held with the development agreement with additional conditions listed within the staff report including:
 - a. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
 - b. Development shall occur in conformance with the phasing conditions outlined within the signed development agreement. Any significant alterations outside of minor line adjustments or minor road location in order to meet the conditions normally associated with the plat approved through Resolution 2008-160 are not permitted without an amendment to the plat. Any adjustments to the approved development agreement requires a separate public hearing for approval of such amendments.
 - c. All current and future landowners must comply with the International Fire Code.
 - d. All development, design and construction shall comply with all Kittitas County Codes and the International Fire and Building Codes.
 - e. The four wetlands referred to in the 2008 Hearing Examiner's findings along with wetland buffers will be clearly identified on the final plat map of the first phase to ensure their protection.
 - f. The riparian management plan that incorporates signage for Currier Creek referenced in the Hearings Examiner's findings will be completed within the first phase of the project.
 - g. All drainage features for stormwater and flood water will be planned and installed before each phase receives final plat approval.
 - h. All stream crossings (roads and trails) in each phase will require HPAs from WDFW and shall be obtained for each applicable phase.
 - i. Plans for open parks within the 100 foot buffer for Currier Creek shall be provided for review to WDFW in each applicable phase.


- j. The plat shall meet all conditions of Kittitas County Code Chapter 13 and shall contain notes required by Department of Health.

NOW THEREFORE,

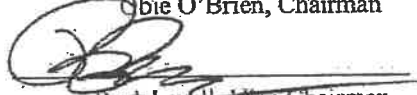
BE IT HEREBY RESOLVED that the Kittitas County Board of Commissioners hereby grants approval of the Development Agreement (DA-15-00001) as shown in Exhibit 1 with conditions listed under Finding 9 above.

DATED this 7th day of June, 2016 at Ellensburg, Washington.

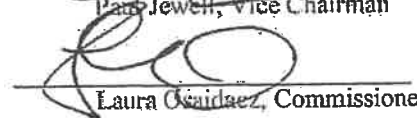
BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON



Obie O'Brien, Chairman



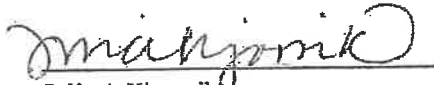
Paul Jewell, Vice Chairman



Laura Osadaez, Commissioner



ATTEST THE BOARD



Julie A. Kjorsvik

APPROVED AS TO FORM:

Greg Zempel WSBA #19125