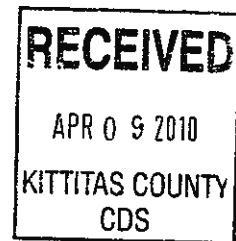


April 5, 2010

Dan Valoff  
Staff Planner  
Kittitas County Community Development Services  
411 N. Ruby, Suite 2  
Ellensburg, WA 98926



**Re: Notice of Application Vista West Performance Based Cluster Plat LP-09-00001**

Dan,

Our residence is located on Storie Lane, off of Nelson Siding, Upper County. We are concerned about some aspects of the above mentioned Application. Please see our issues:

1. The referenced Long Plat Application contains statements (see attached portions of said Application) regarding "access" to this development. I notice also that this is but one of five plats that appear to be part of the larger plat which Sapphire Skies platted some time ago and called, Little Creek (located in Section 33, Township 20 North, Range 14, East W.M.) which is not the same as Little Creek Ranches. ALL of this larger development was platted with only one access and that is via Forest Service Road 4517. The "access" for this Vista West Cluster Plan says nothing about the approved larger plat's access of FS RD 4517 BUT instead indicates that access is to be ONLY via Storie Lane. The application also mentions that by allowing access to this plat via Storie Lane that the traffic would only be increased by these 10 lots. However, there appear to be somewhere in the neighborhood of an additional 23 lots in the additional (yet to be developed) 4 plats in this same area which will impact traffic on Storie Lane. These four plats are: Beaver Creek Short Plat (3 lots), Aspen Grove Plat (7 lots), Talmadge East Plat (7 lots), and Tamarack Valley Plat (6 lots). Likewise, assuming that if all of the remaining Little Creek Development were to be platted and developed, that Storie Lane would need to support potentially 100-150 lots. And it has been suggested that Sapphire Skies' long range plan is to connect a number of their developments scattered down the south side of the valley, back to Storie Lane as access and any others they may be able/have been able to build. This may only be rumor but on October 5, 2006, Wayne A. Nelsen (then an employee of the developer) spoke to a number of Storie Lane residents and I believe he indicated that ultimately, Storie Lane could expect up to 1,200 vehicles per day.
2. If I understand correctly, in February of 2005, Sapphire Skies filed an application for Access Permit. The modification proposed by Sapphire Skies was to provide an easement over Little Creek Ranches lots 6 & 7 owned at that time by Sapphire Skies, to provide access to the south to the KRDCanal. Apparently the County denied the application for the access permit without an amendment to the Little Creek Ranches Plat. Sapphire Skies in August of 2005 filed two separate lawsuits against Kittitas County. Per the court decision of December 1, 2005, the court held that any modification of the road system within the Little Creek Ranches plat must be subjected to the plat alteration requirements of RCW 58.17.010.
3. Not sure how the developer managed it, but in 2007 they proceeded to install a road on Little Creek Ranches lots 6 & 7 from the Storie Lane culdesac to the KRDCanal, build a bridge across the canal, and build a road up to what is now being called Misty Mountain Way. The County denied access from Storie Lane and stopped the building. Per the Superior Court of Washington for Kittitas County ruling of Sept, 2007 Stipulation and Order (to No. 05-02-00281-9 consolidated with No. 05-2-00581-8) per Order item 2. states:  
"Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek Ranches Plat nor the bridge over the KRDCanal south of Storie Lane may be used for access to the Lots located in Section 33, Township 20 North, Range 14, East W.M. pending further

order of this court or other court of competent jurisdiction, or other action by the County to allow such access."

And Order 3. states the same thing ... "for any construction activities"...  
There is much more to this order but this is the primary drift. I request that this order be included in your processing of this application.

4. It appears that the current Application is attempting to ADDRESS the Sept. 26, 2007 Court Order statement ... "pending ... other action by the County to allow such access.". We encourage the County to be consistent to their previous position and not issue an access permit WITHOUT the amending of the Little Creek Ranches Plat. It also appears that the Court Order above supports this requirement.

Basically, we do not wish to stifle well-planned development. We do wish for all parties to comply with the processes, rules, regulations, and procedures just as we did when we developed our home on our property.

**Re: The Cluster portion of this Plat:**

- A. The large Little Creek Plat was originally platted with about 20 lots sized at 21 acres each. I believe that this plat was part of the group of Upper County developments that have been rezoned to permit Ag-3. This would potentially increase the number of lots from 20 to as many as 140 lots (7-3 acre lots per 1-21 acre lot times 20).
- B. Not only is this a significantly larger load on the access road FS RD 4517 BUT especially a larger load on the number of wells required to service this larger Plat.
- C. Now, one of these 21-acre lots is being Cluster Platted at 10 lots. Yet an even greater load on infrastructure which I find concerning.

I suggest Sapphire Skies:

- a. understand that they have successfully alienated most residents on Storie Lane by not following the rules,
- b. comply with the County decision and the supporting Court rulings, and
- c. develop the FS RD 4517 as the ONLY access to this plat and any and all others they plan to develop in the Little Creek Development.

Then they might be more inclined to comply with the requirements in the same manner all good citizens must do.

Thank you for this opportunity to express ourselves. Peace....

Respectfully submitted,



Bill Doyle  
450 Storie Lane  
Cle Elum, WA 98922

**RECEIVED**  
APR 09 2010  
KITTTAS COUNTY  
CDS



**KITTTAS COUNTY COMMUNITY DEVELOPMENT SERVICES**

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTTAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

"Building Partnerships - Building Communities"

**Long Plat application**

*(To divide lot into 5 or more lots)*

CL-09-00001

KITTTAS COUNTY ENCOURAGES THE USE OF PRE-APPLICATION MEETINGS. PLEASE CONTACT COMMUNITY DEVELOPMENT SERVICES TO SET UP A PRE-APPLICATION MEETING TO DISCUSS A PROPOSED PROJECT.

9. What County maintained road(s) will the development be accessing from? STORIE LANE

**Access**

Access to the site is proposed from Storie Lane via an existing bridge over the KRD canal and connecting to existing private roadways. Currently, this route provides access to 15 existing lots of record lying east of Little Creek, plus an additional six lots pending final plat approval. The proposed development would create an additional nine lots, for a total of 30 lots served. A second access route is not proposed or should be required at this time (see KCC 12.01.095(2)).



April 5, 2010

Dan Valoff  
Staff Planner  
Kittitas County Community Development Services  
411 N. Ruby, Suite 2  
Ellensburg, WA 98926

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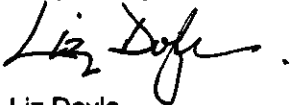
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Thank you for this opportunity to express ourselves. Peace....

Respectfully submitted,



Liz Doyle  
450 Storie Lane  
Cle Elum, WA 98922

RECEIVED

APR 09 2010

KITTITAS COUNTY  
CDS



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

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CL-09-00001

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New Homes By

## ARTZ Construction, Inc.

4807 51<sup>st</sup> St. Ct. E, Tacoma, WA 98443 • DAVIDAC162BU  
(253) 896-0838 phone • (253) 896-0837 fax



April 6, 2010

Mr. Dan Valoff  
Staff Planner  
Kittitas county Community Development Services  
411 N. Ruby, Suite 2  
Ellensburg Wa. 98926

Re: 630 Storie Lane Cle Elum Wa.

Dear Mr. Valoff

This letter is to voice our concern about the proposed cluster platting that has been applied for by, Fortune Creek LLC.

The access for this development should have been at the other entrance but the developer wanted it on Storie Lane. All of this for his benefit. He has never obtained the correct permits and has gone 'rough shod' ahead.

Now they are changing in midstream and attempting to obtain the County blessing for some type of higher density cluster development. We do not yet understand all the ramifications to this proposal.

At the least the impact on our road will be large.

Please do not allow access from Storie Lane.

Sincerely,

David Artz



April 02, 2010

Dan Valoff

Kittitas County Community Development Services

411 N. Ruby, Suite 2

Ellensburg, WA 9892

Subject: Notice of Application Vista West Performance

Based Cluster Plat

The proposed access off of Storie Lane is under two court orders No. 05-2-00281-9 and 05-2-00581-8 of the Superior Court of Washington for Kittitas County. The use of the bridge over KRDCanal south of Storie Lane may be used only in accordance with Kittitas County Permit No. 05-0088 dated March 18, 2005, and for emergency vehicle access for fire or life emergencies only.

Kittitas County granted a "~~foundation only~~" permit to construct the footing. This permit was granted under the condition that the bridge could not be completed until the access issue is resolved. Was there ever a permit issued to complete the bridge crossing of the KRDCanal and if there was did it get a final inspection?

**I, as one of the property owners on Storie Lane am totally against the proposal to access Vista West Plat off Storie Lane.**

Russel Libby

350 Storie Lane

Cle Elum, WA 98922



April 6, 2010



Dan Valoff  
Staff Planner  
Kittitas County Community Development Services  
411 N. Ruby, Suite 2  
Ellensburg, WA 98926

**RE: Notice of Application of Vista West Cluster Plat LP-09-00001**

As a home owner on Storie Lane, I am concerned about the opening of the bridge at the end of Storie Lane for the private use of Vista LLC, Fortune Creek LLC and Sapphire Skies.

To my knowledge

There is no access permit to the bridge from Storie Lane  
Court case 05-2-00281-9 and 05-2-00581-8 stated the only access to this property (Vista West) is thru Forest Service Road 4517  
The court case has not been overturned  
The bridge has never had a final inspection and some say no building permit

In the building permit of Little Creek Ranches, Storie Lane was built as a designated dead end road (File No P-82-03 July 16, 1985) – not to be used for the 1200 cars that Mr. Northrop of Sapphire Skies quoted in 2007.

I feel Sapphire Skies, Vista West LLC and Fortune Creek LLC have gone way beyond and pushed the laws of Kittitas County to benefit them only. They present plans with no law or rule following.

The opening of the road and bridge is not benefiting me or the public in any way. It is only for their profit and use.

  
Linda Libby  
350 Storie Lane  
Cle Elum, WA 98922  
509-656-3189  
russcocacola@q.com

April, 2010

Dan Valoff  
Staff Planner  
Kittitas County Community Development Services  
411 N. Ruby, Suite 2  
Ellensburg, WA 98926



**Re: Notice of Application Vista West Performance Based Cluster Plat LP-09-00001**

Dan,

I/we are concerned about some aspects of the above mentioned Application per below:

1. The Application indicates the only access for this 10 Cluster Lot Plat is to be Storie Lane. The application states by allowing access to this Plat via Storie Lane that the traffic on Storie Lane would only be increased by residents of these 10 lots. However, this Cluster Plat is part of the original larger Plat called Little Creek (located in Section 33, Township 20 North, Range 14, East W.M.) developed by Sapphire Skies prior to 2005. ALL of this larger development was platted with only one access, which is via Forest Service Road 4517. Per the SEPA for the entire larger development, this Plat could include as many as 130 lots with an estimated 1,200 vehicle trips per day occurring on Storie Lane if access to Storie Lane was to be granted.
2. February of 2005, Sapphire Skies filed an application for Access Permit to provide an easement over Little Creek Ranches lots 6 & 7, owned then by Sapphire Skies, to connect Storie Lane to the larger Little Creek development. The County denied the Access Permit WITHOUT an amendment to the Little Creek Ranches Plat, and the court decision of December 1, 2005, upheld the County's decision. To my/our knowledge, Sapphire Skies has NEVER applied for an amendment to the Little Creek Ranches Plat.
3. In 2007 Sapphire Skies proceeded to install a road on Little Creek Ranches lots 6 & 7 from the Storie Lane cul-de-sac to the KRD canal, built a bridge across the canal (with Building Permit for the foundation but none for the bridge), and built a road up to what is now being called Misty Mountain Way. When this work was brought to their attention, the County physically denied access from Storie Lane and stopped the building. Per the Superior Court of Washington for Kittitas County ruling of Sept, 2007, it was Ordered that  
"Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek Ranches Plat nor the bridge over the KRD Canal south of Storie Lane may be used for access to the Lots located in Section 33, Township 20 North, Range 14, East W.M. pending further order of this court or other court of competent jurisdiction, or other action by the County to allow such access."
4. The current Application is attempting to have the County decision and the Sept. 2007 Court Order overturned by asking that the road and bridge to this Cluster Plat (and the larger Little Creek Plat) be given ACCESS via Storie Lane.
5. I encourage the County to be consistent to their (and the Court's) previous position and not issue an Access Permit to Sapphire Skies WITHOUT their going thru the entire process and successfully amending the Little Creek Ranches Plat. This process requires agreement of the amendment by those Little Creek Ranches Plat property owners.

Thank you for this opportunity to express our concerns.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph E. Tam".

Owners to property at  
561 Storie Ln  
Cle Elum, WA 98922

NOTE: This developer is making a  
mockery of county rules and regulations  
set in place to protect everyone. Thank-you  
for your consideration to our concerns.

If possible please notify us by e-mail to any actions taken on this application.



Sapphire Skies, Vista West, & Fortune Creek LLC, are again trying to open the bridge at the end of Storie Lane. This is to develop up to 5 cluster plats, south of the KRD canal. Again this is for their benefit. It will greatly increase traffic on Nelson Siding road, as well as Storie Lane.

Your opinion on the opening of the bridge is VERY important to the county staff planner. We need to be heard.

Please write or Email, Dan Valoff, staff planner at;  
CDS, 411 N. Ruby, Suite 2, Ellensburg, WA 98926 or  
Email dan.valoff@co.kittitas.wa.us

A6 - THURSDAY, MARCH 25, 2010 + NKC TRIBUNE

**NOTICE OF APPLICATION  
VISTA WEST PERFORMANCE  
BASED CLUSTER PLAT  
(LP-09-00001)**

**Applicant:** Dave Blanchard, authorized agent for Fortune Creek LLC., landowner

**Location:** Southwest of the City of Cle Elum, accessed off of Storie Lane via Nelson Siding Road, Cle Elum, WA. The property is located in a portion of the North 1/2 of Section 33, T20N R14E WM. in Kittitas County. Map number: 20-14-33000-0007.

**Proposed Project:** The applicant requests preliminary plat approval for an 10-lot performance based cluster plat on approximately 21.09 acres of land that is zoned Rural-3. Water and wastewater treatment would be provided onsite via Group B wells and onsite individual septic systems.

**Materials Available for Review:** The submitted application and related filed documents may be examined by the public at the Kittitas County Community Development Services (CDS) office at 411 N. Ruby, Suite 2, Ellensburg, Washington, 98926, or on the CDS website at <http://www.co.kittitas.wa.us/cds/current/>. Phone: (509) 962-7506

**Written Comments** on this proposal can be submitted to CDS any time prior to 5:00 p.m. on April 9, 2010. Any person has the right to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made. Appeal procedures

can vary according to the type of decision being appealed, and are described in Kittitas County Code, Title 15A.

**Environmental Review (SEPA):** The County expects to issue a Determination of Non-Significance (DNS) for this proposal, and will use the optional DNS process, meaning this may be the only opportunity for the public to comment on the environmental impacts of the proposal. Mitigation measures may be required under applicable codes, such as Title 17 Zoning, Title 16 Subdivisions, and the Fire Code, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared. A copy of the threshold determination may be obtained from the County.

**Public Hearing:** An open record hearing will be scheduled before the Kittitas County Hearing Examiner after the SEPA environmental threshold determination has been issued. A Public Hearing Notice will be issued establishing the date, time and location of this hearing.

**Staff contact:** Dan Valoff, Staff Planner; (509) 962-7637; email at dan.valoff@co.kittitas.wa.us

Notice of Application:  
March 25, 2010

Application Received:  
December 16, 2009

Application Complete:  
January 13, 2010

(Published in the N.K.C. TRIBUNE, March 25, 2010.)

**RECEIVED**

APR 05 2010

KITTITAS COUNTY  
CDS

On February 11, 2005 permit 2005-031 was denied for the following reasons

- A. Lack of easement on Little Creek Plat for ingress/egress
- B. A plat amended is required
- C. A building permit is required for the construction of a bridge

This will be a new road, or road extension, in the Little Creek Ranches Plat. The Little Creek Ranches Plat does not show prior approval for extension of Storie Lane over a dedicated County right of way. A plat amendment would be necessary.

Nelson Development was denied a permit application per letter dated February 11, 2005. This letter identifies RCW 58.17.215 requiring a plat amendment for a ingress/egress easement to be reflected on the Little Creek Plat.

Additional research failed to establish any recorded easement for ingress/egress on either side. Public works will not issue a access permit without a recorded legal access.

The applicant subsequently submitted a building permit application for the construction of a bridge over the KRD Canal. Kittitas County did grant the applicant a "foundation only" permit to construct the footing. This permit was granted under the condition that the bridge could not be completed until the access issue is resolved. If the access is approved, the applicant will be able to complete the structure in a timely manner. If the access is denied, the foundation can be left in place, removed or buried.

February 11, 2005 letter to Nelson Group – Sapphire Skies

Little Creek Ranches Plat does not show prior approval for the extension of Storie Lane over dedicated County right of way or a private 60-foot ingress/egress easement. A plat amendment would be necessary

Little Creek Rezone was approved June 2004. The record does not indicate any attempt to correct this interpretation or add there was the possibility of access via another location, such as Storie Lane. A

review of the SEPA checklist clearly indicated access would be via the forest road and there was an acknowledgement in the SEPA checklist that the Forest Road would need to be improved. No written record or oral testimony reflects a possibility that Storie Lane is a possible access location.

#### RCW 58.17.215

Alteration of any subdivision or the altering of portion thereof, that person shall submit an application to request the alteration. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be altered.

October 4, 2005 Denied an application 2005-128

The Board of County Commissioners finds that the Little Creek Ranches subdivision (File No. P-82-03) was given final approval on July 16, 1985 and that the Storie Lane access was delineated to be a dead end road ending in a cul-de-sac with no access being provided to property south of the subdivision.

The Board of County Commissioners finds that past plat alterations have required the majority approval and signature of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject subdivisions and that this proposed plat alteration provided approval and signature only for the portion to be altered.

There was no indication in the proposed rezone application and from the applicant that any other access were being considered.

Testimony was received from the public indicating that since Storie Lane wasn't mentioned in the rezone and the impact of the rezone wouldn't affect Storie Lane. The lack of addressing Storie Lane, as a possible access for the rezone therefore wasn't fully considered for the best interest of the public and substantial relation to the public health, safety or welfare.

The proposal would simply create a potential for private access from a public road to an undetermined number of lots over an

undetermined route. It is not in the public interest to allow s plat alteration with such lack of detail.

RCW 36.75.130 No person shall be permitted to build or construct any approach to a county road without obtaining permission of property owners.

RCW 58.17.215 Signatures and Covenant codes are needed to alter subdivisions.

8/2/05 SEPA 131 lots with 1254 daily trips on Storie Lane and Nelson Siding

10/4/05 Denial - Lacks public benefit.

## Dan Valoff

---

**From:** Linda Hutchison [linda@modularhomedesigner.com] on behalf of 'Linda Hutchison' [plhutch2@cablespeed.com]  
**Sent:** Monday, April 05, 2010 2:30 PM  
**To:** Dan Valoff  
**Subject:** FW: notice sent to Kirk Holmes regarding Sapphire Skies - Visata West Performance Based CLuster Friday March 26th 2010  
**Attachments:** 05-00281-9 05-2-00581-8 001.bmp; 05-00281-9 05-2-00581-8 002.bmp; 05-00281-9 05-2-00581-8 003.bmp; 05-00281-9 05-2-00581-8 004.bmp; 05-00281-9 05-2-00581-8 005.bmp

**To:** 'prosecutor@co.kittitas.wa.us'  
**Cc:** 'James.Hurson@co.kittitas.wa.us'  
**Subject:** notice sent to Kirk Holmes regarding Sapphire Skies - Visata West Performance Based CLuster Friday March 26th 2010

To Whom It May Concern:

This company was in court 2005 with the county regarding this bridge too stop them for using the bridge and access through Storie Lane the County prevailed

Case # 05-00281-9 & 05-200581-8

Why are they being allowed to do this – through the back door?

Fortune Creek is Sapphire Skies

To Whom It May Concern:

March 23<sup>rd</sup> 2010

Kirk Holmes

Thank you for the opportunity to address this issue of access through Storie Lane (Notice of Application Vista West Performance Based Cluster – Sapphire Skies: Access Bridge through Storie Lane)

We the residents – home owners of Store Lane, believe the request should be denied. This issue of access through Store Lane was addressed in court and the issue was resolved (Sapphire Skies – Vista West Performance) is well aware: The judge ruled in favorer of the county and the residencies of Store Lane. (Case # 05-00281-9 and 05-2-00581-8

The original request for access was based on another access route entirely; we protest that as before this is bait and switch by the applicant to the county.

An estimated ADT of 1200 plus moves this to high category road that should require road improvements to include widening ; this road was originally designed and built to function as residential dead end not as major collector.

All of the properties that this new road – bridge would access where originally created under exempt segregation where no access was guaranteed, in any cases the legal access granted to these properties was

identified as forest service road not Store Lane. The entire Short Plates that where created showed the forest service road or private easements to forest service road as legal access.

What is happening now is they are finding improvements of the forest service road too expensive or that the standards are too high for them to meet. They are looking for less expensive way to gain access too their lots.

They are essentially trying to force the property owners of Storie Lane to deal with the mitigation requirements for them to develop their property. It's as the developer saying to us: we can't afford the cost to meet the road improvement requirements of the forest service road so we will force the property owners and residents of Storie Lane to suffer the burden of mitigation requirements.

Thus they don't have to use the forest service road that is the legal access. Thus allowing them to bypass all the expense – spend less to improve roads.

Increase the value of their lots –shorter access: by decreasing the Storie Lane home owner's home values in what is already depressed home market. This will put negative impact on Storie Lane significantly increasing traffic from areas the currently do not have legal access to this road.

The BOCC has stated that it is not the right for developments to be approved by the imposition of mitigation on others,

To Whom It May Concern:

Thank you,  
The residents – home owners of Storie Lane

Please Note:

Memorandum Decision dated December 1, 2005

The Decision of the court rejected Cle Elum Sapphire Skies argument that Storie Road can simply be extended to serve properties outside of Little Creek Ranches. The matter has now been finally been determined and Cle Elum – Sapphire Skies did not prevail on the argument

Regards,  
Linda Hutchison  
509-656-0187



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Hon. Michael E. Cooper

SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY

CLE ELUM'S SAPPHIRE SKIES, LLC,  
TALMADGE GLEN, LLC, and NELSON  
DEVELOPMENT GROUP,

Petitioners,

v.

KITTITAS COUNTY,

Respondent.

No. 05-2-00281-9

*Consolidated with*  
No. 05-2-00581-8

CLE ELUM'S SAPPHIRE SKIES, LLC,  
TALMADGE GLEN, LLC, and NELSON  
DEVELOPMENT GROUP,

Petitioners,

v.

KITTITAS COUNTY, CHARLES E. JENKS and  
JANE DOE JENKS; EUGENE IKOLA and  
JANE DOE IKOLA; STANLEY B.  
WOODWORTH and JANE DOE  
WOODWORTH; LARRY D. SPENCE and  
JANE DOE SPENCE; JOSEPH and LINDA  
TURNER; PAUL R. HUTCHISON and JANE  
DOE HUTCHISON; and ANTHONY and  
DELORES M. CALVISKY,

Respondents.

STIPULATION AND ORDER

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**STIPULATION**

1. Kittitas County Cause No. 05-2-00281-9, a Land Use Petition Act ("LUPA") proceeding ("Matter 1"), was commenced on May 9, 2005.
2. On September 10, 2005 the Kittitas County Board of County Commissioners denied Petitioners' request for a plat amendment to the Little Creek Ranch's plat, which action was appealed under Kittitas County Cause No. 05-2-00581-8 (hereinafter "Matter 2").
3. By Order entered on November 21, 2005 the Court consolidated for scheduling and other purposes Matter 1 and Matter 2.
4. By memorandum decision dated December 1, 2005, the Court denied Petitioners' Motion for Summary Judgment on certain legal issues raised in Matter 1.
5. Both LUPA Matters involve complex land use issues related to a variety of County planning and road development policies and may affect a variety of properties owned by different entities.
6. Petitioners and Kittitas County have been working since December, 2005 to develop a comprehensive plan and strategy to address the various land use issues underlying the consolidated Matters, and have achieved some progress toward developing long term solutions to the underlying land use and road access issues.
7. Petitioners and the County desire to stay the consolidated Matters so that they may continue working toward a comprehensive resolution of the outstanding issues without prejudice to their respective legal rights in the consolidated Matters.
8. Certain issues have arisen recently regarding what activities are allowed and/or permitted on Storie Lane, the access easement over lots 6 and 7 of Little Creek Ranches Plat, and the bridge constructed south of Storie Lane over the KRD Canal. The parties wish to settle certain misunderstandings and clarify what activities are allowed and/or permitted on Storie Lane during the pendency of the appeals to avoid further misunderstandings and/or disputes while this matter is

1 stayed.

2 9. Petitioner's successors: Northland Resources, LLC, Cooper Pass, LLC, Saddle Ridge,  
3 LLC, Fortune Creek, LLC, Back Country, LLC and Cool Water, LLC (collectively "Petitioners") and  
4 Kittitas County, further stipulate as follows:

5 (a) The above-captioned consolidated actions should be stayed pending further  
6 order of this Court or notice from Petitioners or the County that all efforts to resolve the underlying  
7 land use issues have been exhausted and that Petitioners and/or the County desire to proceed with the  
8 pending appeals.

9 (b) Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek  
10 Ranches Plat nor the bridge over the KRD Canal south of Storie Lane may be used for access to the  
11 Lots located in Section 33, Township 20 North, Range 14, East W.M. pending further order of this  
12 court or other court of competent jurisdiction, or other action by the County to allow such access.

13 (c) Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek  
14 Ranches Plat nor the bridge over the KRD Canal south of Storie Lane may be used for any  
15 construction activities in Section 33, Township 20 North, Range 14, East W.M. pending further order  
16 of this court or other court of competent jurisdiction, or other action by the County to allow such  
17 access.

18 (d) The bridge over the KRD Canal south of Storie Lane may be used only in  
19 accordance with Kittitas County Permit No. 05-0088 dated March 18, 2005, and for emergency  
20 vehicle access to Section 33 or areas beyond Section 33 for fire or life safety emergencies (upon  
21 notice to the County Public Works Department) pending further order of this court or other court of  
22 competent jurisdiction, or other action by the County to allow greater or different access. The  
23 Petitioners and the County agree to cooperate to establish a system to monitor and report use by  
24 emergency responders and/or establish a barrier at or near the bridge to limit access in accordance  
25 with this Stipulation and Order.

1 proceedings, have no knowledge of the other issues presented herein, and sign this stipulation with  
2 respect to the stay issue only.

3 11. Based on the foregoing, the undersigned parties, through their counsel, stipulate to  
4 entry of the subjoined order.

5 IT IS SO STIPULATED.

6 DATED this \_\_ day of September, 2007.  
7 GROFF MURPHY, PLLC

DATED this \_\_ day of September, 2007.  
KITTITAS COUNTY PROSECUTOR

8 Michael J. Murphy, WSBA # 11132  
9 *Attorney for Petitioners*

Don L. Anderson, WSBA #12445  
*Attorney for Respondent Kittitas County*

1 2. Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek Ranches Plat  
2 nor the bridge over the KRD Canal south of Storie Lane may be used for access to the Lots located in  
3 Section 33, Township 20 North, Range 14, East W.M. pending further order of this court or other  
4 court of competent jurisdiction, or other action by the County to allow such access.

5 3. Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek Ranches Plat  
6 nor the bridge over the KRD Canal south of Storie Lane may be used for any construction activities  
7 in Section 33, Township 20 North, Range 14, East W.M. pending further order of this court or other  
8 court of competent jurisdiction, or other action by the County to allow such access.

9 4. The bridge over the KRD Canal south of Storie Lane may be used only in accordance  
10 with the Kittitas County Permit No. 05-0088 dated March 18, 2005, and for emergency vehicle  
11 access to Section 33 or areas beyond Section 33 for fire or life safety emergencies (upon notice to the  
12 County Public Works Department), pending further order of this court or other court of competent  
13 jurisdiction, or other action by the County to allow greater or different access. The Petitioners and  
14 the County have agreed to cooperate to establish a system to monitor and report use by emergency  
15 responders and/or establish a barrier at or near the bridge to limit access in accordance with this  
16 Stipulation and Order.

17 DONE IN OPEN COURT this \_\_\_\_ day of \_\_\_\_\_, 2007.

18 \_\_\_\_\_  
19 Honorable Michael E. Cooper

20 Presented by:

21 KITTITAS COUNTY PROSECUTOR

22 \_\_\_\_\_  
23 Don L. Anderson, WSBA #12445

STIPULATION AND ORDER – Page 5

GROFF MURPHY, PLLC  
300 EAST PINE  
SEATTLE, WASHINGTON 98122  
(206) 628-9500  
FACSIMILE: (206) 628-9506

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*Attorney for Respondent Kittitas County*

Approved As to Form; Notice of Presentation  
Waived:

GROFF MURPHY, PLLC

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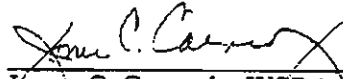
Michael J. Murphy, WSBA # 11132  
*Attorney for Petitioners*

LAW OFFICE

---

Peter P. Perron, WSBA #26062  
*Attorney for Respondents Ikola*

VELIKANJE HALVERSON, P.S.

---

James C. Carmody, WSBA # 05205  
*Attorney for Respondents Woodworth,  
Hutchison and Calvisky,*

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**SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY**

CLE ELUM SAPPHIRE SKIES LLC,  
TALMADGE GLEN, LLC and  
NELSON DEVELOPMENT GROUP,

Petitioners,

vs.

KITTITAS COUNTY,

Respondent.

No. 05-2-00281-9

*Consolidated with*  
No. 05-2-00581-8

---

CLE ELUM SAPPHIRE SKIES LL.,  
TALMADGE GLEN, LLC and  
NELSON DEVELOPMENT GROUP,

Petitioners,

vs.

KITTITAS COUNTY, CHARLES E.  
JENKS and JANE DOE JENKS, EUGENE  
IKOLA and JANE DOE IKOLA,  
STANLEY B. WOODWORTH and JANE  
DOE WOODWORTH, LARRY D.  
SPENCE and JANE DOE SPENCE,  
JOSEPH and LINDA TURNER, PAUL R.  
HUTCHISON and JANE DOE  
HUTCHISON, and ANTHONY and  
DELORES M. CALVINSKY,

Respondents.

DECLARATION OF RUSSEL LIBBY  
IN SUPPORT OF KITTITAS COUNTY'S  
MOTION FOR PRELIMINARY  
INJUNCTION

1 I, Russel Libby, am over the age of eighteen years and competent to testify as a witness  
2 in these proceedings. I make the following declaration based upon my own personal  
3 knowledge, observations and perceptions.

4 My wife, Linda, and I own the property at 350 Storie Lane, which is otherwise known as  
5 Lot 3 of Ed Bogachus Acres. We purchased the property on April 1, 200. We have another  
6 residence in Kirkland, Washington, but I live full-time at our cabin on Storie Lane from May  
7 through October each year.

8 Our property is located on Storie Lane about half-way between Nelson Siding Road and  
9 Lots 6 and 7 of Little Ranch Creek Ranches Plat. Put differently, Storie Lane is a dead-end  
10 road that runs a half-mile from Nelson Siding Road to its terminus at Lots 6 and 7. So we are  
11 about a quarter mile from those lots and slightly farther from the bridge that Wayne Nelson  
12 and Sean Northrup built across the Kittitas Reclamation District irrigation ditch.

13 I have kept a dairy about the construction activities and my associated thoughts and  
14 actions in connection with that bridge and the private access road that was built over Lot 7  
15 between the bridge and Storie Lane. The entries in the diary were made between June 25,  
16 2007 and August 21, 2007 contemporaneously with the activities they describe. I have typed  
17 up the contents of the diary for the sole reason to make it easier to read. Attached hereto as set  
18 though forth in its entirety immediately hereafter is a true and correct copy of that diary.

19 I have also taken a number of photographs of the construction work that took place  
20 between Story Lane and the bridge from June 25, 2007 to August 21, 2007. True and correct  
21 copies of those photographs are attached hereto as though set forth in their entirety  
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1 immediately hereafter. The copies that are attached hereto adequately and correctly reflect the  
2 conditions as they existed on the dates I took the photos.

3 In addition to the foregoing, I was present at a meeting that took place at the Sunset Café  
4 in Cle Elum, Washington in September 2006. Wayne Nelson invited me and several other  
5 property owners along Storie Lane in an effort to, as he put it, "clear the air." At the meeting,  
6 Mr. Nelson asked, "What can we do to satisfy you people and make this fly?" What he meant,  
7 and what all of the neighbors in attendance understood him to mean, was how could Nelson  
8 and his developer colleagues get us to keep quiet and knuckle under to their plans to use Storie  
9 Lane to access their properties on the opposite side of the KRD irrigation ditch. Among other  
10 things, he offered to provide us horse trails and other outdoor amenities in exchange for our  
11 assent to use Storie Lane as the access to their properties outside the subdivisions served by  
12 the cul de sac. I kind of felt sorry for Mr. Nelson, because his offers fell on deaf ears. Our  
13 response was that there was nothing he could offer us to make us change our minds about  
14 letting him use Storie Lane. We actually told him, "We don't want you here, go someplace  
15 else."  
16  
17  
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19

20 I was present at the public hearings the Board of County Commissioners held in  
21 connection with the Storie Lane access permit and the denial of the Petitioners' request to  
22 amend the Little Ranches Creek Plat. I was also present at the Superior Court hearing when  
23 the Petitioners' motion for summary judgment was denied. It appears to me that  
24 notwithstanding the results of those hearings, the Petitioners have gone ahead and built a 30-  
25 foot wide paved road between Storie Lane and the bridge they previously built across the  
26 KRD ditch. They seem determined to use Storie Lane to access properties outside the  
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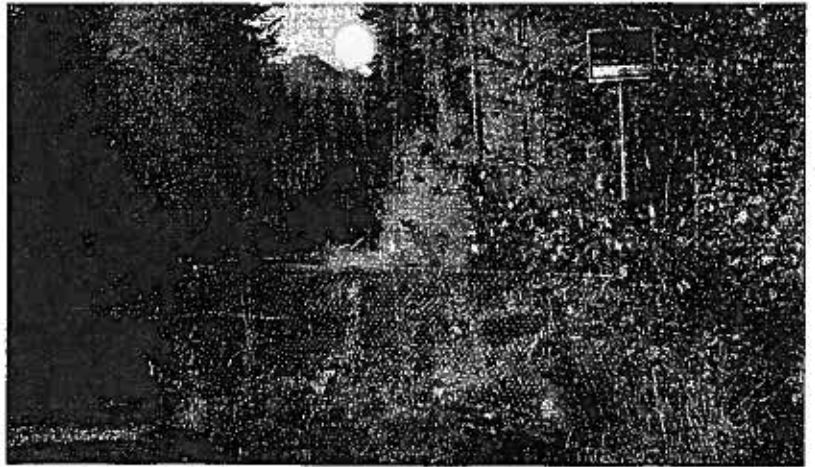


1 subdivision regardless of who orders them not to. They recently (after finishing their road  
2 project) have cabled off the bridge access, but what is to stop them from opening the access in  
3 the future? It seems like the only way to prevent that from happening is by the Court issuing  
4 an injunction.

5  
6 I certify under penalty of perjury pursuant to the laws of the State of Washington that the  
7 foregoing is true and correct to the best of my knowledge.

8  
9 Dated this 10<sup>th</sup> day of September, 2007, at Ellensburg, Washington.

10  
11   
12 \_\_\_\_\_  
13 Russel Libby



THIS DEAD END CUL-DE-SAC at the end of Storie Lane is the subject of a land use battle between homeowners and Sapphire Skies. Valerie Chapman photo

## Sapphire Skies Files Suit Against Kittitas County, Area Landowners

By Valerie Chapman

After exhausting appeals to Kittitas County Board of Commissioners to obtain an access permit for land on Storie Lane, off of West Nelson Siding Road in Upper Kittitas County, Sapphire Skies LLC, Talmadge Glen, LLC and Nelson Development group filed suit against the county and area landowners.

According to Sean Northrup of Sapphire Skies, the suit is merely a way for the company to continue to receive due process under the law.

The suit revolves around two plats of property in the Little Creek Ranches Plat situated at the end of Storie Lane, a public road currently designated as a dead-end road.

Sapphire Skies acquired the plats in order to build a road to access 210 acres of property it owns behind the Little Creek Ranches Plat. According to Northrup, there are other property owners in that area that would also gain access to their property via the proposed road.

"We feel we were denied access erroneously and filing suit is part of the legal process under the Land Use Petition Act that allows us to retain our rights," said Northrup. "We aren't out to sue anyone."

According to Paul Hutchison, one of the neighbors named in the suit, the roads in the area aren't equipped to handle the traffic that Storie Lane revisions would create. Sapphire Skies has sought to change the plat size on their property from 20 acre parcels to 3-acre parcels.

phire Skies has been going on for about a year and a half.

"One morning, I saw that people were clearing the property next to mine, so I asked them for their permits," she related. "The workers said that 'permits weren't their problem'.

"The County then issued a stop-work order.

"Sapphire Skies then got a permit to gravel the road and sought a permit to build a bridge over the Kittitas Rural Development canal.

"The County issued a *conditional* permit, with the understanding that they [Sapphire Skies] might not ever be granted permission to finish the roads."

According to the Hutchisons, Sapphire Skies bought a landlocked property and when they submitted their plat divisions to the county, they only referenced Forest Service Road 4517 as their access to their property. Storie Lane was not named.

In order to handle the legal matters, the Hutchisons have contacted more than 22 attorneys from Ellensburg to Cle Elum. In each case, attorneys have declined the case based either on conflict of interest or a disinclination to take on the tactics of Sapphire Skies legal counsel.

"We had to hire an attorney from outside the area."

In addition to the Hutchisons, six other families as well as Kittitas County are named in the lawsuit. At press time, neither the Kittitas County Commissioners nor the County attorney were available for comment. The

FILED

SEP 26 2007

JOYCE L. JALSRUD, CLERK  
KITITAS COUNTY, WASHINGTON

Hon. Michael E. Cooper

SUPERIOR COURT OF WASHINGTON FOR KITITAS COUNTY

CLE ELUM'S SAPPHIRE SKIES, LLC,  
TALMADGE GLEN, LLC, and NELSON  
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Petitioners,

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No. 05-2-00281-9

*Consolidated with*  
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WOODWORTH; LARRY D. SPENCE and  
JANE DOE SPENCE; JOSEPH and LINDA  
TURNER; PAUL R. HUTCHISON and JANE  
DOE HUTCHISON; and ANTHONY and  
DELORES M. CALVISKY,

Respondents.

STIPULATION AND ORDER

STIPULATION AND ORDER - Page 1

CLERK OF SUPERIOR COURT, KITAS COUNTY  
KITITAS COUNTY, WASHINGTON 98103  
(253) 826-0000  
Facsimile: (253) 826-0008

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STIPULATION

1. Kittitas County Cause No. 05-2-00281-9, a Land Use Petition Act ("LUPA") proceeding ("Matter 1"), was commenced on May 9, 2005.

2. On September 10, 2005 the Kittitas County Board of County Commissioners denied Petitioners' request for a plat amendment to the Little Creek Ranch's plat, which action was appealed under Kittitas County Cause No. 05-2-00581-8 (hereinafter "Matter 2").

3. By Order entered on November 21, 2005 the Court consolidated for scheduling and other purposes Matter 1 and Matter 2.

4. By memorandum decision dated December 1, 2005, the Court denied Petitioners' Motion for Summary Judgment on certain legal issues raised in Matter 1.

5. Both LUPA Matters involve complex land use issues related to a variety of County planning and road development policies and may affect a variety of properties owned by different entities.

6. Petitioners and Kittitas County have been working since December, 2005 to develop a comprehensive plan and strategy to address the various land use issues underlying the consolidated Matters, and have achieved some progress toward developing long term solutions to the underlying land use and road access issues.

7. Petitioners and the County desire to stay the consolidated Matters so that they may continue working toward a comprehensive resolution of the outstanding issues without prejudice to their respective legal rights in the consolidated Matters.

8. Certain issues have arisen recently regarding what activities are allowed and/or permitted on Storie Lane, the access easement over lots 6 and 7 of Little Creek Ranches Plat, and the bridge constructed south of Storie Lane over the KRD Canal. The parties wish to settle certain misunderstandings and clarify what activities are allowed and/or permitted on Storie Lane during the pendency of the appeals to avoid further misunderstandings and/or disputes while this matter is

CLARENCE B. JOHNSON, JUDGE  
KITTITAS COUNTY  
SPRING WASHINGTON ORDER  
2005-12-01 PM 1:00  
FACSIMILE (509) 425-6100

1 stayed.

2 9. Petitioner's successors: Northland Resources, LLC, Cooper Pass, LLC, Saddle Ridge,  
3 LLC, Fortune Creek, LLC, Back Country, LLC and Cool Water, LLC (collectively "Petitioners") and  
4 Kittitas County, further stipulate as follows:

5 (a) The above-captioned consolidated actions should be stayed pending further  
6 order of this Court or notice from Petitioners or the County that all efforts to resolve the underlying  
7 land use issues have been exhausted and that Petitioners and/or the County desire to proceed with the  
8 pending appeals.

9 (b) Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek  
10 Ranches Plat nor the bridge over the KRD Canal south of Storie Lane may be used for access to the  
11 Lots located in Section 33, Township 20 North, Range 14, East W.M. pending further order of this  
12 court or other court of competent jurisdiction, or other action by the County to allow such access.

13 (c) Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek  
14 Ranches Plat nor the bridge over the KRD Canal south of Storie Lane may be used for any  
15 construction activities in Section 33, Township 20 North, Range 14, East W.M. pending further order  
16 of this court or other court of competent jurisdiction, or other action by the County to allow such  
17 access.

18 (d) The bridge over the KRD Canal south of Storie Lane may be used only in  
19 accordance with Kittitas County Permit No. 05-0088 dated March 18, 2005, and for emergency  
20 vehicle access to Section 33 or areas beyond Section 33 for fire or life safety emergencies (upon  
21 notice to the County Public Works Department) pending further order of this court or other court of  
22 competent jurisdiction, or other action by the County to allow greater or different access. The  
23 Petitioners and the County agree to cooperate to establish a system to monitor and report use by  
emergency responders and/or establish a barrier at or near the bridge to limit access in accordance  
with this Stipulation and Order.

10. Respondents Ikola, Woodworth, Hutchison and Calvisky consent to a stay of


1 proceedings, have no knowledge of the other issues presented herein, and sign this stipulation with  
2 respect to the stay issue only.


3 11. Based on the foregoing, the undersigned parties, through their counsel, stipulate to  
4 entry of the subjoined order.

5 IT IS SO STIPULATED.

6 DATED this <sup>14<sup>th</sup></sup> day of September, 2007.  
GROFF MURPHY, PLLC

7 DATED this <sup>14<sup>th</sup></sup> day of September, 2007.  
KITTITAS COUNTY PROSECUTOR

8   
9 Michael J. Murphy, WSBA # 11132  
Attorney for Petitioners

10   
11 Don L. Anderson, WSBA #12445  
Attorney for Respondent Kittitas County

12 DATED this \_ day of September, 2007.

13 DATED this \_ day of September, 2007.

14 LAW OFFICE

15 VELIKANJE HALVERSON, P.S.

16 

---

  
17 Peter P. Perron, WSBA #26062  
18 Attorney for Respondents Ikola

19 

---

  
20 James C. Carmody, WSBA # 05205  
21 Attorney for Respondents Woodworth,  
22 Hutchison and Calvisky

23 **ORDER**

Based on the foregoing stipulation,

IT IS HEREBY ORDERED as follows:

1. The above-captioned consolidated actions are hereby stayed pending further order of this Court or notice to the Court and all other parties from Petitioners or the County that the efforts to resolve the underlying land use issues have been exhausted and that Petitioners and/or the County desire to proceed with the pending appeals.

1 proceedings, have no knowledge of the other issues presented herein, and sign this stipulation with  
2 respect to the stay issue only.

3 11. Based on the foregoing, the undersigned parties, through their counsel, stipulate to  
4 entry of the subjoined order.

5 IT IS SO STIPULATED.

6 DATED this \_\_ day of September, 2007.  
GROFF MURPHY, PLLC

DATED this \_\_ day of September, 2007.  
KITITAS COUNTY PROSECUTOR

8 Michael J. Murphy, WSBA # 11132  
9 *Attorney for Petitioners*


Don L. Anderson, WSBA #12445  
*Attorney for Respondem Kittitas County*

10 DATED this \_\_ day of September, 2007.

DATED this \_\_ day of September, 2007.

11 LAW OFFICE

VELIKANJE HALVERSON, P.S.

12   
13 Peter P. Penron, WSBA #26062  
*Attorney for Respondents Akola*

James C. Carmody, WSBA # 05205  
*Attorney for Respondents Woodworth,  
Hutchison and Cahvisky*

16 ORDER

17 Based on the foregoing stipulation,

18 IT IS HEREBY ORDERED as follows:

19 1. The above-captioned consolidated actions are hereby stayed pending further order of  
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21 resolve the underlying land use issues have been exhausted and that Petitioners and/or the County  
22 desire to proceed with the pending appeals.  
23

1 proceedings, have no knowledge of the other issues presented herein, and sign this stipulation with  
2 respect to the stay issue only.

3 11. Based on the foregoing, the undersigned parties, through their counsel, stipulate to  
4 entry of the subpoenaed order.

5 IT IS SO STIPULATED.

6 DATED this \_\_ day of September, 2007.  
GROFF MURPHY, PLLC

DATED this \_\_ day of September, 2007.  
KITITAS COUNTY PROSECUTOR


7  
8 Michael J. Ameghny, WSPA # 11132  
Attorney for Petitioners

Don J. Anderson, WSPA #12445  
Attorney for Respondent Kititas County

9  
10 DATED this \_\_ day of September, 2007.  
LAW OFFICE

DATED this \_\_ day of September, 2007.  
VELKANIE HALVERSON, P.S.

11  
12 Peter P. Ferman, WSPA #26062  
Attorney for Respondents Ivola

  
13 James C. Carmody, WSPA # 65205  
Attorney for Respondents Woodworth,  
14 Hutchison and Calvisky

15  
16 ORDER

17 Based on the foregoing stipulation,

18 IT IS HEREBY ORDERED as follows:

19 1. The above-captioned consolidated actions are hereby stayed pending further order of  
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21 resolve the underlying land use issues have been exhausted and that Petitioners and/or the County  
22 desire to proceed with the pending appeals.  
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2. Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek Ranches Plat nor the bridge over the KRD Canal south of Storie Lane may be used for access to the Lots located in Section 33, Township 20 North, Range 14, East W.M. pending further order of this court or other court of competent jurisdiction, or other action by the County to allow such access.

3. Neither Storie Lane, the easements over Lots 6 and 7 of the Little Creek Ranches Plat nor the bridge over the KRD Canal south of Storie Lane may be used for any construction activities in Section 33, Township 20 North, Range 14, East W.M. pending further order of this court or other court of competent jurisdiction, or other action by the County to allow such access.

4. The bridge over the KRD Canal south of Storie Lane may be used only in accordance with the Kittitas County Permit No. 05-0088 dated March 18, 2005, and for emergency vehicle access to Section 33 or areas beyond Section 33 for fire or life safety emergencies (upon notice to the County Public Works Department), pending further order of this court or other court of competent jurisdiction, or other action by the County to allow greater or different access. The Petitioners and the County have agreed to cooperate to establish a system to monitor and report use by emergency responders and/or establish a barrier at or near the bridge to limit access in accordance with this Stipulation and Order.


DONE IN OPEN COURT this 26<sup>th</sup> day of September, 2007.

MICHAEL E. COOPER

Honorable Michael E. Cooper

Presented by:

KITTITAS COUNTY PROSECUTOR

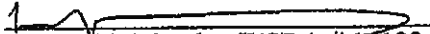
  
Don L. Anderson, W3BA #12445

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*Attorney for Respondent Kittitas County*

Approved As to Form; Notice of Presentation  
Waived:

GROFF MURPHY, PLLC

  
Michael J. Murphy, WSBA # 11132  
*Attorney for Petitioners*

LAW OFFICE

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Peter P. Perron, WSBA #26062  
*Attorney for Respondents Ikola*

VELIKANJE HALVERSON, P.S.

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James C. Carmody, WSBA # 05205  
*Attorney for Respondents Woodworth,  
Hutchison and Calvisky,*

1 *Attorney for Respondent Kinitas County*

2  
3 Approved As to Form; Notice of Presentation  
4 Waived;

5  
6 GROFF MURPHY, PLLC

7  
8 Michael J. Murphy, WSBA # 11132  
9 *Attorney for Petitioners*

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20 *Attorney for Respondents Woodworth,*  
21 *Hutchison and Calvisky,*

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*Attorney for Respondent Kittitas County*

Approved As to Form; Notice of Presentation  
Waived:

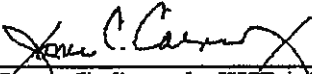
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*Attorney for Respondents Woodworth,  
Hutchison and Calvisky,*

FILED

SEP 26 2007

JOYCE L. JULSRUD, CLERK  
KITTTAS COUNTY, WASHINGTON

SUPERIOR COURT OF WASHINGTON FOR KITTTAS COUNTY

CLE ELUM'S SAPPHIRE SKIES LLC,  
TALMADGE GLEN, LLC and  
NELSEN DEVELOPMENT GROUP,

Petitioners,

vs.

KITTTAS COUNTY,

Respondent.

No. 05-2-00281-9

*Consolidated with*  
No. 05-2-00581-8

CLE ELUM SAPPHIRE SKIES LLC,  
TALMADGE GLEN, LLC and  
NELSEN DEVELOPMENT GROUP,

Petitioners,

vs.

KITTTAS COUNTY, CHARLES E.  
JENKS and JANE DOE JENKS, EUGENE  
IKOLA and JANE DOE IKOLA,  
STANLEY B. WOODWORTH and JANE  
DOE WOODWORTH, LARRY D.  
SPENCE and JANE DOE SPENCE,  
JOSEPH and LINDA TURNER, PAUL R.  
HUTCHISON and JANE DOE  
HUTCHISON, and ANTHONY and  
DELORES M. CALVINSKY,

Respondents.

ORDER DENYING PETITIONERS'  
MOTION FOR SUMMARY JUDGMENT

THIS MATTER having come before the Court on Petitioners' motion for summary judgment, Petitioners appearing by and through their attorney, Michael J. Murphy and William

Order Denying Petitioners' Motion  
for Summary Judgment - 1

GREGORY L. ZEMPEL  
KITTTAS COUNTY PROSECUTOR  
KITTTAS COUNTY COURTHOUSE  
ELLENSBURG, WA 98926  
TELEPHONE: 509-962-7520

1 J. Crittenden, of GROFF MURPHY TRACHTENBERG & EVERARD PLLC, and  
2 Respondent, Kittitas County, being represented by GREGORY L. ZEMPEL, Kittitas County  
3 Prosecuting Attorney, by and through his Deputy, James E. Hurson, and the Court having  
4 reviewed the files and records herein, and having heard the arguments of counsel, and having  
5 considered the following:

- 6 1. Petitioners' Motion for Summary Judgment;
- 7 2. Declaration of Michael J. Murphy; and
- 8 3. The County Response to Motion for Summary Judgment:

9 and the Court being otherwise fully advised in the premises, it is hereby  
10

11 ORDERED that Petitioners' Motion for Summary Judgment is denied.

12 Dated this 26<sup>th</sup> day of September, 2007.

13  
14 **MICHAEL E. COOPER**


15 

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MICHAEL E. COOPER  
16 Superior Court Judge

17 Presented by:

18 GREGORY L. ZEMPEL  
19 Kittitas County Prosecuting Attorney

20   
21 

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Don L. Anderson, WSBA #12445  
22 Attorneys for Respondent, Kittitas County

23 Approved as to Form;  
24 Notice of Presentment Waived, by:

25 GROFF MURPHY TRACHTENBERG  
& EVERARD PLLC

26 Approved by email: 9/26/07

27 

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Michael J. Murphy, WSBA #11132  
28 William J. Crittenden, WSBA #22033  
29 Attorneys for Petitioners

Order Denying Petitioners' Motion  
for Summary Judgment - 2

GREGORY L. ZEMPEL  
KITITAS COUNTY PROSECUTOR  
KITITAS COUNTY COURTHOUSE  
ELLENSBURG, WA 98926  
TELEPHONE: 509-962-7520

**Don Anderson**

---

**From:** Mike Murphy [mmurphy@groffmurphy.com]  
**Sent:** Wednesday, September 26, 2007 12:19 PM  
**To:** Don Anderson  
**Subject:** RE: Cle Elum's Sapphire Skies et al. v. Kittitas Co.

You have my authority to sign on the form of order previously sent to me.

-----Original Message-----

**From:** Don Anderson [mailto:don.anderson@co.kittitas.wa.us]  
**Sent:** Wednesday, September 26, 2007 11:59 AM  
**To:** Mike Murphy  
**Subject:** Cle Elum's Sapphire Skies et al. v. Kittitas Co.

Mike:

As I was preparing to take the Stipulation and Order up to Judge Cooper for signature and entry, I realized that I didn't have a signature from you on the Order Denying Petitioners' Motion for Summary Judgment that was served on your office at the same time as my first set of paperwork for the preliminary injunction. Is there some reason why you couldn't provide an electronic signature or a telephonic approval, so that can be entered at the same time? (As you recall, no formal order was entered memorializing Judge Cooper's December 1, 2005 Memorandum Decision denying your clients' SJ motion.)

Thanks,  
Don

*Don L. Anderson  
Civil DPA  
Kittitas County Prosecuting Attorney  
205 W. 5th, Room 213  
Ellensburg, WA 98926*

*509-962-7661  
509-962-7022 (Fax)*

*don.anderson@co.kittitas.wa.us*

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## KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CIDS@CO.KITTITAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

"Building Partnerships - Building Communities"

April 15, 2010

Allison Kimball  
Brookside Consulting  
PO Box 1036  
Cle Elum, WA 98922

Subject: Determination of Complete Application  
Little Creek Ranches Plat Alteration (LP-10-00001)

Dear Allison:

Your application for the Little Creek Ranches Plat Alteration was received on March 18, 2010, and has been determined complete on the date of this letter.

Your application meets the requirements of KCC 16.12.010 for a complete application. The County may request additional information during review of you application. Continued processing of your application will include, but not limited to the following actions:

1. According to KCC 15A.030.060 a Notice of Application will be sent to the public (adjacent landowners), Kittitas County departments, and non-County governmental agencies inviting written comments on this proposal. **Note: Please contact Community Development Services for instructions for posting notice signs at the site as outlined in KCC 15A.03.110.**
2. Requests for clarification, amendments, or additional information will be sent to you following the public comment period.
3. The consideration of written comments from adjacent property owners and public agencies will be incorporated in the staff report.
4. As requested by the County, additional materials and/or revised preliminary plat drawings may be required before this matter is brought before the Board of County Commissioners.
5. An open-record hearing will be scheduled before the Kittitas County Board of Commissioners where final decision will be given.

If you have any questions regarding this matter, please contact me at (509) 962-7637, or by e-mail at [dan.valoff@co.kittitas.wa.us](mailto:dan.valoff@co.kittitas.wa.us).

Sincerely,

Dan Valoff  
Staff Planner



## Dan Valoff

---

**From:** Chad Soma [chadsoma1@msn.com]  
**Sent:** Friday, April 02, 2010 8:16 PM  
**To:** Dan Valoff  
**Subject:** Storey Lane Bridge

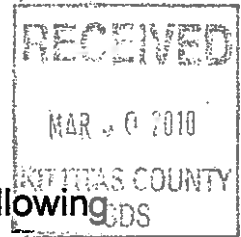
Dan,

I am a resident of kittitas County for 13 year, currently at 2160 Nelson Siding. I am strongly against Sapphire Skies opening the bridge at the end of Storie Lane. I would like to know how they constructed the bridge without a permit? Why have they been allowed to keep the bridge in? The only way they can access the properties is by entering through Fowler Creek. I don't want the traffic it will create.

Thank You,  
Chad Soma.

---

The New Busy is not the too busy. Combine all your e-mail accounts with Hotmail. [Get busy.](#)



On February 11, 2005 permit 2005-031 was denied for the following reasons

- A. Lack of easement on Little Creek Plat for ingress/egress
- B. A plat amended is required
- C. A building permit is required for the construction of a bridge

This will be a new road, or road extension, in the Little Creek Ranches Plat. The Little Creek Ranches Plat does not show prior approval for extension of Storie Lane over a dedicated County right of way. A plat amendment would be necessary.

Nelson Development was denied a permit application per letter dated February 11, 2005. This letter identifies RCW 58.17.215 requiring a plat amendment for a ingress/egress easement to be reflected on the Little Creek Plat.

Additional research failed to establish any recorded easement for ingress/egress on either side. Public works will not issue a access permit without a recorded legal access.

The applicant subsequently submitted a building permit application for the construction of a bridge over the KRDC Canal. Kittitas County did grant the applicant a "foundation only" permit to construct the footing. This permit was granted under the condition that the bridge could not be completed until the access issue is resolved. If the access is approved, the applicant will be able to complete the structure in a timely manner. If the access is denied, the foundation can be left in place, removed or buried.

February 11, 2005 letter to Nelson Group – Sapphire Skies

Little Creek Ranches Plat does not show prior approval for the extension of Storie Lane over dedicated County right of way or a private 60-foot ingress/egress easement. A plat amendment would be necessary

Little Creek Rezone was approved June 2004. The record does not indicate any attempt to correct this interpretation or add there was the possibility of access via another location, such as Storie Lane. A

review of the SEPA checklist clearly indicated access would be via the forest road and there was an acknowledgement in the SEPA checklist that the Forest Road would need to be improved. No written record or oral testimony reflects a possibility that Storie Lane is a possible access location.

**RCW 58.17.215**

Alteration of any subdivision or the altering of portion thereof, that person shall submit an application to request the alteration. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject subdivision or portion to be altered.

October 4, 2005 Denied an application 2005-128

The Board of County Commissioners finds that the Little Creek Ranches subdivision (File No. P-82-03) was given final approval on July 16, 1985 and that the Storie Lane access was delineated to be a dead end road ending in a cul-de-sac with no access being provided to property south of the subdivision.

The Board of County Commissioners finds that past plat alterations have required the majority approval and signature of those persons having an ownership interest of lots, tracts, parcels, sites or divisions in the subject subdivisions and that this proposed plat alteration provided approval and signature only for the portion to be altered.

There was no indication in the proposed rezone application and from the applicant that any other accesses were being considered.

Testimony was received from the public indicating that since Storie Lane wasn't mentioned in the rezone and the impact of the rezone wouldn't affect Storie Lane. The lack of addressing Storie Lane, as a possible access for the rezone therefore wasn't fully considered for the best interest of the public and substantial relation to the public health, safety or welfare.

The proposal would simply create a potential for private access from a public road to an undetermined number of lots over an

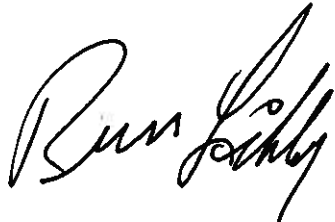
undetermined route. It is not in the public interest to allow a plat alteration with such lack of detail.

RCW 36.75.130 No person shall be permitted to build or construct any approach to a county road without obtaining permission of property owners.

RCW 58.17.215 Signatures and Covenant codes are needed to alter subdivisions.

8/2/05 SEPA 131 lots with 1254 daily trips on Storie Lane and Nelson Siding

10/4/05 Denial - Lacks public benefit.

  
350 - STORIE LN.  
CLE ELUM, 98922  
russcocaola@g.com

  
509-656-3189

## Dan Valoff

---

**From:** Kirk Holmes  
**Sent:** Friday, March 26, 2010 12:59 PM  
**To:** Dan Valoff  
**Cc:** Jan Ollivier; Christina Wollman; Kelly Bacon  
**Subject:** FW: Sapphire Skies -- Vista West Performance Cluster LP 09-00001

**Importance:** High

---

**From:** Linda Hutchison [mailto:linda@modularhomedesigner.com] **On Behalf Of** 'Linda Hutchison'  
**Sent:** Friday, March 26, 2010 12:42 PM  
**To:** Kirk Holmes  
**Cc:** 'RUSSEL LINDA LIBBY'  
**Subject:** Sapphire Skies -- Vista West Performance Cluster LP 09-00001  
**Importance:** High

To Whom It May Concern:

March 23<sup>rd</sup> 2010

Kirk Holmes

Thank you for the opportunity to address this issue of access through Storie Lane (Notice of Application Vista West Performance Based Cluster – Sapphire Skies: Access Bridge through Storie Lane)

We the residents – home owners of Store Lane, believe the request should be denied. This issue of access through Store Lane was addressed in court and the issue was resolved (Sapphire Skies –Vista West Performance) is well aware: The judge ruled in favorer of the county and the residencies of Store Lane. (Case # 05-00281-9 and 05-2-00581-8

The original request for access was based on another access route entirely; we protest that as before this is bait and switch by the applicant to the county.

An estimated ADT of 1200 plus moves this to high category road that should require road improvements to include widening ; this road was originally designed and built to function as residential dead end not as major collector.

All of the properties that this new road – bridge would access where originally created under exempt segregation where no access was guaranteed, in any cases the legal access granted to these properties was identified as forest service road not Store Lane. The entire Short Plates that where created showed the forest service road or private easements to forest service road as legal access.

What is happening now is they are finding improvements of the forest service road too expensive or that the standards are too high for them to meet. They are looking for less expensive way to gain access too their lots.

They are essentially trying to force the property owners of Storie Lane to deal with the mitigation requirements for them to develop their property. It's as the developer saying to us: we can't afford the cost to meet the road

improvement requirements of the forest service road so we will force the property owners and residents of Storie Lane to suffer the burden of mitigation requirements.

Thus they don't have to use the forest service road that is the legal access. Thus allowing them to bypass all the expense – spend less to improve roads.

Increase the value of their lots –shorter access: by decreasing the Storie Lane home owner's home values in what is already depressed home market. This will put negative impact on Storie Lane significantly increasing traffic from areas the currently do not have legal access to this road.

The BOCC has stated that it is not the right for developments to be approved by the imposition of mitigation on others,

Thank you,  
The residents – home owners of Storie Lane

Please Note:

Memorandum Decision dated December 1, 2005

The Decision of the court rejected Cle Elum Sapphire Skies argument that Storie Road can simply be extended to serve properties outside of Little Creek Ranches. The matter has now been finally been determined and Cle Elum – Sapphire Skies did not prevail on the argument

Regards,  
Linda Hutchison  
Managing Partner  
[Linda@modularhomedesigner.com](mailto:Linda@modularhomedesigner.com)  
[www.modularhomedesigner.com](http://www.modularhomedesigner.com)  
Shuey Garnett Design LLC  
Office 509-656-0187  
Cell 509-674-8788  
Fax 509-656-3135

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**From:** Linda Hutchison [mailto:linda@modularhomedesigner.com] **On Behalf Of** 'Linda Hutchison'  
**Sent:** Saturday, March 27, 2010 2:39 PM  
**To:** 'prosecutor@co.kittitas.wa.us'  
**Cc:** 'James.Hurson@co.kittitas.wa.us'  
**Subject:** notice sent to Kirk Holmes regarding Sapphire Skies - Visata West Performance Based CLuster Friday March 26th 2010

To Whom It May Concern:

This company was in court 2005 with the county regarding this bridge too stop them for using the bridge and access through Storie Lane the County prevailed  
Case # 05-00281-9 & 05-200581-8  
Why are they being allowed to do this – through the back door?

To Whom It May Concern:

March 23<sup>rd</sup> 2010

Kirk Holmes

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Regards,  
Linda Hutchison  
509-656-0187

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