



Memorandum

To: Kittitas County Board of Commissioners

From: Lindsey Ozbolt, Planner II, Kittitas County CDS

Date: 1/29/2015

Re: RZ-06-00015 Black Horse at Whiskey Creek Final Development Plan Approval – Open Space Question

There was a question at the January 20th closed record hearing as to how open space will remain the responsibility of the developer of their successor and not become the responsibility of the Kittitas County. Staff worked with the Prosecuting Attorney’s office to draft two proposed options for the Board to choose from in order to satisfy the question of open space retention.

The first option amends (in red) an existing plat note requirement for storm water retention and reads as follows:

“6) As long as the storm water retention areas and open space areas (“retention areas”) contained within tracts (individual tracts added at final plat review) herein, are privately owned, they shall be operated and maintained by SSHI, LLC, a Delaware limited liability company, DBA, D.R. Horton (“D.R. Horton”) until: (1) the declaration and covenants for Black Horse at Whiskey Creek Plat are recorded, and (2) a homeowners organization has been established which shall be legally responsible for the operation and maintenance of the retention areas. If D.R. Horton or the homeowners organization fail to fulfill, in whole or in part, their responsibilities to operate and maintain the retention areas, then responsibility for the operation and maintenance of the retention areas shall become the joint and several legal obligation of the owners of lots 1 through 358, their heirs, successors and assigns. Said operation and maintenance shall be in accordance with the Department of Ecology’s “Best management Practices” manual, including any amendments thereto.”

The second option would provide for an additional plat note that reads as follows:

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