

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

**RESOLUTION NO. 2008- 35**

**JB DEVELOPMENT SHORT PLAT**

**WHEREAS**, the JB Development Short Plat Application was submitted to the Kittitas County Community Development Services Department on May 24, 2007, by JB Development, LLC, landowner; and

**WHEREAS**, Community Development Services issued Notice of Application for the JB Development Short Plat on June 21, 2007. During the comment period associated with the Notice of Application, Community Development Services received comments from Kittitas County Public Health Department, Kittitas County Fire District 2, City of Ellensburg Department of Community Development, City of Ellensburg Public Works Department, and Kittitas County Department of Public Works. The comment period associated with the Notice of Application for the JB Development Short Plat ended on July 6, 2007; and

**WHEREAS**, Community Development Services issued Conditional Preliminary Approval for the JB Development Short Plat on December 26, 2007; and

**WHEREAS**, the Kittitas County Board of County Commissioners received a timely appeal from James T. Denison, Jr., attorney for the JB Development, LLC, on December 28, 2007, stating that:

*The basis of the appeal is that by placing requirements on the short plat as set forth in Paragraphs (2) and (3) of the Conditional Preliminary Approval letter dated December 26, 2007, Kittitas County Community Development Services committed an impermissible and unconstitutional taking of the applicant's property without just compensation. This unconstitutional taking extends to conditions 1, 2, and 3 as set forth by the Department of Public Works which is incorporated into the CDS decision. This decision of CDS should be reversed and these conditions removed.*

**WHEREAS**, the Kittitas County Board of County Commissioners held an appeal hearing on January 30, 2008, to consider said appeal; and

**WHEREAS**, prior to the start of said hearing, Attorney Denison withdrew the appeal issue concerning the vicinity map; and

**WHEREAS**, testimony was taken from these persons present who wished to be heard; and

**WHEREAS**, the Kittitas County Board of County Commissioners held a continued appeal hearing on February 19, 2008, to consider the JB Development Short Plat appeal filed by James T. Denison, Jr., and to deliberate at said hearing. After further review of the testimony given on January 30, 2008, and a review of the materials presented to Kittitas county Board of County Commissioners, the Board began deliberation and reached a unanimous decision.

**NOW, THEREFORE**, the Kittitas County Board of County Commissioners makes the following Findings of Fact and Conclusions of Law concerning said appeal:

1. On May 24, 2007, JB Development, LLC, submitted an application for a 4 lot Short Plat pursuant to Kittitas County Code 16.32 on approximately 20.03 acres of land that is zoned Ag-3. Index #1 in Staff submission.

2. The JB Development Short Plat is located immediately north of the City of Ellensburg, southwest of Bowers Field on Bowers Road, Ellensburg, WA, 98926, located in a portion of Section 26, T18N, R18E, WM, in Kittitas County, Map number 18-18-26020-0001. The subject parcels of the JB Development Short Plat are situated within the Urban Growth Area Boundary of the City of Ellensburg.

3. The Kittitas County Comprehensive Plan Land Use Element classifies the subject parcels as "Low Density Residential Ellensburg". At the time of preliminary project review, there were two existing structures on the subject property: A two story home situated on Lot 1, and a barn located in the southeast corner of Lot 4.

4. Community Development Services issued Notice of Application for the JB Development Short Plat on June 21, 2007. Comments were received from Kittitas County Public Health Department, Kittitas County Fire District 2, City of Ellensburg Department of Community Development, City of Ellensburg Public Works Department, and Kittitas County Department of Public Works. The comment period associated with the Notice of Application for the JB Development Short Plat ended on July 6, 2007. Index #5-#12 in Staff submission.

5. On August 8, 2007, Community Development Services staff hosted a meeting in order to address some issues of concern pertaining to the Short Plat. In attendance were members of Kittitas County Public Works staff, members of Kittitas County Community Development Services staff, the applicants for the project, and members of City of Ellensburg Public Works staff. The main point of discussion addressed during the August 8<sup>th</sup> meeting was the City of Ellensburg's prospective plans for the future extension of the Water Street corridor and its effects on the referenced Short Plat. No agreements were reached at said meeting.

6. A second meeting was hosted by Community Development Services staff for October 26, 2007, pertaining to the dedication of a right-a-way along the eastern boundary of the subject parcel in order to accommodate future extension of Water Street following the proposed future annexation by the City of Ellensburg of the area containing the subject parcel. In attendance were the applicants for the project, John Sanchez and Dennis Parker, the attorney representing the applicants, James T. Denison, Jr., members of Kittitas County Public Works staff, members of Kittitas County Community Development Services staff, and members of City of Ellensburg Public Works staff. No agreements were reached at said meeting.

7. Community Development Services issued Conditional Preliminary Approval for the JB Development Short Plat on December 26, 2007. Index #16 in Staff submission.

8. A timely appeal from James T. Denison, Jr., attorney for the applicant, was received on December 28, 2007. Index #17 in Staff submission. Due notice of said hearing was given as required by law and published in the appropriate paper.

9. The Board of County Commissioners held an appeal hearing on January 30, 2008, and testimony was taken from these persons present who wished to be heard.

10. No definitive plans have been made for the extension of Water Street from Bender Road to Bowers Road.

11. The Board of County Commissioners continued said appeal hearing to February 19, 2008, to consider the JB Development Short Plat appeal filed by James T. Denison, Jr., and to deliberate at said hearing.

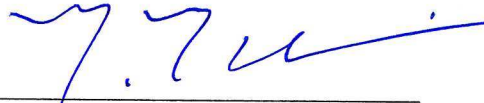
12. After further review of the testimony given on January 30, 2008, and a review of the materials presented to Kittitas county Board of County Commissioners, the Board began deliberation and reached a unanimous decision.

13. Condition 3 of the Conditional Preliminary Plat Approval (Index #16 in Staff submission) constitutes an unconstitutional taking of private property without compensation; therefore, the County is without authority to impose such a condition on the landowner.

**NOW THEREFORE, BE IT RESOLVED** that the Board of County Commissioners after due deliberation and in the best interest of the public, does hereby uphold the appeal of the JB Development Short Plat (SP-07-78) and directs that Condition number 3 of the Preliminary Plat Approval letter from Community Development Services dated December 26, 2007, be removed and no longer be considered a condition of approval of said plat.

DATED this 4<sup>th</sup> day of March, 2008 at Ellensburg, Washington.

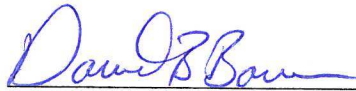
**BOARD OF COUNTY COMMISSIONERS  
KITITAS COUNTY, WASHINGTON**



\_\_\_\_\_  
Mark McClain, Chairman



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Alan A. Crankovich, Vice-Chairman



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David B. Bowen, Commissioner



ATTEST:  
CLERK OF THE BOARD

Julie A. Kjorsvik  
Julie A. Kjorsvik, Clerk

APPROVED AS TO FORM:

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Neil Caulkins, Deputy Prosecuting Attorney  
WSBA #31759