THURSDAY 1:30 P.M. APRIL 7, 2005

Board members in attendance: Chairman Perry Huston, Vice-Chairman David Bowen and Commissioner Alan Crankovich.

Others: Julie Kjorsvik, Clerk of the Board; Paul Bennett, Public Works Director; Ryan Roberts, Public Works Staff; Joy Potter, Public Works Staff; James Hurson, Chief Civil Deputy Prosecutor and approximately 10 members of the public.

APPEAL HEARING STORIE LANE ADMINISTRATIVE PUBLIC WORKS

At approximately 1:30 p.m. CHAIRMAN HUSTON opened the special meeting to consider an appeal of an administrative decision denying an application for access on to a County Road right-of-way on Storie Lane (Permit No. 2005-031). He reviewed the hearing procedures and asked for declarations from the Board. CHAIRMAN HUSTON disclosed he had discussed the appeal process and reviewed a map with Mr. Wayne Nelson. There were no objections. COMMISSIONER BOWEN said he had no contact with any individuals and acknowledged he had read the Planning Commission minutes relating to issue. There were no objections. COMMISSIONER CRANKOVICH disclosed he had received a phone call and email from Linda Hutchinson and that he also drove by the location site. He also noted for the record that he had reviewed the Planning Commission minutes. No objections were made.

RESPONSIBLE OFFICIALS TESTIMONY – Witnesses were sworn in.

DARRYL PIERCY, DIRECTOR OF COMMUNITY DEVELOPMENT SERVICES clarified the appeal issue that related to a specific access permit which had been denied by the Public Works Department and that a plat amendment would be required. PAUL BENNETT, PUBLIC WORKS DIRECTOR reviewed an Engineer’s Report. He explained that on February 11, 2005, Permit No. 2005-031 was denied due to lack of easement on Little Creek Plat for ingress/egress; that a plat amendment would be required; and a building permit would be required for the construction of a bridge. He said the applicants 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 footings and abutments for the proposed structure. The permit was granted under the condition that the bridge could not be completed until the access issue was resolved. He said the applicant agreed to the foundation only permit recognizing the financial risk they were assuming with the partial construction of the structure and the unknown status of future access. He recommended that the Board uphold the administrative decision to deny access to Storie Lane without a
plat amendment and/or public notice. He reviewed the attachments on the Engineer’s Report. ATTORNEY MICHAEL MURPHY representing the appellants cross-examined Mr. Bennett. He questioned Mr. Bennett relating to the private easements on to public roads; as well as the Road Standards; level of service on Storie Lane; various RCW’s and portions of the County Comprehensive Plan.

MR. PIERCY testified on the issues relating to the rational for plat alterations and the denial and the basis of RCW 58.17.215. He addressed the impacts to residents of Storie Lane and Little Creek Plat and the significant potential of future impacts, stating those were not anticipated with the development of the plat. He explained the appropriate public process was to be in front of the Board of County Commissioners so they could determine if a plat amendment was necessary. MR. MURPHY cross-examined Mr. Piercy. MR. PIERCY called Mr. Hurson as a witness. MR. HURSON referenced a Memorandum dated April 7, 2005 reflecting his advice given during the decision process. He said the County could not approve a permit that contradicts a plat. He said according to RCW 58.17.215 it requires a public process and said action would establish precedent in future.

APPLICANTS PRESENTATION – Witnesses were sworn in.

MR. MURPHY called Mr. Nelson as a witness on behalf of the Nelson Development Group. MR. NELSON and MR. MURPHY submitted Exhibits into the record. He addressed the proposed access and the operation of it. They said they had secured private easements and if the additional lots were eventually developed, it would go through the public process. He felt his examples were contrary to what the County was now requiring of them. He said they were not altering Little Creek Ranches, they were only requesting access. COMMISSIONER CRANKOVICH questioned Mr. Nelson regarding their access options at the time of the Planning Commissions hearings and when they made contact with the property owners to obtain those easements. MR. PIERCY cross-examined Mr. Nelson regarding the purpose of bridge; the general vicinity of the lots and future plans; public process; and had him identify 12 lots that would be accessing Storie Lane within the access application. Mr. Nelson pointed out the lots that were contemplated for access lots 1, 2, 3, 4 & 5.

At 3:00 p.m. the Board recessed for a break. The Board reconvened at 3:15 p.m.

MR. MURPHY called Dave Nelson as a witness. DAVE NELSON, EASTSIDE CONSULTANTS provided a summary of his experience and qualifications relating to the proposal. MR. PIERCY cross-examined Mr. Nelson regarding anticipation of future access points.

REBUTTAL STATEMENTS -

MR. PIERCY provided rebuttal statements including testimony regarding easements south of irrigation ditch, he said at the time of application for an access permit they had
no evidence of an existing easement. **MR. MURPHY** said there was no contradiction in the plat. He said there is no authority by the creation of plat that a person gives up right to grant easements. He said the appropriate time for consideration of impacts are at a hearing during the plat process when the time comes, and not at the time of access permits. He referenced RCW 26.75.130 (2), relating to reasonable rules for the construction of approaches.

**CHAIRMAN HUSTON** moved to continue the appeal hearing to 3:50 p.m. in the Commissioner’s Auditorium, Room 109. **COMMISSIONER BOWEN** seconded. Motion carried 3-0.

At approximately 3:50 p.m. the Board reconvened the public hearing.

**REBUTAL STATEMENTS (CONTINUED)** -

**MICHAEL MURPHY** resumed his rebuttal comments. He felt it was not the right forum for public process. He said the public would have the opportunity to express their concerns at a later date during the plat process.

**INTERESTED PARTIES** -

**LINDA HUTCHISON** was sworn in and expressed various concerns including safety, lack of water, and wildlife as future lots are being developed. She claimed that between June and July someone from Sapphire Skies came into her home asked her to sell them an easement road on the other side of the KRD for future lot development. She told them that she was not interested and that the owners of lots 6 & 7 told them they were going to develop the property. **STANLY WOODWARD** was sworn in. He said he had purchased land on Storie Lane and that the proposed access would not be able to handle more than the current lots served. He urged the County to completely review the request and look at what consequences could happen. **JAMES BOYLE** was sworn in. He felt it was a case of developers working without obtaining the necessary documents and inspections. **MARK KIRKPATRICK, REPRESENTING EASTSIDE CONSULTANTS** said he was not in favor or against the application, but rather wanted clarification on the re-plating process.

**CLOSING ARGUMENTS** -

**MR. PIERCY** addressed issues concerning the intent of RCW 58.17.215 and how it was intentionally vague and broad and that RCW 58.17.225 has specific exemptions. He said staff felt that the access requested would go beyond the normal road approach and easement and there may be significant impacts which should be discussed in a public forum. He said a plat amendment is clearly required by RCW and staff believes that the Board gives them the authority to make day to day decisions, but they also believe they have the discretion to bring to the Board issues because the impacts would exceed their authority.
MR. MURPHY said the request was not for a re-division of land but only an easement through private property. If the property owners decide to divide the land, the public will be allowed to voice their concerns at that time. He disagreed with Mr. Piercy claiming easements can not serve more than 3 lots. He felt it was not staff’s discretion to decide when public process is and isn’t required.

COMMISSIONER BOWEN clarified issues with Mr. Piercy relating to a plat amendment to Little Creek Ranches Plat. He noted the only appeal issue before the Board was the denial of the permit access. MR. PIERCY noted for the record that the road would have to comply with County Road Standards. COMMISSIONER CRANKOVICH questioned when the negotiations were entered into? MR. MURPHY said the sale closed in October 2004 and negotiations were obviously made prior to that date. COMMISSIONER CRANKOVICH asked if staff looks at the requirements of public health & safety welfare when considering permit and denial process. MR. BENNETT affirmed that he does take that into consideration.

COMMISSIONER BOWEN moved to continue the hearing until Monday April 11, 2005 at 1:30 p.m. in the Commissioner’s Auditorium, Room 109, County Courthouse. COMMISSIONER CRANKOVICH seconded.

CHAIRMAN HUSTON requested that if there were questions of legal council & staff, that those should be run through him and he would make sure all of the parties involved received the same information. Motion carried 3-0.

Meeting adjourned at 4:41 p.m.

CLERK OF THE BOARD

KITTITAS COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

Julie A. Kjorsvik
Perry D. Huston, Chairman