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**MAY 29 2009**

**Kittitas County**

**KITTITAS COUNTY  
LAND USE HEARING EXAMINER**

IN THE MATTER OF	)	<b>RECOMMENDED FINDINGS OF</b>
	)	<b>FACT, CONCLUSIONS OF</b>
LP-08-30	)	<b>LAW, DECISION AND</b>
Midfield Preliminary Plat Division II	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on May 14, 2009, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

**I. RECOMMENDED FINDINGS OF FACT**

1. Amerivest Development LLC, landowner, has submitted a Preliminary Plat application to subdivide approximately 20.49 acres into six (6) lots on land that is currently zoned Agriculture-3. (Staff Report)
2. The applicant is Amerivest Development LLC, PO Box 1702, Ellensburg, WA 98926. (Application materials)
3. The proposed lot sizes range from 3.32 acres to 3.56 acres. The project is proposed to be served by a Group B water system and individual on-site septic systems. (Staff Report)
4. The property is located south of Susan Road and north of Manastash Road, Ellensburg, WA and is located in a portion of Section 08, T17N, R19E, WM, in Kittitas County. Assessor's map number 17-18-08056-0009. (Staff Report)
5. Site Information:

Total Project Size:	20.49 acres
Number of Lots:	6
Zoning district	Agriculture-3
Domestic Water:	Group B community system
Sewage Disposal:	Individual on-site septic system
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District #2)
Irrigation District:	KRD

(Staff Report)

6. Site Characteristics: The area is flat and has been in agriculture for many years.
7. Surrounding Property:  
North: Residential  
South: Agriculture  
East: Residential  
West: Agriculture  
(Staff Report)
8. The Comprehensive Plan designation is Rural. (Staff Report)
9. The subject property is zoned Agriculture-3, which allows for one residential unit per 3 acres. (Staff Report)
10. A long plat application was submitted to Community Development Services on November 17, 2008 and was determined complete on December 11, 2008. The Notice of Application for the preliminary plat application was issued on December 8, 2008. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on July 23, 2008. (Staff Report)
11. In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner and is included as part of the record. (Staff Report)
12. This project is categorically exempt from review under the State Environmental Policy Act (SEPA) pursuant to KCC 15.04.090 and WAC 197-11-800(1)(c)(i). (Staff Report)
13. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by a Group B community water system and on-site septic systems. Staff has conducted and an administrative critical area review in accordance with KCC 17A and found no critical areas on site. (Staff Report)
14. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.12 for Preliminary Plats. (Staff Report)
15. All roads are required to meet all Kittitas County Road Standards as outlined in the February 12, 2009 memorandum issued by the Department of Public Works. As

- conditioned, the proposal is consistent with the provisions of KCC Title 12. (Staff Report)
16. The following agencies provided comments during the comment period: Kittitas County Department of Public Works and Environmental Health. These comments have been included as conditions of approval to address these agency concerns. (Staff Report)
  17. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval. (Hearing Examiner finding based on the record)
  18. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
  19. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
  20. Public hearing after due legal notice was held on May 14, 2009. Appearing and testifying on behalf of the applicant was Mitch Williams. Mr. Williams offered Exhibit 1 into the record. Exhibit 1 was admitted into the record. This Exhibit is a May 14, 2009, letter from Mr. Williams to the Hearing Examiner with attachments. Mr. Williams offered argument regarding proposed Condition of Approval No. 11 and proposed Condition of Approval No. 12. (Open record public hearing testimony)
  21. Testifying at the hearing was Christina Wollman with Kittitas County Public Works. She stated that the requirement for Susan Road improvements if access to Susan Road was gained by both Lots A and B was believed to be a Code requirement that could be modified through a road variance. (Open record public hearing testimony)
  22. After the conclusion of the hearing, the Hearing Examiner received a letter from Kirk Holmes, Director of Kittitas County Department of Public Works. This letter was dated May 21, 2009, and addressed to the Hearing Examiner. The Hearing Examiner hereby reopens the record specifically to allow entry into the record this letter from Mr. Holmes to the Hearing Examiner. The record is closed for the submission of any other additional evidence. (Public hearing record)
  23. This letter from Mr. Holmes indicates that Kittitas County Public Works does not require improvements to Susan Road as required in proposed Condition of Approval No. 12 and that Lots A and B would be allowed to access Susan Road without the recommended improvement. (Public hearing record)

24. No member of the public testified at the hearing. (Hearing Examiner finding based on the record)
25. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located. (Hearing Examiner finding based on the record)
26. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval. (Hearing Examiner finding based on the record)
27. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities. (Hearing Examiner finding based on the record)
28. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference. (Hearing Examiner finding based on the record)

## **II. RECOMMENDED CONCLUSIONS OF LAW**

1. The Hearing Examiner has been granted authority to render this recommended decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.

8. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
9. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Kittitas County Code or the Comprehensive Plan.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

### **III. RECOMMENDED DECISION**

Based on the above Recommended Findings of Fact and Recommended Conclusions of Law, the Hearing Examiner hereby recommends that Application LP-08-30, Midfield Preliminary Plat Division II, be **APPROVED** subject to the following Recommended Conditions of Approval.

### **IV. RECOMMENDED CONDITIONS OF APPROVAL**

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file dated November 17, 2008 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. All current and future landowners must comply with the International Fire Code.
5. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.
6. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes

only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.

7. Proof of potable water must be shown prior to final plat approval.
8. For final approval of an individual well, the submittal of well logs or a hydrogeological report with documentation/evidence to support the claim regarding adequate availability of groundwater for the proposed number of potable water wells is required. This report shall be submitted by a Professional Engineer who practices in the field of hydrology or by a licensed Hydrogeologist.
9. All applicants for subdivision utilizing wells shall have a note placed on the face of the final mylars that states: “
  - a. *“Metering will be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements.”*”
10. The Final Plat shall meet all requirements as listed in Chapter 16.20 of the Subdivision Code; including content, format, etc. The following items will be required on the Final Plat Submittal:
  - a. **Adjacent Property Owners:** The adjacent property owners and surrounding properties shall be on the face of the final short plat. (K.C.C.16.20.040, 10, Plat drawing, Adjacent Owners).
  - b. **Surrounding Area:** All surrounding property shall be shown in dotted lines and letters with names of plats, roads, adjoining lots, canals, and etc., and if un-platted shall be so indicated. (K.C.C.16.20.040, 11, Plat drawing, Surrounding Area).
11. Private roads serving any of the lots within this development shall be inspected and certified by a licensed professional engineer for conformance with current Kittitas County Road Standards, 9/6/05 edition. Kittitas County Public Works shall require this road certification to be completed prior to the issuance of a building permit for any of the structures within the proposed plat.
12. Private roads serving any of the lots within this development shall be inspected and certified by a licensed professional engineer for conformance with current Kittitas County Road Standards, 9/6/05 edition. Kittitas County Public Works shall require this road certification to be completed prior to the issuance of a building permit for any of the structures within the proposed plat.
13. Lots A and B may be accessed by Susan Road without requiring improvements to Susan Road.

14. Susan Road: An easement description and AFN shall be shown on the plat.
15. Midfield Drive: The private road name shall be shown on the plat.
16. Access from Manastash Road to the cul-de-sac shall be constructed to meet or exceed the requirements of a High-Density Private Road that serves 3-14 tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
  - a. Access easements shall be a minimum of 40' wide. The roadway shall have a minimum width of 20', with 1' shoulders, for a total width of 22'.
  - b. Minimum centerline radius will be 60'.
  - c. Surface requirement is for a minimum gravel surface depth of 6".
  - d. Maximum grade 12%.
  - e. Stopping site distance, reference AASHTO.
  - f. Entering site distance, reference AASHTO.
  - g. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
  - h. Any further subdivision or lots to be served by proposed access may result in further access requirements.
  - i. All roads located within this development or roads that provide access to this development shall be constructed to current county road standards unless any other maintenance agreements, forest service road easements or state easements require higher road standards. The higher of the road standards shall apply.
  - j. All easements shall provide for AASHTO radius at the intersection with a county road.
  - k. A paved apron shall be constructed at the intersection of the proposed private intersection and the county road.
17. A cul-de-sac turn-around having an outside right-of-way or easement diameter of at least 110 feet shall be constructed at the closed end of all dead-end roads serving 3 or more lots. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2006 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.
18. A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
  - a. Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
  - b. The surface requirement is for a minimum gravel surface depth of 6".
  - c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.

- d. Any further subdivision or lots to be served by proposed access may result in further access requirements.
19. A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
    - a. The roadway shall be a minimum of 8' wide with gravel surface.
    - b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
    - c. Any further subdivision or lots to be served by proposed access may result in further access requirements.
  20. The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
  21. It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
  22. An approved access permit shall be required from the Department of Public Works prior to creating any new driveway access or performing work within the county road right of way.
  23. Contact the Kittitas County Rural Addressing Coordinator at (509) 962-7523 to obtain addresses prior to obtaining a building permit. A parcel cannot receive a building permit or utilities until such parcel is identified with a 911 address.
  24. Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
  25. The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.
  26. Private roads shall meet the following conditions:
    - a. Private roads shall meet the minimum access requirements of the International Fire Code as adopted by the County, and
    - b. Shall be designed and constructed in conformance with AASHTO Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT < 400) 2001, as now exists or hereafter amended, and
    - c. Shall be inspected and certified by a licensed professional engineer for conformance with the above referenced standards. In the alternative, an applicant may request the private roadway to be inspected and subject to the approval of the Public Works Director. If certification by the public Works



Director/County Engineer is desired, submission of road plans and necessary testing documentation that confirms compliance with Kittitas County Road Standards is required, and services will be performed on a reimbursable basis, and

- d. Permanently established by an easement recorded with the Kittitas County Auditor or right-of-way, providing legal access to each affected lot, dwelling unit, or business, and
  - e. Will not result in land locking of existing or proposed parcels, and
  - f. Maintained by the developer or legally responsible owner or homeowners' association or other legal entity made up of all benefited property owners, under the provisions of an acceptable and recorded "Private Road Maintenance Agreement", and
  - g. Clearly described on the face of the plat, short plat, or other development authorization and clearly signed at street location as a private street or road, for the maintenance of which Kittitas County is not responsible and a disclosure statement of the same is filed with the County Auditor, and
  - h. The following note shall be placed on the face of the plat, short plat, or other development authorization:

"Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel."
27. A plat note discussing the spread of noxious weeds shall be shown on the plat and shall read: "Per RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds, accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds."
28. Final mylars shall be submitted in accordance to KCC 16.20: Final Plats. All applicable survey data and dedications shall be reflected pursuant to KCC 16.24: Survey Data-Dedications.
29. Both sheets shall reflect the Plat number: LP-08-00030.

Dated this 28<sup>th</sup> day of May, 2009.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp