

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

**PRELIMINARY PLAT DENIAL
Big Buck Ridge Preliminary Plat (LP-07-00040)**

RESOLUTION

NO. 2015- 133

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 for the purpose of considering a preliminary plat known as the Big Buck Ridge Plat and described as follows:

The division of 25 acres into 14 lots, tax parcel numbers 20-15-26010-0010 and 20-15-26010-0009. Proponent: Wayne Nelson, authorized agent for Becky Andrus, landowner.

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 the application be remanded to the Kittitas County Department of Community Development staff for processing according to the laws, rules and regulations in existence as of January 26, 2015.

WHEREAS, a closed record public meeting was held by the Board of County Commissioners on July 7th, 2015 to consider the Hearing Examiner's recommendation on this matter; and,

WHEREAS, the hearing was continued to August 4th, 2015 for additional discussion and deliberation; and

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

1. The Board of County Commissioners finds that Wayne Nelson, authorized agent for Becky Andrus, landowner, submitted an application to Community Development Services on June 20, 2007.

2. The Board of County Commissioners finds that the proposed development is located approximately 1/2 mile north of the Yakima Avenue in the City of Cle Elum at 140 Big Buck Ridge Road (outside city limits), Cle Elum WA, in a portion of Section 26, Township 20N, Range 15E, WM in Kittitas County, bearing Assessor's map numbers 20-15-26010-0010 and 20-15-26010-0009.
3. The Board of County Commissioners finds that the proposed development application included a preliminary plat depicting the division of two parcels totaling approximately 25 acres into 14 one acre lots and approximately eleven acres of open space.
4. The Board of County Commissioners finds that Community Development Services issued a Notice of Application pursuant to KCC 15A.03 on February 9th, 2015. Said notice was mailed to interested jurisdictional agencies and landowners within 500 feet of the subject property, as required by law. The legal notice of application was published in the Daily Record on February 9th, 2015.
5. The Board of County Commissioners finds that a SEPA environmental checklist was submitted with the plat application and that the county in its notice of application indicated that the project was being reviewed in the optional DNS format as provisioned for in WAC 197-11-355.
6. The Board of County Commissioners finds that based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on March 25, 2015.
7. The Board of County Commissioners finds that the property was rezoned from Forest and Range to Rural 3 in November of 2006 as part of the Andrus Rezone (file RZ-06-00023, Ordinance No. 2006-57). The current proposed project is required to adhere to all mitigations that came out of SEPA review and the approval ordinance for the Andrus Rezone.
8. The Board of County Commissioners finds that the Mitigated Determination of Non-significance for the Andrus Rezone measure I(C) required that:

"At the time of a project action, the applicant shall submit a stamped traffic analysis from a licensed engineer in the State of Washington considering among other factors, intersection spacing, sight distances, traffic volumes, load bearing capacity of soils, pavement thickness design, etc. Reference Current Kittitas County Road Standards."

9. The Board of County Commissioners finds that a traffic analysis **was not** submitted with the plat application and SEPA checklist on June 20, 2007.

10. The Board of County Commissioners finds that long plat applications at the time of submittal included among “*Required Attachments*” an:

“Address list of all landowners within 300 feet of the site’s tax parcel. If adjoining parcels are owned by the applicant, the 300 feet extends from the farthest parcel...”

11. The Board of County Commissioners finds that an address list of all landowners within 300 feet of the proposed plat **was not** submitted with the application on June 20, 2007.

12. The Board of County Commissioners finds that on July 18, 2007, Kittitas County Community Development Services staff issued a letter to the landowner stating that the application was **deemed incomplete** because the address list **had not** been included with the application materials as required. Staff also stipulated that:

“When the additional information is received and the application is deemed complete, our review of the application will continue.”

13. The Board of County Commissioners finds that on August 16, 2007, Kittitas County Community Development Services staff issued a letter to the landowner stating that because of mitigation measure I(C) of the Andrus Rezone EPA MDNS:

“At the time of a project action, the applicant shall submit a stamped traffic analysis from a licensed engineer in the State of Washington. It further states that the traffic analysis shall consider among other factors, intersection spacing, sight distance, traffic volumes, load bearing capacity of soils, pavement thickness design, etc.”

The letter further stipulated that:

“... in order to comply with the SEPA mitigation, the review of Big Buck Ridge Cluster Plat will require the submittal of the above mentioned traffic analysis... When the additional information is received, our review of the application will continue.”

14. The Board of County Commissioners finds that a project action as defined in WAC 197-11-704 and a project application are synonymous in the context land use activity.

15. The Board of County Commissioners finds that a performance based cluster plat is a project action.

16. The Board of County Commissioners finds that the applicant was required, by Kittitas County's approval of the Andrus rezone (Ordinance No. 2006-057; RZ-06-00023) to submit a traffic impact analysis at the time of a project action in order to provide for a meaningful analysis of the traffic impacts, by staff, agencies, and the public.
17. The Board of County Commissioners finds that Kittitas County Community development Services did not deem the Big Buck Ridge plat application (LP-07-00040) complete.
18. The Board of County Commissioners finds that Kittitas County Code does not provision for a "de facto" determination of complete application.
19. The Board of County Commissioners finds that On October 23, 2012 Kittitas County Community Development Services (KCCDS) issued a final extension to the applicant stipulating that:

"..the application shall expire after 180 calendar days unless the requested supplemental information is submitted in complete form. To date, 1895 days have elapsed since the County's initial request dated August 16, 2007. Please be advised that Community Development Services not issue any additional extensions due to the language of the code. If the information is not received by the new extension date, the application will be considered "not complete" and will have to be re-filed with the department."
20. The Board of County Commissioners finds that the last date to submit the information required by ordinance 2006-057 as part of the land use action applied for in LP-07-00040 to KCCDS was February 21, 2013, as provisioned in final extension letter from KCCDS dated October 23, 2012.
21. The Board of County Commissioners finds that the applicant submitted a Traffic Analysis on February 20, 2013 to Kittitas County Public Works.
22. The Board of County Commissioners finds that KCCDS did not initiate the processing of the Big Buck Ridge plat application until after the traffic analysis was submitted on February 20, 2013.
23. The Board of County Commissioners finds that the traffic analysis did not address the requirements outlined in ordinance 2006-057. Intersection spacing, sight distance, load bearing capacity of soils, and pavement thickness design were not assessed, analyzed, or reconciled.
24. The Board of County Commissioners finds that their decision making authority is not limited to the acceptance or rejection of the Hearing Examiner's recommendation.

25. The Board of County Commissioners finds that the information submitted regarding the traffic analysis is incomplete and that the expiration date for said materials has passed.

NOW, THEREFORE BE IT HEREBY RESOLVED: by the Board of County Commissioners of Kittitas County, Washington, that said preliminary plat designated as Big Buck Ridge Preliminary Plat LP-07-00040, is hereby **DENIED** with the proposed development configuration, is not vested, and is completely expired under its current form and application number.

DATED this 16th day of October, 2015 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON

Gary Berndt
Gary Berndt, Chairman

Obie O'Brien
Obie O'Brien, Vice Chairman

ABSENT
Paul Jewell, Commissioner

APPROVED AS TO FORM:

Greg Zempel WSBA #19125



Julie A Kjorsvik
Julie A Kjorsvik

Exhibit “A”

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