

From: [Paul Dempsey](#)
To: [Kelly Bacon \(CD\)](#)
Cc: [Shawna Holden](#)
Subject: Hein Short Plat - Conservation Easements
Date: Thursday, September 24, 2020 4:08:13 PM

Hi, Kelly.

Always a pleasure to speak with you. As discussed this pm, and on behalf of the Applicant in this case, we are requesting guidance concerning use of conservation easements under the pending SP Application. Specifically:

Applicant wishes to impose conservation easements against proposed Lots 2 and 4 under the SP, to prohibit use of domestic water thereon (and, by extension, our obligation to comply with Adequate Water Supply requirements as a condition of SP approval). Statutory authority for use of such easements is at KCC 16.32.050, which provides in relevant part:

The planning official shall be vested with the responsibility of processing short plat applications. The county shall review and consider the proposed short subdivision with regard to ... Its compliance with Kittitas County Code Chapter 13.35, Adequate Water Supply Determination or work voluntarily with Kittitas County to develop an authorized conservation easement, see section 16.08.061.

In turn, the cited KCC 16.08.061 provides:

“Conservation easement” is a specified land area with no domestic water consumption that is used for open space or agriculture only and shall be established during a platting process. The easement areas shall be created from an existing parcel and shall have a different legal description than the original parcel. The conservation easement shall be voluntarily agreed upon by the landowner and reviewed and authorized by the County. The signed document must be recorded with the County auditor’s office prior to submission for final approval. The landowner will continue to privately own and manage the land. Upon accepting the conservation easement agreement, the easement holder has a

responsibility to ensure compliance with the terms of the agreement. The landowner may discontinue the conservation easement through a platting process subject to compliance with Kittitas County Code Title 13 and Title 16.

In this case, Applicant intends for the conservation easements solely to meet the above-quoted fundamental requirements, i.e., that Lots 2 and 4 will be used exclusively for open space or agricultural purposes unless and until such easements are terminated in the manner provided. And consistent with the required open space/agricultural use of those Lots, no construction or improvements thereon requiring domestic water delivery will be permitted.

Our immediate questions, then:

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- Under the typical CDS process, is it the “grantor” (Applicant) or the “grantee” (Kittitas County) who prepares the initial draft conservation easement for discussion/negotiation? If the County has a preferred “template” or otherwise prefers to prepare an initial draft in this case, great! Otherwise, I’ll be happy to do so on behalf of Applicant.
- When do we undertake this discussion/negotiation process with the County? Right now? Or at some point later in your administrative review of the SP Application? Suffice it to say, we wish to keep moving as quickly as possible toward final Planning determination on this App!

Many thanks again. Please let us know how CDS proposes to proceed in this case. And as soon as we have mapped out an agreed plan for consideration of conservation easements, I’ll provide some brief, supplemental Applicant responses to the earlier-provided agency comments in this case.

All the best,

Paul



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