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KITTITAS COUNTY
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KITTITAS COUNTY BOARD OF COMMISSIONERS

IN RE SEGREGATION APPEALS:)	
ANSELMO LAND)	NO. SG-12-00002
ORPHAN GIRL)	SG-12-00003
NEVERSWEEP LAND.)	SG-12-00004
)	
)	FINAL ORDER
)	

I. INTRODUCTION

Plum Creek Timber Company submitted an appeal of the administrative voiding of three of its administrative segregation applications. The administrative appeal was conducted according to the County's administrative appeal process as outlined in Ch. 15A.07 KCC. In that appeal, Plum Creek asserted four arguments for the reversal of voiding of its three administrative segregation applications. The Board of County Commissioners, after reviewing the administrative record and briefs deliberated and decided upon those four arguments as contained herein.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Plum Creek first argued that its applications were subject to vested rights and so not subject to the County's newer regulation. The Board of County Commissioners finds that, because the required document submittals and review processes are so different between an administrative segregation and the "divisions of land" described in RCW 58.17.020, that an administrative segregation is not a "division of land, as defined in RCW 58.17.020" and so is not subject to



1 Administrative Decision and instruct County Staff to complete processing of the applications.”
2 The Board of County Commissioners finds (1) no explanation why the applications’ processing
3 was ceased and a decision not rendered within the statutory timeframe, and (2) that the
4 appropriate remedy is as argued by Plum Creek-that the administrative decision voiding the
5 applications be reversed and that the County staff be directed to continue processing the
6 applications.

7 Plum Creek finally argued that the County’s regulation was vague and not applicable to its
8 applications. Because of the resolution of the third argument, the Board of County
9 Commissioners did not reach this issue and made no decision thereon.

10 **III. ORDER**

11 The Board of County Commissioners hereby reverses the administrative decision voiding the
12 applications that are the subject of this appeal and hereby directs staff to both consider them
13 “deemed complete” and to continue processing them subject to the County’s current regulation.

14 DATED this 1 day of October, 2013 at Ellensburg, Washington.

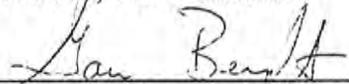
15 BOARD OF COUNTY COMMISSIONERS
16 KITTITAS COUNTY, WASHINGTON

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18 Obie O'Brien, Chairman

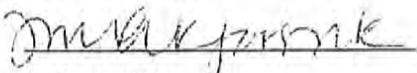
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20 Paul Jewell, Vice- Chairman

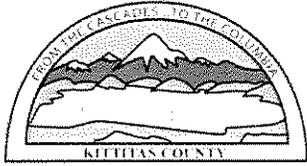
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22 Gary Berndt, Commissioner



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25 Julie A. Kjorsvik



Kittitas County, Washington
BOARD OF COUNTY COMMISSIONERS

District One
Paul Jewell

District Two
Gary Berndt

District Three
Obie O'Brien

August 23, 2013

Attorney Nancy Bainbridge Rogers
Cairncross & Hempelmann
524 2nd Avenue, Suite 500
Seattle, WA 98104

Re: Anselmo Land (SG-00002)
Neversweat Land (SG-12-00004)
Orphan Girl Land (SG-12-00003)

Dear Ms. Bainbridge Rogers,

I have enclosed a copy of a hearing notice for the three appeals of an administrative decision relating to the Anselmo Land (SG-12-00002), Neversweat Land (SG-12-00004) and Orphan Girl Land (SG-12-00003) Administrative Segregations.

The hearing will begin at 1:30 p.m. on Thursday September 5, 2013 in the Commissioners Auditorium, Room 109, Kittitas County Courthouse 205 West 5th Avenue Ellensburg, WA.

In the meantime if you have any questions please feel free to contact our office at your convenience.
Thank you.

Sincerely,

Julie Kjorsvik
Clerk of the Board

Enclosures-as noted

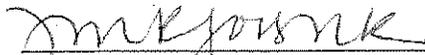
cc: David Sprinkle
Orphan Girl Land Company, LLC
999 Third Avenue, Suite 4300
Seattle, WA 98104

Doc Hansen – CDS
Neil Caulkins – Prosecutors office

Public Notice
Kittitas County, Ellensburg WA

The Board of Kittitas County Commissioners will meet at 1:30 p.m. on Thursday September 5, 2013 at 205 W. 5th Ave. Room 109, Ellensburg, WA to consider three (3) appeals of an administrative decision relating to the Anselmo Land (SG-12-00002), Neversweat Land (SG-12-00004) and Orphan Girl Land Administrative Segregations (SG-12-00003).

More information is online at <http://www.co.kittitas.wa.us/notices/>.



Clerk of the Board

Publish: Daily Record: 08/22/13 & 08/29/13

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IN RE SEGREGATION APPEALS:)	
ANSELMO LAND)	NO. SG-12-00002
ORPHAN GIRL)	SG-12-00003
NEVERSWEAT LAND.)	SG-12-00004
)	
)	KITITAS COUNTY'S BRIEF
)	

I. INTRODUCTION

Plum Creek Timber Company submitted a series of administrative segregation applications that neither received preliminary approval nor were completed by the deadlines outlined in Ch. 16.06 KCC and so were voided. Plum Creek has appealed these decisions claiming that their applications were subject to vested rights and that the County's regulation did not apply to them. The vested rights doctrine does not apply to administrative segregation applications, and even if it did, the County's new regulation setting timeframes for project completion would still be applicable to all existing applications because such regulation is not a "land use control" and hence, not something to which or from which one could vest. The County's "sunset" provisions in KCC 16.06.040 expressly apply to these applications. The Board of County Commissioners (BOCC) must affirm the voiding of these applications.

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II. FACTS

The facts are not really what are at dispute in this matter, rather what is the effect of the law applied to those facts. At page 4 of its brief, Plum Creek asserts that the County’s decision violates the 120-day deadline referenced in KCC 15A.030.090(7). KCC 15A.03.080(1) exempts administrative segregations from the 120-day provision, and, given that no declaration of complete application was given, that 120-day clock never started to run, much less expired. Plum Creek also complains that there was no document of analysis from the Prosecutor’s Office, yet none was required.

III. ARGUMENT

A. The vested rights doctrine does not apply to the County’s Administrative Segregation provisions.

Petitioners mistakenly argue on pages 5 through 12 of their brief that their applications were vested to prior regulation and so the application of the County’s new regulation to these three matters was improper. The vested rights doctrine does not apply to the County’s Administrative Segregation process, and so application of the new regulation to their applications was proper.

Under Washington common law, the vested rights doctrine only applies to shoreline development permits, grading permits, septic permits, (*Erickson & Assoc., Inc. v. McLerran*, 123 Wn.2d 864, 871, 872 P.2d 1090(1994)) and conditional use permits (*Abbey Road Group, LLC v. City of Bonnie Lake*, 167 Wn.2d 242, 253, 218 P.3d 180 (2009)). “The vested rights doctrine is codified in statute for only two types of land use permit applications, building permits, RCW 19.27.095, and subdivision permits, RCW 58.17.033.” *Weyerhaeuser v. Pierce County*, 95 Wn.App. 883, 891, 976 P.2d 1279 (1999). There are no local regulations creating vested rights for the County’s administrative segregation process. The courts in this state refuse to expand the application of the vested rights doctrine beyond those six things. *See Deer Creek Developers, LLC v. Spokane County*, 157 Wn.App. 1, 12, 236 P.3d 906 (2010). The vested rights doctrine

1 does not apply to administrative segregations because an administrative segregation is not one of
2 the six things to which the doctrine applies.

3 An administrative segregation does not qualify as a subdivision under Ch. 58.17 RCW and
4 so the vested rights doctrine does not apply. An administrative segregation is obviously neither a
5 building permit, shoreline development permit, septic permit, grading permit, nor a conditional
6 use permit. Therefore, for the vested rights doctrine to apply, it would have to be a subdivision
7 as defined in Ch. 58.17 RCW because that is the only other thing to which the doctrine applies.
8 RCW 58.17.033 states in pertinent part that “[a] proposed division of land, as defined in RCW
9 58.17.020” is subject to vested rights. So the question becomes, is an administrative segregation
10 a “division of land, as defined in RCW 58.17.020”? RCW 58.17.020 defines three types of
11 divisions-“subdivision” under (1) which under RCW 58.17.030 is a long plat as defined and
12 regulated by that chapter, a “short-subdivision” under (6) which under RCW 58.17.030 is
13 regulated by local code, and a “binding site plan” under (7) which is also regulated and defined
14 in Ch. 58.17 RCW. An administrative segregation is none of these.

15 An administrative segregation is not a division of land as defined in Ch. 58.17 RCW and so
16 the vested rights doctrine does not apply. The requirements for a complete application are
17 defined by local regulation. RCW 58.17.033(2). An administrative segregation’s process for
18 approval and required submissions is completely different than that required for a long plat.
19 There is no required survey as part of the application and there is no public process to name a
20 few differences. An administrative segregation cannot be subject to vested rights by being equal
21 to a long plat because it is by no means equal to a long plat.

22 Similarly, an administrative segregation application does not meet the local requirements for
23 a short subdivision (RCW 58.17.030 and 58.17.060). It does not include the required drawing,
24 design standards, nor required improvements, road standards, nor irrigation easements required
25

1 under Ch. 16.32 KCC. An administrative segregation cannot be subject to vested rights by being
2 equal to a short subdivision because it is by no means equal to a short subdivision.

3 Similarly, an administrative segregation application does not meet the local requirements for
4 a binding site plan. These are set forth in KCC 16.05.020. None of the requirements in (A)(1)
5 are present in an administrative segregation application and the process for approval found in Ch.
6 16.05 KCC for a binding site plan bears no resemblance to that of an administrative segregation.
7 An administrative segregation cannot be subject to vested rights by being equal to a binding site
8 plan because it is by no means equal to a binding site plan.

9 Because an administrative segregation is not equivalent to any of the “divisions of land, as
10 defined in RCW 58.17.020” it is not subject to vested rights. Indeed, it not requiring the level of
11 submission and the degree of review of these other three forms was one of the chief reasons that
12 it was abolished. It is a common misconception that all land use applications vest. But unless
13 the application is for one of the four things subject to vested rights under state common law or
14 one of the two things subject to vested rights by statute, that application does not vest. An
15 administrative segregation was none of those six things and so was never subject to vested rights.

16 Because administrative segregations were not subject to vested rights, they remained subject
17 to new regulation. In this case, that new regulation provides for sun setting. Those existing
18 applications that failed to comply with the new timelines become void. That is precisely what
19 happened here. The BOCC must affirm the voiding of these three applications.¹

20 **B. Regulating the time limits on a permit process is not a land use control.**

21 Even if Plum Creek’s applications were subject to vested rights (which they are not) they
22 would still be subject to the new permit time limit requirements. For those six types of
23

24 ¹ Plum Creek’s arguments in this case would render the County’s regulation a nullity because the regulation would
25 not apply to any existing application. This is because, according to Plum Creek’s argument, all existing applications
would be vested to some previous regulation that does not include our new sun set provisions. Hence, our
regulation, whose central purpose is sun setting existing applications, would have no impact upon existing
applications.

1 applications subject to vested rights, the only thing they vest to are “land use controls.” RCW
2 58.17.033(1). “Land use controls” have been defined by the courts as those regulations that
3 control what can or cannot occur on the ground, that which is akin to zoning regulations.
4 *Graham Neighborhood Assoc. v. F.G. Assoc.*, 162 Wn.App. 98, 115, 252 P.3d 898 (2011).
5 Regulations that do something other than control what occurs on the ground are not land use
6 controls and so changes to which are something the application remains subject. *Id.* In *Graham*
7 *Neighborhood Assoc.* a developer whose project was voided by a sun set regulation imposed
8 after his submission of a complete application, argued that he was vested to a regime that was
9 free from that later regulation. *Id.* The Court of Appeals rejected that argument holding that a
10 regulation on permit processing time limits had no effect upon what could or could not occur on
11 the ground in the proposed development, but rather only regulated the time the developer was
12 allowed to get his “ducks in a row.” *Id.* This regulation was therefore not a land use control and
13 so the developer was subject to the new regulation.

14 Our sun setting provisions are not land use controls and so Plum Creek is subject to them
15 regardless of when they submitted their application. The County’s provisions for finishing up
16 these existing applications has no impact upon what is done upon the subject property of these
17 applications. It does not control number or configuration of lots, roads, or utilities. It merely sets
18 a time frame for finishing the application process. As such, the County’s new regulation is not a
19 “land use control” and so is not something that an application would vest to, or better said, vest
20 to the absence from. Even if the Plum Creek applications were subject to vested rights, which
21 they are not, they would still be subject to the sun setting provisions because those provisions are
22 not “land use controls.” The BOCC must affirm the voiding of these three applications.

23 **C. Kittitas County did not violate any timing requirements.**

24 Plum Creek argues on pages 12 and 13 of its brief that the County violated various notice
25 requirements. KCC 15A.03.080(1) exempts administrative segregations from that chapter’s

1 notice requirements. Hence, the County could not have violated them as they did not apply.
2 Indeed, the lack of required process related to administrative segregations was another of the
3 chief reasons they were abolished. The County did not fail to meet required notice deadlines as
4 none applied to administrative segregations. The BOCC must affirm the CDS decision to void
5 these applications.

6 **D. Plum Creek’s applications are subject to the sun set limits of KCC 16.06.040.**

7 On pages 13 through 15 of its brief, Plum Creek argues that the County Ordinance does
8 not specifically apply to applications that have not received preliminary approval, and so does
9 not apply to their applications. Our regulation states “Applications that neither finish nor
10 complete the conversion process by the deadlines herein shall be expired and void...All
11 applications by applicants who fail to request final administrative segregation approval ... within
12 the time limits provided in this ordinance, are expired and void.” This is clear language that the
13 regulation applies to all existing applications, including those that do not have preliminary
14 approval like Plum Creek’s. This is clear language that the regulation expressly applies to
15 applications like Plum Creek’s. It is also clear from the County’s regulation that the intent of the
16 regulation was to sun set all existing applications. This would include those of Plum Creek. The
17 County’s regulation accomplishes that intent. Plum Creek has not met the deadlines found in
18 KCC 16.06.040 and so these three applications are void. The BOCC must affirm the voiding of
19 these applications.

20
21 **IV. CONCLUSION**

22 The BOCC should affirm the voiding of these three applications belonging to Plum Creek.
23 The applications are not subject to vested rights and so are properly regulated under our current
24 ordinance. Even if the applications were subject to vested rights, the applications would be
25 subject to our current ordinance because the sun setting provisions in the ordinance are not “land

1 use controls” to which or from which one vests. The County has not violated any deadlines
2 because none applied. The County’s ordinance clearly expresses that it applies to all
3 applications and so applies to those applications of Plum Creek.

4 Respectfully submitted this 19th day of August, 2013.

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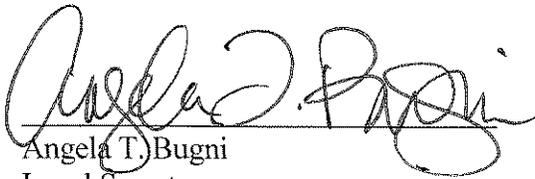
7 Neil A. Caulkins, WSBA # 31759
8 Deputy Prosecuting Attorney
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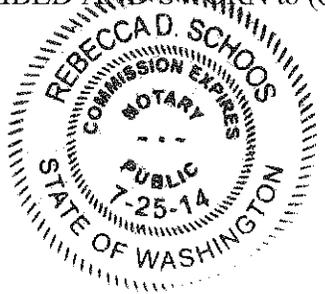
placing said copies in a sealed envelope with postage prepaid thereon.

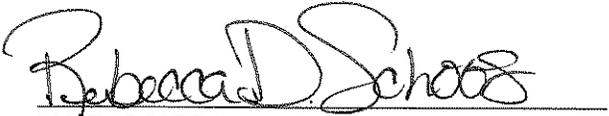
On August 19, 2013, I delivered a copy via inter-county mail of KITTITAS COUNTY'S BRIEF, to the following individuals at the specified addresses,

Mr. Jeffrey A. Watson
411 N. Ruby, Suite 4
Ellensburg, WA 98926


Angela T. Bugni
Legal Secretary

SUBSCRIBED AND SWORN to (or affirmed) before me this 19th day of August, 2013.




NOTARY PUBLIC in and for the
State of Washington.
My Commission Expires: 7/25/2014

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7 **BEFORE THE KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS**

8 IN RE SEGREGATION APPEALS:

9 ANSELMO LAND
10 ORPHAN GIRL
11 NEVERSWEAT LAND,

NO. SG-12-00002
SG-12-00003
SG-12-00004

APPELLANTS' BRIEF

12
13 **I. INTRODUCTION**

14 Anselmo Land Company, LLC, a Washington limited liability company, Neversweat
15 Land Company, LLC, a Washington limited liability company, and Orphan Girl Land Company,
16 LLC, a Washington limited liability company, (collectively, the "Appellants") appealed three
17 decisions made by the County's Staff Planner. Appellants respectfully request that the Board of
18 County Commissioners reverse the County Staff Planner's decisions to declare "null and void"
19 the Appellants' applications for three administrative segregations (the "Applications"), and
20 request that the Board direct Staff to continue processing the Applications under the County
21 codes in effect on June 21, 2012, which was the date a complete application was filed for each
22 administration segregation.

23 **II. STATEMENT OF FACTS**

24 On June 21, 2012, Appellants submitted the Applications, each of which sought
25 preliminary approval of an administrative segregation, as authorized by the then applicable
26

1 Kittitas County Code (“KCC”) 16.06.020 and 16.06.030(2). *See* former Chapter 16.06 KCC,
2 Orphan Girl Appeal Record (“Orphan Girl AR”), pp. 37-38.¹

3 Anselmo Land Company, LLC (“Anselmo”) submitted an application to divide its 597.32
4 acre property, Tax Parcel No. 756935, into seven lots ranging from approximately 80-93 acres in
5 size each. Anselmo Appeal Record (“Anselmo AR”), pp. 33-60. In connection with this
6 application, Anselmo provided a unified site plan of the existing and proposed lot lines,
7 signatures of all property owners, and a narrative project description. *Id.* pp. 47-51. With its
8 application materials seeking “preliminary approval” of the Administrative Segregation,
9 Anselmo also: (1) provided an aerial depiction of the property to illustrate boundary lines,
10 dimensions, existing buildings, well heads, and drain fields; (2) provided a preliminary survey;
11 (3) provided legal descriptions for each proposed tax parcel; and (4) paid an application fee
12 totaling \$875.00. *Id.*, pp. 33-38, 41, 47, 53-60, and 61. As evidenced by internal County email
13 correspondence, the County engaged in review of this application. Anselmo AR, pp. 29-32
14 (email correspondence between Jeff Watson, Christina Wollman, Brenda Larsen, Jan Ollivier,
15 Holly Duncan and Joe Gilbert, August 7-24, 2012). The County Staff review involved an
16 evaluation of the preliminary survey and the conclusion that “there are no existing structures,
17 wells or septic systems to be concerned about.” *Id.*

18 Neversweat Land Company, LLC (“Neversweat”) followed the same application
19 procedures as Anselmo and submitted similar materials. More specifically, Neversweat sought
20 to divide its 620.17 acre property, Tax Parcel No. 269434, into seven lots ranging from
21 approximately 80-139 acres each. Neversweat Appeal Record (“Neversweat AR”), pp. 32-54,
22 56-80. A completed application with numerous accompanying materials was submitted and
23 another \$875.00 fee was paid. *Id.* and Neversweat AR, p. 55 (receipt). Again, and as evidenced
24 by internal County email correspondence, the County engaged in review of this application.

25
26 ¹ All citations to the appeal record are to the paginated records prepared and certified by County Staff Planner, Jeff Watson.

1 Neversweat AR, p. 31 (email correspondence between Jeff Watson, Christina Wollman, Brenda
2 Larsen, Jan Ollivier, Holly Duncan and Joe Gilbert, August 8, 2012). In addition, on August 21,
3 2012, the Kittitas County Department of Public Works sent Neversweat a Memorandum
4 indicating it reviewed the Neversweat application and requiring that prior to “final approval”
5 inquiry should be made to the City of Cle Elum to determine whether any improvements to a
6 specific private road would be required and that easements for cul-de-sacs should be shown on
7 the final survey prior to recording and final approval. Neversweat AR, pp. 29-30. The
8 Memorandum did not request additional information related to the request for “preliminary
9 approval” under KCC 16.06.030(2). *Id.* The Memorandum also variously described the
10 Application as a “Request for Parcel Segregation Application,” and as “the proposed plat,” and
11 noted that “any further subdivision or lots to be served by proposed access may result in further
12 access requirements.” *Id.*

13 Orphan Girl Land Company, LLC (“Orphan Girl”) also followed an identical application
14 process and submitted similar materials. Orphan Girl sought to divide its 485.70 acre property,
15 Tax Parcel No. 599434, into six lots ranging from approximately 80-83 acres each. Orphan Girl
16 AR, pp. 29-36, 39-60, and 62-64. Once again, a completed application with extensive materials
17 was submitted along with another \$875.00 fee paid. *Id.* and Orphan Girl AR p. 61 (receipt).

18 All of the applications were exempt from review under the State Environmental Policy
19 Act (“SEPA”), Ch. 43.21C RCW. The County’s record includes no documentation of this
20 exemption, because, by law, actions such as minor construction of up to 20 dwelling units are
21 categorically exempt from SEPA review under KCC 15.04.090 and WAC 197-11-800(1).
22 Consistent with that exemption, the County’s administrative records for the Applications
23 includes no requests for any environmental information under SEPA. Similarly, the County’s
24 administrative records include no requests for any other additional materials or analysis related
25 to the requested “preliminary approvals,” including no requests made within 28 days of the filing
26 of the applications on June 21, 2012. By operation of law, the Applications were deemed

1 complete as of July 19, 2012.² KCC 15A.03.040, RCW 36.70B.070. Finally, as to all three
2 Applications, the County's administrative record includes no indication that any code standard
3 was not met.³

4 On September 18, 2012, the County adopted Ordinance 2012-006 amending the county
5 code language regarding administrative segregations (the "Ordinance"). A copy of the
6 Ordinance is at Anselmo AR, pp. 19-22. The Ordinance eliminated the administrative
7 segregation process from the County's subdivision codes. *Id.* While the Ordinance made
8 provisions for existing applicants that had already received preliminary approval to seek final
9 approval or to convert their applications to another form of subdivision, the Ordinance was silent
10 as to pending applications like Anselmo, Orphan Girl, and Neversweat that had not yet received
11 preliminary approval. *Id.*

12 On June 12, 2013, the County sent Appellants three nearly identical letters stating the
13 County Staff Planner's administrative decision for each application (the "Administrative
14 Decisions"). The Administrative Decisions are at Anselmo AR, p. 18, Neversweat AR, p. 18,
15 and Orphan Girl AR, p. 18. The delayed issuance of these Administrative Decisions failed to
16 meet the required 120-day decision timeline set by KCC 15A.03.090(7). The Administrative
17 Decisions indicated that the "Prosecuting Attorney's Office has determined that the lack of
18 provisions for pending applications without preliminary approval in Ordinance 2012-006 renders
19 them null and void." Thus, because each of the Anselmo, Orphan Girl, and Neversweat
20 applications "was not given preliminary approval prior to September 18, 2012," the Kittitas
21 County Community Development Services deemed the Applications to be "null and void" as of
22 June 12, 2013. No analysis or report from the Prosecuting Attorney's Office was provided to
23 Appellants in support of this determination.

24 ² The County's internal permit processing records, entitled "SEG Application Process Sheets," also reflect that the
25 Applications were deemed complete. Anselmo AR, p. 62, Neversweat AR, p. 81, Orphan Girl AR, p. 65.

26 ³ The same internal County documents referenced in Footnote 2 show that "Application Processing" was "Done" in
August 2012, and that no comment period applied.

1 Pursuant to KCC 15A.07.010 and the instructions stated in the County's Administrative
2 Decisions, Appellants timely appealed all three decisions and paid a \$500.00 fee for each appeal
3 on June 25, 2013. Anselmo AR, pp. 10-16, Neversweat AR, pp. 10-16, and Orphan Girl AR, pp.
4 10-16.

5 III. ARGUMENT

6 **A. The Ordinance is inapplicable to the Applications because the Applications vested to**
7 **the codes in effect on June 21, 2012, and should have been processed and approved**
8 **under that version of the Code.**

9 Washington has one of the nation's strongest and most protective vested rights rules.
10 Unlike the overwhelming majority rule that development is not immune from subsequently
11 adopted regulations until a building permit has been obtained and substantial development has
12 occurred in reliance on the permit, in Washington, the courts have adopted what is known as the
13 "date of application" vested rights rule. Under the rule, vested rights accrue at the time an
14 application is made. *See State ex rel. Ogden v. City of Bellevue*, 45 Wn.2d 492, 496, 275 P.2d
15 899 (1954). The guiding case on the rule is *Hull v. Hunt*, 53 Wn.2d 125, 331 P.2d 856 (1958).

16 In *Hull v. Hunt*, the applicant applied for a building permit shortly before the adoption of
17 a zoning code change that would have made the proposed structure illegal. The court held that
18 the application vested rights to build, setting forth the general rule as follows:

19 The more practical rule to administer, we feel, is that the right vests when the
20 party, property owner or not, applies for his building permit, if that permit is
21 thereafter issued. This rule, of course, assumes that the permit applied for and
22 granted be consistent with the zoning ordinances and building codes in force at
23 the time of application for the permit.

24 *Id.* at 130. Since *Hull v. Hunt*, courts have clarified that a permit application is adequate to vest
25 rights if it "1) is sufficiently complete, 2) complies with existing zoning ordinances and building
26 codes, and 3) is filed during the effective period of the zoning ordinances under which the
27 developer seeks to develop." *Valley View Indus. Park v. City of Redmond*, 107 Wn.2d 621, 638
28 733 P.2d 182 (1987).

1 Originally, case law only applied the vested rights rule to building permit applications,
2 but in 1987 the legislature codified the rule and also extended it to applications for subdivisions.
3 See RCW 19.27.095 (vesting of building permits) and RCW 58.17.033 (vesting of subdivision
4 applications), as adopted in Laws of 1987 c 104 § 1 and § 2 respectively.

5 The Revised Code of Washington sets forth the precise time of vesting for proposed
6 subdivisions:

7 (1) A proposed division of land, as defined in RCW 58.17.020, shall be
8 considered under the subdivision or short subdivision ordinance, and zoning or
9 other land use control ordinances, in effect on the land at the time a fully
10 completed application for preliminary plat approval of the subdivision, or short
11 plat approval of the short subdivision, has been submitted to the appropriate
12 county, city, or town official.

(2) The requirements for a fully completed application shall be defined by local
13 ordinance.

14 RCW 58.17.033(1)-(2). Accordingly, so long as the Applications qualify as subdivisions,
15 the Applications are vested to the subdivision, zoning or other land use control
16 ordinances in effect in Kittitas County as of June 21, 2012.

17 In general, any division of land resulting in new parcels of land qualifies as a
18 subdivision; for example, the definition of “subdivision” is “the division or redivision of
19 land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease,
20 or transfer of ownership, except [for short subdivisions up to nine lots] as provided in
21 subsection (6) of this section.” RCW 58.17.020(1). However, some forms of division of
22 land are expressly exempted from the protections and the requirements of subdivision
23 law. The exemptions include:

24 The provisions of this chapter shall not apply to . . .

25 (2) **Divisions of land into lots** or tracts each of which is one-one hundred twenty-
26 eighth of a section of land or larger, or **five acres or larger** if the land is not
capable of description as a fraction of a section of land,⁴ **unless the governing
authority of the city, town, or county in which the land is situated shall have
adopted a subdivision ordinance requiring plat approval of such divisions...**

⁴ Because a section of land is 640 acres, one-one hundred twenty-eighth of a section of land is five acres.

1 RCW 58.17.040 (emphasis added). Here, the Applications seek to divide land into lots that
2 exceed five acres in size. However, Kittitas County adopted and applied a subdivision ordinance
3 requiring plat approval of divisions of land that exceed five acres in size.

4 As of June 21, 2012, the County's Code included both a Large Lot Subdivision chapter
5 governing subdivisions of land into two or more lots the smallest of which is 20 acres or greater
6 in size, together with chapter 16.06 KCC governing Administrative Segregations to create fewer
7 than ten lots the smallest of which is 20 acres or greater in size. *See*, KCC 16.08.100, 16.06.010
8 (repealed September 18, 2012). As set forth in KCC 16.06.020 and .030,⁵ the process for
9 approval of an Administrative Segregation required applications be filed on forms prescribed by
10 the Community Development Services department, including preliminary surveys for
11 preliminary approvals and final surveys for final approvals, as well as the payment of review
12 fees. Compliance was required with KCC 16.06.020(1-5) and 16.06.030(1), including the need
13 to comply with KCC 17.57.040 for minimum lot size requirements in in the Commercial Forest
14 Zone, compliance with irrigation water delivery requirements pursuant to KCC 16.18.030,
15 meeting OSDS location per KCC 13.04.080, assuring compliance with wellhead protection area
16 requirements of KCC 17A.08.025, and compliance with the road standards set by KCC Title 12.
17 Oddly, the County Code, at KCC 16.04.020, also purported to "exempt" Administrative
18 Segregations from the subdivision code even though, as it existed on June 21, 2012, chapter
19 16.06 KCC was codified in the County's Subdivision Code, Title 16. Moreover, as evidenced by
20 materials like the August 21, 2012 Memorandum in the Neversweat file, the County plainly
21 viewed each Administrative Segregation as a "proposed plat" and "subdivision." Neversweat
22 AR, pp. 29-30.

23 Most importantly, as the County Code existed on June 21, 2012, a detailed and time-
24 consuming process including both preliminary and then final plat approval of the Administrative
25 Segregation Applications was required. Therefore, on its face, the Administrative Segregation

26 ⁵ *See*, former code at Orphan Girl AR, pp. 37-38.

1 process was a subdivision process that met the exclusion to the exemption stated in RCW
2 58.17.040. The Applications for the Anselmo, Orphan Girl, and Neversweat Administrative
3 Segregations were subdivision applications, vested to subdivision, zoning and other land use
4 control ordinances in effect in Kittitas County as of June 21, 2012.

5 If Kittitas County had wanted to exempt Administrative Segregation land divisions like
6 the Applications at issue in this appeal from the vesting protections of State subdivision law, then
7 the County needed to truly **exempt** such requests from County processes and procedures. Truly
8 exempt subdivisions allow a landowner, like Anselmo, Orphan Girl, or Neversweat, to simply
9 divide its land by conveying the subdivided lots, with no County process or approval whatsoever.
10 For example, in *West Hill, LLC v. City of Olympia*, 115 Wn. App. 444, 63 P.3d 160 (2003), a
11 landowner divided a parcel into four lots, by simply conveying the four lots via four real estate
12 contracts all dated in 1980. Each of the four lots exceeded five acres. *Id.* at 447. No approvals
13 were sought or obtained from the City of Olympia. Twenty years later, in response to a further
14 subdivision request, the City of Olympia argued the 1980 subdivision was illegal. *Id.* The Court
15 held the 1980 division was legal, because it fell under the exemption of RCW 58.17.040 for a
16 subdivision of lots greater than five acres. *Id.* at 448-49. Similarly, in *Friends of Ebey's v. Bd. of*
17 *Cnty. Comm'rs. of Island Cnty.*, 27 Wn. App. 54, 55, 614 P.2d 1330 (1980), the court upheld
18 landowners' subdivision of their property achieved via simple conveyance of five-acre tracts to
19 themselves, to family members, and to a third party. Thus, a truly exempt subdivision of lots
20 exceeding five acres in size can be achieved simply by execution of private real estate contracts
21 selling the subdivided portions of the land, or by drafting and conveying deeds to the subdivided
22 lots.

23 The Attorney General has explained that the intent of the legislature was to confer upon
24 the various cities, towns, and counties the broadest discretion in deciding whether or not, and
25
26

1 when, to enact an ordinance requiring that a subdivision of land containing no dedication⁶ and no
2 lots or tracts smaller than five acres in size to be subject to the provisions of RCW 58.17. AGO
3 1970 No. 14. If a County wishes to have some input on an exempt subdivision, but not subject
4 the application to a County subdivision process, then, the farthest a County can go is likely what
5 was described in *Zunino v. Rajewski*, 140 Wn. App. 215, 220, 165 P.3d 57 (2007).⁷ There, the
6 Court of Appeals explained that Spokane County's "certificate of exemption ordinance"
7 authorized the County to issue a "certificate of exemption" from County subdivision processes
8 for the large lot exemption of RCW 58.17.040, so long as the landowner provided documentation
9 of access to the new parcels. *Id.* at 220-21. Here, Kittitas County imposed far more regulatory
10 burdens in the Administrative Segregation process of former KCC 16.06.

11 Kittitas County had a choice to either: allow landowners such as Anselmo, Orphan Girl,
12 and Neversweat to subdivide their lands into 80-acre or larger lots⁸ simply by deed of
13 conveyance and entirely exempt them from both the burdens and protections of RCW 58.17 and
14 the County's local subdivision codes, or require landowners to obtain a subdivision approval
15 using a subdivision process like that set forth in Chapter 16.06 KCC, labeled an Administrative
16 Segregation. No landowner or developer is allowed to cherry pick from different sets of
17 regulations. *East County Reclamation Co. v. Bjornsen*, 125 Wn. App. 432, 437, 105 P.3d 94
18 (2005) (holding that a developer cannot selectively waive portions of its vested rights so as to
19 benefit from parts of newly-enacted regulations without having to comply with other parts of
20 those same new regulations). Likewise, Kittitas County is not allowed to cherry pick which
21 portions of the benefits and burdens of the subdivision statutes apply to any application. Once
22 the County made the choice to subject Administrative Segregations to an extensive subdivision
23

24 ⁶ Earlier versions of the exemption now found in RCW 58.17.040 exempted subdivisions into five-acre or larger
25 lots, only so long as the division also did not include a dedication, such as a dedication of a public road.

26 ⁷ The legal issue presented in the *Zunino* case was what was necessary to create an access easement, not the
exemption from the subdivision statute or the scope of County authority.

⁸ Separate provisions of County Code call for a minimum lot size of 80 acres for lands. Appellants are not
challenging those provisions.

1 review process, the County was required to assure that the vesting protections of RCW 58.17.033
2 also applied.

3 Subdivision of lots exceeding five acres in size conducted via private real estate contracts
4 and deeds are afforded the luxury of not having to jump through administrative hoops in order to
5 complete their subdivisions, and do not need the vesting protections of subdivision law. In
6 contrast, subdivision of lots that are required to undergo a local review process must bear the
7 burdens of that process, and once those burdens are imposed, the benefits of the vesting
8 protections found in RCW 58.17 must also be provided. The County cannot declare
9 Administrative Segregations exempt from the protections governing subdivisions – including
10 vested rights – while simultaneously subjecting the applications to an exhaustive regulatory
11 subdivision review and approval process.

12 Ordinance 2012-006 was adopted several months after the complete Applications were
13 submitted, and the Ordinance is entirely inapplicable to the Applications because, under RCW
14 58.17.033, the Applications vested to the subdivision, zoning and other land use control
15 ordinances in effect in Kittitas County as of June 21, 2012. The Board should reverse the
16 Administrative Decisions and direct County Staff to continue processing the Applications under
17 those vested regulations.

18 **B. The Applications are complete project permit applications and pursuant to KCC**
19 **15A.10.030 and RCW 36.70B required continued processing under the original**
20 **codes, not the newly adopted Ordinance.**

21 The Applications are project permits pursuant to RCW 36.70B and KCC Title 15A.
22 Pursuant to the express language of County Code, project permit review of the Applications was
23 required to continue under the subdivision, zoning and other land use control ordinances in effect
24 in Kittitas County as of June 21, 2012.

25 RCW 36.70B governs project permit applications and affords applicants various
26 protections for continued review by local governments: “A project permit application is complete
for purposes of this section when it meets the procedural submission requirements of the local

1 government and is sufficient for continued processing even though additional information may
2 be required or project modifications may be undertaken subsequently.” RCW 36.70B.070(2).
3 KCC Title 15A governs numerous land use permits, including all permits under Title 16, and
4 provides that it specifically controls the permitting process in the event of any conflict with other
5 county codes. KCC 15A.01.030.

6 KCC 15A.10.030 states:

7 If, during the project permit review, Kittitas County identifies deficiencies in
8 county plans or regulations, the project permit review shall continue, and the
9 identified deficiencies shall be docketed for possible future amendments pursuant
10 to KCC Title 15B. For purposes of this section, a deficiency in a comprehensive
11 plan or development regulation refers to the absence of required or potentially
12 desirable contents of a comprehensive plan or development regulation...

13 Here, the County Ordinance 2012-006 plainly admits that the County had identified a perceived
14 deficiency in its regulations and sought to cure that deficiency by repealing the process for
15 Administrative Segregations. Specifically, the recitals to the Ordinance state that: the County
16 “is seriously concerned with protecting its rural character and the environment,” and that the
17 County’s “administrative segregation process does not provide for the level of review required
18 legally and fails to protect rural character and the environment.” Under KCC 15A.10.030, the
19 County was authorized to make note of that purported deficiency in the code so as to remedy it in
20 later legislation, but the County also was required to ensure that: “project permit review shall
21 continue.”

22 The County violated KCC 15A.10.030 when it adopted the Ordinance, stopped
23 processing the Applications, and ultimately issued the Administrative Decisions declaring the
24 Applications to be “null and void.” The plain language of KCC 15A.10.030 required the County
25 to continue processing the Applications under the codes in effect on June 21, 2012. The Board
26 should reverse the Administrative Decisions and direct County Staff to continue processing the
Applications under those vested regulations.

1 **C. The County erred in failing to provide a timely preliminary approval of the**
2 **Applications and thereby violated Appellants' reasonable expectation of adequate**
3 **due process and a fair determination with respect to the Applications.**

4 Appellants expended time, effort, and financial resources to submit completed
5 applications to the County, expecting that the applications would be processed and approved as
6 many such applications had been in the past. Unfortunately, the County failed to timely review
7 and process the Applications within a reasonable timeframe.

8 The County's decision-making process must operate within the reasonable limits of due
9 process owed to all applicants. In *Norco Const., Inc. v. King County*, 97 Wn.2d 680, 685, 649
10 P.2d 103 (1982), the Washington Supreme Court found that King County unreasonably delayed
11 action on Norco's preliminary plat application for subdivision beyond the permitted 90-day
12 statutory period. The court stated the County is limited by due process protections in the
13 decisions they make and that unreasonable delay in approving the plat applications may be just
14 as much an exclusionary device as an unconstitutional exclusionary zoning plan itself. *Id.* The
15 court further held "the unreasonable lapse of time alone, without an express showing of coercion,
16 can prove unconstitutionally detrimental to a developer harmed by this action." *Id.* at 686.

17 The record establishes no just cause for delaying the decision to grant Appellants'
18 preliminary approval. The unreasonable delay by the County harmed Appellants. As described
19 in the County administrative record summarized in the facts section of this brief, the
20 Applications were filed on June 21, 2012. No requests for additional information were made by
21 the County. By operation of law, the Applications were deemed complete on July 19, 2012. *See*
22 KCC 15A.03.040 (setting 28-day period for notice of completion), RCW 36.70B.070 (stating an
23 application is deemed complete if after 28 days the local government does not provide a written
24 determination to the applicant that the application is incomplete). Pursuant to RCW 36.70B.080
25 and KCC 15A.03.090(7), the County was required to issue decisions on the Applications within
26

1 120 days of the application date, or by October 19, 2012.⁹ The County missed this deadline by a
2 wide margin, not issuing the Administrative Decisions until June 2013.

3 The County's review comments were complete in August 2012, including confirmation
4 that there were no identified concerns regarding the properties and proposed subdivisions. The
5 Appellants jumped through every hoop raised by the County and the County's review was
6 complete well before the September 18, 2012 passage of the Ordinance on which the County
7 Staff now bases its June 2013 determinations that the Applications were "null and void." As
8 shown by the County's review notes, the County could have easily granted preliminary approval
9 to the Applications in August 2012. Instead, and with full knowledge that delay would
10 significantly affect Appellants' success in this endeavor, the County delayed action on the
11 Applications until June 2013 and then applied the Ordinance that was adopted in September
12 2012.

13 Appellants filed the Applications with a reasonable expectation that if they followed the
14 process established by the County and in place at that time, they would be subject to the same
15 consistent standards and laws with respect to obtaining preliminary approval. Unjustifiably,
16 however, Appellants received inadequate due process contrary to the long established standard.
17 The County's apparent deliberate delay in granting preliminary approval to the Applications is
18 an unconstitutional violation of Appellants' due process rights. The Board should reverse the
19 Administrative Decisions and instruct County Staff to complete processing of the Applications.

20 **D. The Ordinance is vague because it does not specifically address pending applications**
21 **and therefore the County's declaration that the Applications are "null and void"**
22 **was invalid and beyond its authority.**

23 The September 2012 Ordinance is wholly inapplicable to the Applications because they
24 should be governed by the laws in operation on the date of submission. However, even assuming
25

26 ⁹ The County's internal "SEG Application Process Sheets" also reflect "Decision Due 10/19/2012." Anselmo AR, p. 62, Neversweat AR, p. 81, Orphan Girl AR, p. 65.

1 for the sake of argument that the Ordinance does apply, the County's application of the
2 Ordinance to the Applications was illegal and must be reversed.

3 Courts have long held that when confronted with an apparently incomplete or vague
4 ordinance, the court must look at not only "the face of the ordinance but also at its application to
5 the person who has sought to comply with the ordinance and/or who is alleged to have failed to
6 comply." *Anderson v. City of Issaquah*, 70 Wn. App. 64, 75, 851 P.2d 744 (1993). At issue in
7 *Anderson*, was whether a statute regarding approval of building permits that listed parameters
8 based on general aesthetics was too vague to provide a meaningful guide for the decision-making
9 officials. *Id.* at 75-76. Although the statute contained an actual list of these features to consider,
10 the court held the code void for vagueness because it did not give effective or meaningful
11 guidance to the decision makers or to the applicant seeking to conform with the regulation. *Id.* at
12 76.

13 The code in *Anderson* was held void for vagueness even though it contained language
14 that attempted to describe the applicable design standards, while the Ordinance at issue here does
15 not contain any language that attempts to guide the County's handling of matters such as the
16 Applications. There is absolutely nothing in the Ordinance that references pending unapproved
17 applications, let alone authorization to the County to declare them "null and void." Therefore,
18 the County's Administrative Decisions that the Applications were null and void was beyond the
19 authority granted to the County in the Ordinance. In addition, because the Ordinance lacked
20 meaningful guidance as to how to treat pending applications that had not yet received
21 preliminary approval, the Ordinance is void as applied to the Applications.

22 To the extent County Staff defends any of this argument by asserting a right to gap fill
23 the holes in the Ordinance, the County's declaration that the Applications are "null and void"
24 was not a proper exercise of such authority. The provisions that are set forth in the Ordinance
25 for applications with preliminary approval but still awaiting final approval are the analogous and
26 instructive provisions of the Ordinance to the case presented in this appeal. Just like any

1 application that had been granted preliminary approval was allowed to proceed to final approval,
2 matters such as the Applications that had not yet received preliminary approval should have
3 continued to be processed under the codes in effect on the date of application.

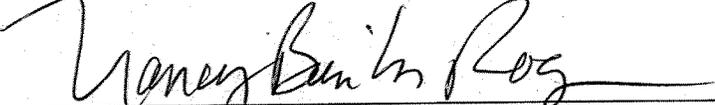
4 Even if Ordinance 2012-006 is found to apply to the Applications, the Board should
5 reverse the Administrative Decisions and direct County Staff to continue processing the
6 Applications under the subdivision, zoning and other land use control ordinances in effect in
7 Kittitas County as of June 21, 2012.

8 IV. CONCLUSION

9 The Administrative Decisions to declare the Anselmo, Neversweat, and Orphan Girl
10 Administrative Segregation Applications "null and void" were illegal. First, the Administrative
11 Decisions violated the vested rights doctrine. Second, the Administrative Decisions violated the
12 express mandate of County Code requiring continued processing of the Applications, regardless
13 of any alleged deficiencies in County Codes. Third, delays in processing and approving the
14 Applications violated County Code, State law, and Appellants' due process rights. Fourth, even
15 if the County was authorized to apply its September 2012 Ord. No. 2012-006 to the June 2012
16 Applications, the Ordinance was applied incorrectly. For each of these reasons, the Board of
17 County Commissioners should reverse the Administrative Decisions and direct County Staff to
18 complete processing and approval of the Anselmo, Neversweat, and Orphan Girl Administrative
19 Segregation Applications under the codes in effect on June 21, 2012.

20 DATED this 6th day of August, 2013.

21 CAIRNCROSS & HEMPELMANN, P.S.

22 

23 Nancy Bainbridge Rogers, WSBA No. 26662
24 E-mail: nrogers@cairncross.com
25 524 Second Avenue, Suite 500
26 Seattle, WA 98104-2323
Telephone: (206) 587-0700
Facsimile: (206) 587-2308
Attorneys for Appellants

1 Certificate of Service

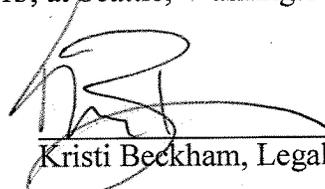
2 I, Kristi Beckham, certify under penalty of perjury of the laws of the State of Washington
3 that on August 6, 2013, pursuant to an email exchange between counsel approving filing and
4 service by email, I caused a copy of the document to which this is attached to be filed with the
5 County and served on the following individual(s) via email:

6 Julie Kjorsvik
7 Clerk of the Board
8 Kittitas County Board of County Commissioners
9 205 W 5th Ave., Ste. 108
10 Ellensburg, WA 98926-2887
11 Email: julie.kjorsvik@co.kittitas.wa.us

12 Neil Caulkins
13 Kittitas County Prosecutor
14 205 W 5th Ave., Ste. 213
15 Ellensburg, WA 98926-2887
16 Email: neil.caulkins@co.kittitas.wa.us

17 Jeffrey A. Watson
18 Planner II
19 Kittitas County Public Works/Community Development Services
20 411 North Ruby
21 Ellensburg, WA 98926
22 Email: jeff.watson@co.kittitas.wa.us

23 DATED this 6th day of August, 2013, at Seattle, Washington.

24 

25 _____
26 Kristi Beckham, Legal Assistant

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BEFORE THE KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS

In Re Anselmo Land, Orphan)
Girl, and Newsweat Land)
Appeals.)
)
)
)
)
)
_____)

CERTIFICATION OF RECORD

I, Jeff Watson, STAFF PLANNER (title), do hereby certify that the administrative record attached hereto is a true and correct copy of the original record now on file with the Kittitas County Community Development Service in the above referenced matter. I swear or affirm that the forgoing is true and correct to the best of my knowledge and belief.

DATED this 2nd day of August 2013.



Jeff Watson

Jeff Watson

From: Jeff Watson
Sent: Thursday, July 18, 2013 5:00 PM
To: 'nrogers@cairncross.com'; 'david.sprinkle@plumcreek.com'; Neil Caulkins
Cc: 'David@ConceptEng.com'; Doc Hansen; Julie Kjorsvik
Subject: Segregation Administrative Appeals
Attachments: Title 15A.07 Administrative Appeals.pdf

Importance: High

Tracking:	Recipient	Delivery	Read
	'nrogers@cairncross.com'		
	'david.sprinkle@plumcreek.com'		
	Neil Caulkins	Delivered: 7/18/2013 5:00 PM	
	'David@ConceptEng.com'		
	Doc Hansen	Delivered: 7/18/2013 5:00 PM	
	Julie Kjorsvik	Delivered: 7/18/2013 5:00 PM	Read: 7/19/2013 8:28 AM

An Appeal Hearing for:
Anselmo Land (SG-12-00002)
Orphan Girl (SG-12-00003)
Neversweat Land (SG-12-00004)

has been set for:

Thursday, September 5th, 2013 @ 1:30 PM in the Commissioners Auditorium; Kittitas County Courthouse, 205 W 5th Avenue, Ellensburg WA 98926

Under the Provisions of [KCC 15A.07.010\(3\)](#) (attached) the calendar dates for briefing submittal will be as follows:

Appellants brief shall be due – August 6th, 2013 (30 days prior)
Kittitas County brief shall be due – August 22nd, 2013 (10 Working Days Prior)

Digital Documentation for all files may be viewed on line at:
<http://www.co.kittitas.wa.us/cds/current/administrative-segregations.asp> refer to the appropriate application by number and name.

Inasmuch as all parties and issues involved for each appeal filed are identical, Community Development Services (CDS) would like to request for ease of procedure that a single Public Hearing be held for all three appeals. Staff would further request that this email serve as formal notification for the briefing timeframes. If any party feels this notification is deficient or would prefer hard copy documentation with

signatures please notify CDS at the address, email, or phone below and accommodations will be made. Should you have any additional questions please feel free to contact our office.

Jeffrey A. Watson

Planner II

[Kittitas County Public Works/Community Development Services](#)

411 North Ruby

Ellensburg WA 98926

jeff.watson@co.kittitas.wa.us

509-933-8274

Jeff Watson

From: Microsoft Outlook
To: Doc Hansen; Julie Kjorsvik; Neil Caulkins
Sent: Thursday, July 18, 2013 5:00 PM
Subject: Delivered: Segregation Administrative Appeals

Your message has been delivered to the following recipients:

[Doc Hansen](#)

[Julie Kjorsvik](#)

[Neil Caulkins](#)

Subject: Segregation Administrative Appeals

Sent by Microsoft Exchange Server 2007

Jeff Watson

From: Microsoft Outlook
To: 'nrogers@cairncross.com'; 'david.sprinkle@plumcreek.com'; David@ConceptEng.com
Sent: Thursday, July 18, 2013 5:00 PM
Subject: Relayed: Segregation Administrative Appeals

Delivery to these recipients or distribution lists is complete, but delivery notification was not sent by the destination:

['nrogers@cairncross.com'](mailto:nrogers@cairncross.com)

['david.sprinkle@plumcreek.com'](mailto:david.sprinkle@plumcreek.com)

David@ConceptEng.com

Subject: Segregation Administrative Appeals

Sent by Microsoft Exchange Server 2007

Jeff Watson

From: Nancy Rogers <NRogers@Cairncross.com>
To: Jeff Watson
Sent: Thursday, July 18, 2013 5:01 PM
Subject: Read: Segregation Administrative Appeals

Your message was read on Thursday, July 18, 2013 5:01:00 PM (GMT-08:00) Pacific Time (US & Canada).

Jeff Watson

From: David Sprinkle <David.Sprinkle@plumcreek.com>
Sent: Thursday, July 18, 2013 5:00 PM
To: Jeff Watson
Subject: Automatic reply: Segregation Administrative Appeals

Thank you for your email. I am out of the office traveling on business until Friday, July 19th. I will be checking emails on occasion but my response may be delayed. You can also try me on my cell phone: 206-914-5902.

Very truly yours,
David J. Sprinkle

Jeff Watson

From: David Sprinkle <David.Sprinkle@plumcreek.com>
To: Jeff Watson
Sent: Friday, July 19, 2013 7:08 AM
Subject: Read: Segregation Administrative Appeals

Your message was read on Friday, July 19, 2013 7:07:41 AM (GMT-08:00) Pacific Time (US & Canada).

Chapter 15A.07 ADMINISTRATIVE DECISIONS APPEALS

Sections

[15A.07.010](#) Appeal of determination or decision.

[15A.07.020](#) Procedures for Administrative appeals.

[15A.07.030](#) Repealed.

[15A.07.040](#) Remand.

[15A.07.050](#) Appeal of decision - Scope of authority.

15A.07.010 Appeal of determination or decision.

1. An appeal of an administrative land use decision shall be filed with the board of county commissioners within 10 working days of the date of the decision.
2. Appeals shall contain a written, concise statement identifying:
 - a. The decision being appealed;
 - b. The name and address of the appellant and his interest(s) in the matter;
 - c. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong;
 - d. The desired outcome or changes to the decision;
 - e. The appeals fee.

The appeal shall contain only the above listed material, and shall not contain or attempt to introduce new evidence, testimony, or declaration.
3. Upon the filing of a timely appeal, the administrator shall, in consultation with the appropriate hearing body chair pursuant to KCC 15A.01.040, set the time and place at which the matter will be considered and establish a briefing schedule for the parties. The appellant's brief shall be due 30 days prior to the hearing date. Briefing from the County and any other Respondents shall be due 10 working days prior to the hearing date. There shall be no response or rebuttal briefing by any party. The officer from whom the appeal is being taken shall forthwith transmit to the reviewing body and the parties all of the records pertaining to the decision being appealed. Briefing shall be limited to legal argument based upon the documents comprising the record that formed the basis for the administrative decision on appeal that have been transmitted to the parties by said officer. ([Ord. 2010-008](#); Ord. 2000-07; Ord. 98-10, 1998)

15A.07.020 Procedures for Administrative appeals.

1. Administrative appeals shall serve to provide argument and guidance for the body's decision. No new evidence or testimony shall be given or received. The briefing shall not contain new evidence, testimony, or declarations, but shall consist only of legal arguments based upon the documents comprising the record as transmitted to the parties by the relevant officer. The parties to the appeal shall submit timely written statements or arguments to the decision-making body.
2. The hearing body shall deliberate on the matter in public in the manner of a closed record hearing and reach its decision on the appealed matter.
3. A written decision by the hearing body shall be issued within 30 days of the close of the Administrative Hearing. ([Ord. 2010-008](#); Ord. 2000-07; Ord. 98-10, 1998)

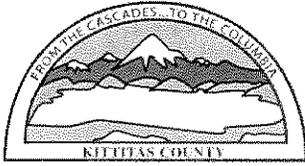
15A.07.030 Repealed. ([Ord. 2010-008](#); Ord. 2000-07; Ord. 98-10, 1998)

15A.07.040 Remand.

In the event the reviewing body determines that the public hearing record or record on appeal is insufficient or otherwise flawed, that body may remand back to the hearing body to correct the deficiencies. The reviewing body shall specify the items or issues to be considered and the time frame for completing the additional work. (Ord. 2000-07; Ord. 98-10, 1998)

15A.07.050 Appeal of decision - Scope of authority.

In exercising the power granted herein, the reviewing body may, in conformity with county code, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned. (Ord. 2000-07; Ord. 98-10, 1998)



Kittitas County, Washington
BOARD OF COUNTY COMMISSIONERS

District One
Paul Jewell

District Two
Gary Berndt

District Three
Obie O'Brien

June 27, 2013

Attorney Nancy Bainbridge Rogers
Cairncross & Hempelmann
524 2nd Avenue, Suite 500
Seattle, WA 98104

Re: Neversweat Land Administrative Segregation (SG-12-0004)

Dear Ms. Bainbridge Rogers,

This is to acknowledge receipt of your letter of appeal and \$500.00 fee relating to the Neversweat Land Administrative Segregation (SG-12-0004).

In accordance with Kittitas County Code Chapter 15A.07.010, the Administrator and Board of County Commissioners Chairman will schedule a date, time and location for a hearing as well as establish a briefing schedule for the parties. As a reminder the appellant's brief shall be due 30 days prior to the hearing date.

As you've requested I am enclosing a copy of the date-stamped appeal for your information and records along with a receipt for your payment in the amount of \$500.00.

You will be notified of the hearing date, time and location in the near future along with the briefing schedule. In the meantime if you have any questions please feel free to contact our office at your convenience. Thank you.

Sincerely,

Julie Kjorsvik
Clerk of the Board

Enclosures-as noted

cc: David Sprinkle
Orphan Girl Land Company, LLC
999 Third Avenue, Suite 4300
Seattle, WA 98104

Doc Hansen – CDS
Neil Caulkins – Prosecutors office

June 25, 2013

VIA FEDERAL EXPRESS

Board of County Commissioners
Kittitas County
205 West 5th, Room 108
Ellensburg, WA 98926

Re: Appeal of Administrative Decision
Neversweat Land Administrative Segregations, SG-12-00004

To The Board of Commissioners:

This firm represents Neversweat Land Company, LLC (“Neversweat”), the applicant for the Neversweat Administrative Segregation, File No. SG-12-00004 (the “Application”). Pursuant to Kittitas County Code (“KCC”) 15.A.07.010 and the instructions stated in the County’s Administrative Decision dated June 12, 2013, Neversweat hereby appeals.

As called for by KCC 15A.07.010(2), the following matters are identified for this appeal:

- a. The decision being appealed is the Administrative Decision, signed by Jeff Watson, Staff Planner, Kittitas County Community Development Services, stating that the Application is “null and void.” A copy of the Administrative Decision is enclosed.
- b. The name and address of the appellant is Neversweat Land Company, LLC, c/o David Sprinkle, 999 Third Avenue, Suite 4300, Seattle, WA 98104. The appellant is interested in this matter because the appellant is the owner of the affected lands, seeking approval of the Application.
- c. The specific reasons that the appellant believes the Administrative Decision was wrong include:
 - i. The Application, including necessary fees, was filed on June 21, 2012. However, the Administrative Decision purports to deem the Application “null and void” under the terms of an Ordinance that was adopted in September 2012 (“Ord. 2012-006”). Ord. 2012-006 does not apply to the Application, and the Application should have been approved under the codes in effect on June 21, 2012.

ii. The County erred by failing to provide timely preliminary approval of the Application prior to September 28, 2012. The Application was filed on June 21, 2012, and by operation of law was deemed complete on July 19, 2012. No requests for additional information were made by the County to the Applicant. The County's review comments were complete in August and no flaws were described with the Application. All requirements set by Chapter 16.06 KCC for preliminary approval of the Application were met well before September 28, 2012, and the Application should have been approved.

iii. If Ord. 2012-006 is applied to the Application, then it is silent as to its impact on the Application. Therefore, the Administrative Decision that the Application is "null and void" is ultra vires, or beyond the County's jurisdiction and authority, or as applied, Ord. 2012-006 is illegally vague, or for other reasons Ord. 2012-006 fails to dictate a declaration that the Application is "null and void."

iv. The Application was a "project permit" subject to the protections of State law as well as KCC 15A.10.030 requiring that "project review shall continue" even in the face identified alleged "deficiencies" in the County's plans or regulations. Applying Ord. 2012-006 to the Application was directly contrary to State law as well as KCC 15A.10.030.

v. The Application was vested to the land use control ordinances in effect on June 21, 2012, the date the complete Application was filed. Ord. 2012-006 is not applicable, and the Application should have been approved under the ordinances in effect on June 21, 2012.

d. The desired outcome or changes to the Administrative Decision are that the Administrative Decision be reversed, that the County instead grant preliminary approval to the Application so that the appellant can proceed to final approval immediately.

e. The required appeals fee of \$500 is paid by the enclosed check no. 4500001932.

Pursuant to KCC 15A.07.010, we look forward to the scheduling of an appeals hearing. I ask that you include both myself and David Sprinkle as contact persons for this appeal, using the following contact information:

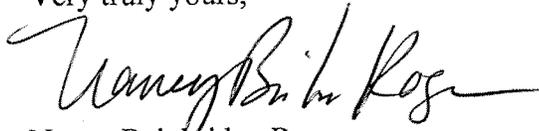
Nancy Bainbridge Rogers
Cairncross & Hempelmann
524 Second Ave., Suite 500
Seattle, WA 98104-2323
Tel: (206) 254-4417
Email: nrogers@cairncross.com

Board of County Commissioners
Kittitas County
June 25, 2013
Page 3

David Sprinkle
Neversweat Land Company, LLC
999 Third Avenue, Suite 4300
Seattle, WA 98104
Tel: (206) 467-3650
Email: david.sprinkle@plumcreek.com

Thank you for your attention to this matter.

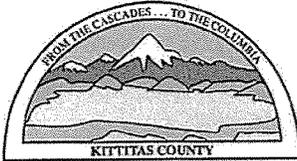
Very truly yours,



Nancy Bainbridge Rogers

Enclosures

cc: Neil Caulkins (via email delivery)
Jeff Watson (via email delivery)
David Sprinkle (via email delivery)



KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTTITAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

Building Partnerships – Building Communities

June 12, 2013

Neversweat Land Company LLC
999 Third Avenue Suite 4300
Seattle WA 98104

RE: Neversweat Land Administrative Segregation, SG-12-00004

Map Number: 20-15-15000-0001

Dear Applicant,

On September 18, 2012 the Board of County Commissioners of Kittitas County adopted Ordinance 2012-006 (attached) amending the county code language related Administrative Segregations. The new language made provisions for existing applicants which had not received a letter of denial and had received preliminary approval to finalize or convert their applications to another form of subdivision. No options or provisions were codified for pending applications which had not received preliminary approval. The Kittitas County Prosecuting Attorney's Office has determined that the lack of provisions for pending applications without preliminary approval in Ordinance 2012-006 renders them null and void.

The application submitted by Neversweat Land Company LLC on June 21, 2012 (SG-12-00004) was not given preliminary approval prior to September 18, 2012, and as such has been determined by Kittitas County Community Development services as of June 12, 2013 to be null and void.

This letter constitutes an Administrative Decision and as such may be appealed in accordance with Kittitas County Code Chapter 15A.07.010 which stipulates that an appeal must be filed within 10 (ten) working days by submitting specific factual objections and a fee of \$500 to the Kittitas County Board of Commissioners at 205 West 5th, Room 108 Ellensburg, WA 98926. The appeal deadline for this decision is: **June 27, 2013 at 5:00p.m.**

If you have any further questions, please feel free to contact me at (509) 933-8274.

Sincerely,

Jeff Watson
Staff Planner

CC and Attachments via E-Mail to: david.sprinkle@plumcreek.com
david@ConceptEng.com
doc.hansen@co.kittitas.wa.us
neil.caulkins@co.kittitas.wa.us

Neversweat Land Company LLC
Concept Engineering
Kittitas County Planning Official
Kittitas County Prosecuting Attorney's Office

Attachments: Ordinance 2012-006



Kittitas County Office Of The Treasurer
Deanna Jo Panattoni, Treasurer
205 W 5th Avenue, Suite 102
Ellensburg, Wa 98926
Phone (509) 962-7535 Fax (509) 933-8212

Cash Suspense

Receipt Number: 2013-3350

Date: 06/26/2013

Received From: PLUM CREEK

Check Amount: \$500.00

Cash Amount: \$0.00

Eft Amount: \$0.00

Total Amount: \$500.00

Deputy: DEBBIEM Receipt Type: CHK

Template: COMMISSIONER: COMMISSIONERS

Comments:

RECEIVED FROM PLUM CREEK/CAIRNCROSS & HEMPELMANN, SEATTLE FOR NEVERSWEAT LAND ADMINISTRATI
DECISION APPEAL

<u>FundCode</u>	<u>GlCode</u>	<u>Description</u>	<u>Amount</u>
001	1634589	APPEALS FEE	\$500.00
Total Amount:			\$500.00

Kittitas County Treasurer's Office

Submitted By: DEBBIE MYERS

4500001932

Payment Date
06/25/2013

Plum Creek Administrative Corp., Inc.
P.O. Box 1990
Columbia Falls, MT 59912

Invoice Number	Our P.O. No.	Gross Amount	Discount Amt.	Net Amount	Invoice Description
062413A		\$500.00	\$0.00	\$500.00	Filing Fee
Totals		\$500.00	\$0.00	\$500.00	

WARNING - VERIFY WORD VALID BY TOUCHING, RUBBING OR BREATHING ON SPECIAL HEAT SENSITIVE AREA BELOW



PlumCreek

Plum Creek Administrative Corp., Inc.
P.O. Box 1990 Columbia Falls, MT 59912



BANK OF AMERICA
DISBURSEMENT ACCOUNT
ATLANTA, DEKALB COUNTY GEORGIA

4500001932

62102
611

Check Date: 06/25/2013

PAY Five Hundred and 00/100 Dollars
To The Order Of

Amount
\$ ***500.00**

KITTITAS COUNTY
BOARD OF COMMISSIONERS
205 WEST 5TH, ROOM 108
ELLENSBURG WA 98926
(253) 733-4545

NOT NEGOTIABLE AFTER 90 DAYS

DO NOT CASH UNLESS YOU CAN VERIFY ADVANCED SECURITY FEATURES LISTED ON BACK OF THIS DOCUMENT

⑈4500001932⑈ ⑆061112788⑆ 3299113284⑈

Jeff Watson

From: Jeff Watson
Sent: Wednesday, June 12, 2013 5:18 PM
To: 'david.sprinkle@plumcreek.com'; 'david@ConceptEng.com'
Cc: Doc Hansen; Neil Caulkins
Subject: Segregation Applications; Administrative Decision
Attachments: SG-12-00002 Anselmo Land Termination Signed.pdf; SG-12-00003 Orphan Girl Land Termination Signed.pdf; SG-12-00004 Neversweat Land Termination Signed.pdf; Ordinance 2012-006 Administrative Segregation Repeal.pdf

Please see the attached documentation regarding decisions on the following Administrative Segregations Applications:

SG-12-00002 Anselmo Land
SG-12-00003 Orphan Girl
SG-12-00004 Neversweat

Original hard copy letters have been sent to the land owner(s) of record via U.S. Mail. Please feel free to contact me should you have any questions.

Jeffrey A. Watson
Planner II
[Kittitas County Public Works/Community Development Services](#)
411 North Ruby
Ellensburg WA 98926
jeff.watson@co.kittitas.wa.us
509-933-8274



KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTTITAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

Building Partnerships – Building Communities

June 12, 2013

Neversweat Land Company LLC
999 Third Avenue Suite 4300
Seattle WA 98104

RE: Neversweat Land Administrative Segregation, SG-12-00004

Map Number: 20-15-15000-0001

Dear Applicant,

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The application submitted by Neversweat Land Company LLC on June 21, 2012 (SG-12-00004) was not given preliminary approval prior to September 18, 2012, and as such has been determined by Kittitas County Community Development services as of June 12, 2013 to be null and void.

This letter constitutes an Administrative Decision and as such may be appealed in accordance with Kittitas County Code Chapter 15A.07.010 which stipulates that an appeal must be filed within 10 (ten) working days by submitting specific factual objections and a fee of \$500 to the Kittitas County Board of Commissioners at 205 West 5th, Room 108 Ellensburg, WA 98926. The appeal deadline for this decision is: **June 27, 2013 at 5:00p.m.**

If you have any further questions, please feel free to contact me at (509) 933-8274.

Sincerely,

Jeff Watson
Staff Planner

CC and Attachments via E-Mail to: david.sprinkle@plumcreek.com
david@ConceptEng.com
doc.hansen@co.kittitas.wa.us
neil.caulkins@co.kittitas.wa.us

Neversweat Land Company LLC
Concept Engineering
Kittitas County Planning Official
Kittitas County Prosecuting Attorney's Office

Attachments: Ordinance 2012-006

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

ORDINANCE NO. 2012- 006

**AMENDMENT AND REPEAL OF KITTITAS COUNTY'S PROCESS FOR
ADMINISTRATIVE SEGREGATION**

WHEREAS, Kittitas County plans under Ch. 36.70A RCW, the Growth Management Act and Ch 43.21C RCW, the State Environmental Policy Act; and

WHEREAS, Kittitas County is seriously concerned with protecting its rural character and the environment; and

WHEREAS, Kittitas County's administrative segregation process does not provide for the level of review required legally and fails to protect rural character and the environment; and

WHEREAS, Kittitas County's administrative segregation process does not qualify for vested rights under Washington State law; and

WHEREAS, A public hearing to consider amending Kittitas County's process for administrative segregations was held on August 21, 2012 at 2:00 pm; 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 change procedure; and,

WHEREAS, that meeting was continued until August 28, 2012, and then until September 11, 2012, and then until September 18, 2012; and

WHEREAS, The Kittitas County Board of County Commissioners voted to approve the proposed changes to the administrative segregation process and directed the Prosecutor's Office to prepare the enabling documents.

BE IT HEREBY ORDAINED: by the Board of County Commissioners of Kittitas County, Washington, after due deliberation and in the best interest of the public, does hereby approve amendment to Kittitas County Code to amend its administrative segregation process. Kittitas County Code Chapter 16.06, as well as sections 16.04.020, 16.08.015, 16.08.087, and 16.08.118 of the Kittitas County Code shall be amended to read as follows and Information Services is hereby directed to make the necessary changes to the County Code appearing upon the County's website:

Chapter 16.06
ADMINISTRATIVE SEGREGATIONS

Sections

16.06.010 Repealed.

16.06.020 Repealed.

16.06.030 Repealed.

16.06.040 Expiration and Credit.

16.06.050 Repealed.

16.06.060 Repealed.

16.06.010 Repealed.

16.06.020 Repealed.

16.06.030 Repealed.

16.06.030 Repealed.

16.06.040 Expiration and Credit.

All administrative segregation applications that have not received a letter of official denial and have received preliminary approval, shall, within 3 months of the adoption of this Ordinance, either (1) be submitted for final approval pursuant to the administrative segregation regulation in effect when the applications received preliminary approval, (an extension of up to three months may be requested by applicants who have submitted everything necessary for final review except the survey so long as the applicant demonstrates that they have financially obligated themselves, by payment of a deposit for example, to have the survey done within the extension period), or (2) convert to either a short plat, long plat, or large lot subdivision by notifying Kittitas County of the desire to convert and by paying any additional fees necessary for the review of the application to which the matter is being converted. Such converting applicant shall be eligible to credit application fees previously paid towards an appropriate subdivision in accord with this code section. As an example, if the prior administrative segregation application was creating three lots, it would be appropriate for the applicant to credit the fee towards a short plat application and provide all necessary additional materials to make up a complete short plat application. Similarly, if the administrative segregation application had been to create 20 lots, the new application should be for a long plat and the applicant would need to submit all needed additional fees and materials, including SEPA review, to make a complete long plat application. Prior to one year from the passage of this ordinance the converting applicant must submit the remaining necessary materials (potentially including all SEPA documentation and including proof of preliminary approval and fees paid) to create a complete short plat, long plat, or large lot subdivision application. Upon payment of the additional fee and submission of the additional necessary materials the converting applicant shall receive a vesting date establishing the land use regulations that will govern the review of the converted application. Applications that neither finish nor complete the conversion process by the deadlines herein shall be expired and void. The County shall endeavor to send all undenied

administrative segregation applications individual notice of this regulation, but actual receipt of such notice is not necessary for the applicant to be bound by this regulation and the time limits contained herein. All applications by applicants who fail to request final administrative segregation approval or, for conversions to subdivision applications, fail to provide proof of amounts paid (including acceptance the subdivision fee credit) and preliminary acceptance, and provide additional materials within the time limits provided in this ordinance, are expired and void. Kittitas County shall provide notice to the Yakama Nation of all applications submitted for final approval no less than 14 days before such approval and shall consider comment from the Yakama Nation in each instance of final review. Nothing in this section exempts applicants for administrative segregations from any applicable laws including, but not limited to, the Washington Department of Ecology's Upper Kittitas Ground Water Rule, Chapter 173-539A WAC, the Kittitas County Zoning Ordinance, Title 17 KCC, the Kittitas County Critical Areas Ordinance, Title 15 KCC, Title 17A KCC, or the Kittitas County Shoreline Master Program. Nothing in this section shall be construed to expand or diminish the rights or obligations of persons receiving final approval of an administrative segregation application before September 18, 2012.

16.04.020 Exemptions.

The provisions of this title shall not apply to:

1. An alteration made for the purpose of adjusting boundary lines as defined in KCC 16.08.055.
2. Divisions made by testamentary provisions or the laws of descent;
3. Cemeteries and other burial plots while used for that purpose;
4. Any division of land for the purposes of installing or maintaining publicly owned facilities, utilities, emergency services, structures and uses, including but not limited to utility substations, pump stations, wells, watershed intake facilities, fire stations, or other utility and emergency services facilities of the same or similar nature, provided that such parcel shall not be required to meet the minimum lot size of the subject zoning district (KCC Title 17). The remaining parcel may be less in total area than the minimum lot size for the zone but if used for a building site must comply with all other county regulations (e.g. on site sewage systems, setbacks, etc.).

16.08.015 Repealed.

16.08.087 Division.

"Division" means the creation of a lot through short or long subdivision, large lot subdivision, use of intervening ownership, etc., but not including a boundary line adjustment.

16.08.118 Parcel creation.

"Parcel creation" means the creation of a lot through short or long subdivision, large lot subdivision, use of intervening ownership, etc. and including boundary line adjustments.

BE IT HEREBY FURTHER ORDAINED that any scrivener's errors later detected may be remedied by Information Services at the direction of the Prosecutor's Office without the need to bring such before the Board of County Commissioners for board action.

BE IT HEREBY FURTHER ORDAINED that this regulation shall take effect immediately upon signature by the Board of County Commissioners and shall apply equally to all pending applications for administrative segregation, regardless of date such applications were submitted to the County.

ADOPTED this 18th day of September 2012.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON

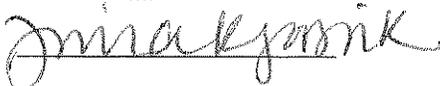

Alan A. Crankovich, Chairman


Obie O'Brien, Vice-Chairman


Paul Jewell, Commissioner

APPROVED AS TO FORM:





Julie A. Kjorsvik

Greg Zempel, Prosecuting Attorney
WSBA#19125

Jeff Watson

From: David@ConceptEng.com
Sent: Tuesday, June 04, 2013 1:21 PM
To: Jeff Watson
Subject: RE: Plum Creek Segs

Thanks.

On 4 Jun 2013 at 8:43, Jeff Watson wrote:

> Will do, might be a couple days...

>

> Jeffrey A. Watson

> Planner II

> Kittitas County Public Works<<http://www.co.kittitas.wa.us/publicworks/default.asp>>/Community Development Services<<http://www.co.kittitas.wa.us/cds/default.asp>>

> 411 North Ruby

> Ellensburg WA 98926

> jeff.watson@co.kittitas.wa.us<<mailto:jeff.watson@co.kittitas.wa.us>>

> 509-933-8274

>

> From: David@ConceptEng.com [<mailto:David@ConceptEng.com>]

> Sent: Tuesday, June 04, 2013 8:42 AM

> To: Jeff Watson

> Subject: Plum Creek Segs

>

> Hi Jeff,

> I need to know what is the review status of the segs submitted on 06/21/2012. The file #s:

>

> SG-12-00002 / Anselmo Land Co.

> SG-12-00003 / Orphan Girl Land Co.

> SG-12-00004 / Neversweat Land Co.

>

> I don't recall ever getting a letter from you on these. Can you send me a letter regarding the review status so I can forward on to my client please.

>

> Thanks,

> Dave

>

>

>

>

> David L. Hill, PLS

> Concept Engineering, Inc.

> 455 Rainier Boulevard North

> Issaquah, WA 98027

> (425) 392-8055

> (425) 392-0108 - Fax

>

>

>

> Notice: All email sent to this address will be received by the Kittitas County

> email system and may be subject to public disclosure under Chapter 42.56

> RCW and to archiving and review.

>

> message id: 38eb45916c6dcbdac24bb8719d004a14

>

David L. Hill, PLS
Concept Engineering, Inc.
455 Rainier Boulevard North
Issaquah, WA 98027
(425) 392-8055
(425) 392-0108 - Fax

Jeff Watson

From: David@ConceptEng.com
Sent: Tuesday, June 04, 2013 8:42 AM
To: Jeff Watson
Subject: Plum Creek Segs

Hi Jeff,

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SG-12-00002 / Anselmo Land Co.
SG-12-00003 / Orphan Girl Land Co.
SG-12-00004 / Neversweat Land Co.

I don't recall ever getting a letter from you on these. Can you send me a letter regarding the review status so I can forward on to my client please.

Thanks,
Dave

David L. Hill, PLS
Concept Engineering, Inc.
455 Rainier Boulevard North
Issaquah, WA 98027
(425) 392-8055
(425) 392-0108 - Fax

Jeff Watson

From: David@ConceptEng.com
Sent: Wednesday, January 02, 2013 2:45 PM
To: Jeff Watson
Subject: RE: Plum Creek applications

Thanks for the reply Jeff.
Dave

On 2 Jan 2013 at 14:17, Jeff Watson wrote:

> I'm back, I was in a use it or lose vacation situation at the end of the year... I am putting all of this segregation stuff together but can basically state that the action taken by the Board earlier this year which repealed admin segs effectively killed items 02, 03, and 04 below... 06 was an Intervening Ownership and was not affected. Doc was going to draft a letter for Plum Creek but we have been buried with the logistics of the compliance effort and his injury. We have a new planner on board and he is expected back full time within the next couple of weeks... we're getting there.

>

> Jeffrey A. Watson

> Planner II

> Kittitas County Public Works<<http://www.co.kittitas.wa.us/publicworks/default.asp>>/Community Development Services<<http://www.co.kittitas.wa.us/cds/default.asp>>

> 411 North Ruby

> Ellensburg WA 98926

> jeff.watson@co.kittitas.wa.us<<mailto:jeff.watson@co.kittitas.wa.us>>

> 509-933-8274

>

> From: David@ConceptEng.com [<mailto:David@ConceptEng.com>]

> Sent: Wednesday, January 02, 2013 1:53 PM

> To: Jeff Watson

> Cc: david.sprinkle@plumcreek.com; kari.blanton@plumcreek.com

> Subject: Plum Creek applications

>

> Hi Jeff,

> I hope your holidays were good.

> I would like to get a status update on the Plum Creek administrative segregation applications submitted last year. I don't remember receiving letters in the mail and can't find any email record from you on these files. The application permit #s are as follows:

>

> SG-12-00002 / Anselmo Land Co.

> SG-12-00003 / Orphan Girl Land Co.

> SG-12-00004 / Neversweat Land Co.

> These three were submitted 6/21/2012.

>

> SG-12-00006 / Plum Creek Timberlands LP

> This one was submitted 9/07/2012.

>

> Please shoot me an email that I can pass along to my client.

>

> Thank you Jeff.

> Sincerely,

> Dave

>

>

>

>
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>
>
>
>
> David L. Hill, PLS
> Concept Engineering, Inc.
> 455 Rainier Boulevard North
> Issaquah, WA 98027
> (425) 392-8055
> (425) 392-1080 - Fax
>
>
> _____
> Notice: All email sent to this address will be received by the Kittitas County
> email system and may be subject to public disclosure under Chapter 42.56
> RCW and to archiving and review.
>
> message id: 38eb45916c6dcbdac24bb8719d004a14
>

David L. Hill, PLS
Concept Engineering, Inc.
455 Rainier Boulevard North
Issaquah, WA 98027
(425) 392-8055
(425) 392-1080 - Fax

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Cc: david.sprinkle@plumcreek.com; kari.blanton@plumcreek.com
Subject: Plum Creek applications

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SG-12-00004 / Neversweat Land Co.

These three were submitted 6/21/2012.

SG-12-00006 / Plum Creek Timberlands LP

This one was submitted 9/07/2012.

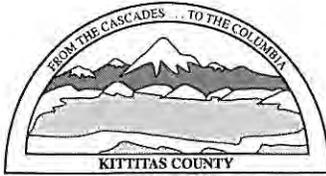
Please shoot me an email that I can pass along to my client.

Thank you Jeff.

Sincerely,

Dave

David L. Hill, PLS
Concept Engineering, Inc.
455 Rainier Boulevard North
Issaquah, WA 98027
(425) 392-8055
(425) 392-1080 - Fax



KITTITAS COUNTY

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Jeff Watson, Community Development Services
FROM: Christina Wollman, Planner II *CW*
DATE: August 21, 2012
SUBJECT: Neversweat Land SG-12-00004

The Public Works Department has reviewed the Request for Parcel Segregation Application. In order to ensure that it meets current Kittitas County Road Standards, the applicant needs to provide the following prior to final approval:

1. The applicant shall contact the City of Cle Elum to determine if any improvements are required on the portion of private road within the recently expanded city limits. Please provide documentation of this conversation prior to final approval.
2. Easements for cul-de-sacs shall be shown on the final survey where road improvements are expected to end if the property is developed in the future. Please contact me if you would like to confirm those locations meet road standards requirements prior to recording the final survey.

The applicant needs to be aware of the following private road requirements:

1. Private Road Certification: 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.
2. Private Road Improvements: Access shall be constructed as a Low-Density Private Road. See Kittitas County Road Standards, 9/6/05 edition.
 - a. Access easements shall be a minimum of 60' 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. The surface requirement is for a minimum gravel surface depth of 6".
 - d. Maximum grade is 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.

Page 1 of 2

- 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 of county road.
 - k. A paved apron shall be constructed at the intersection of the proposed private intersection and the county road right of way.
3. Cul-de-Sac: A cul-de-sac turn-around having an outside right-of-way easement diameter of at least 110 feet shall be constructed at the end of all 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 2009 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.
4. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
5. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
6. Access Permit: 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.
7. Addressing: 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.
8. Fire Protection: Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
9. Mailbox Placement: Mailboxes must be approved by U.S. Postal Service. Mailbox locations are site specific. Contact your local Post Office for location and design standards before beginning construction.

Jeff Watson

From: Jeff Watson
Sent: Wednesday, August 08, 2012 11:34 AM
To: Christina Wollman; Brenda Larsen; Jan Ollivier; Holly Duncan; Joe Gilbert
Subject: SG-12-00004 Neversweat Land

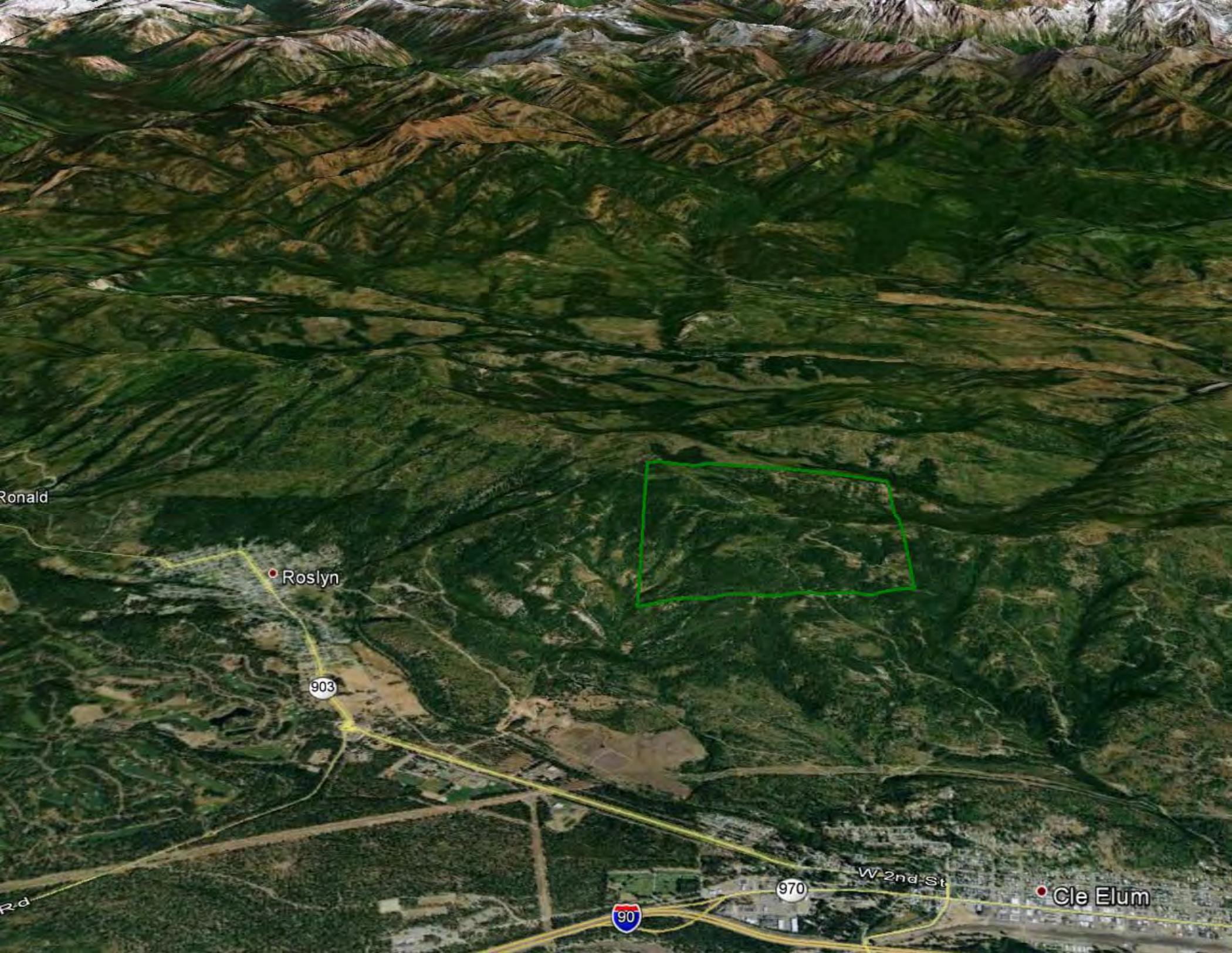
[SG-12-00004 Neversweat Land](#)

Christina, Holly, and Brenda,

Could you please review this application for comment. Control Click on the hyperlink above (or go to the attachment tab in EDEN).

Thanks,

Jeffrey A. Watson
Planner II
[Kittitas County Public Works/Community Development Services](#)
411 North Ruby
Ellensburg WA 98926
jeff.watson@co.kittitas.wa.us
509-933-8274



Ronald

• Roslyn

903

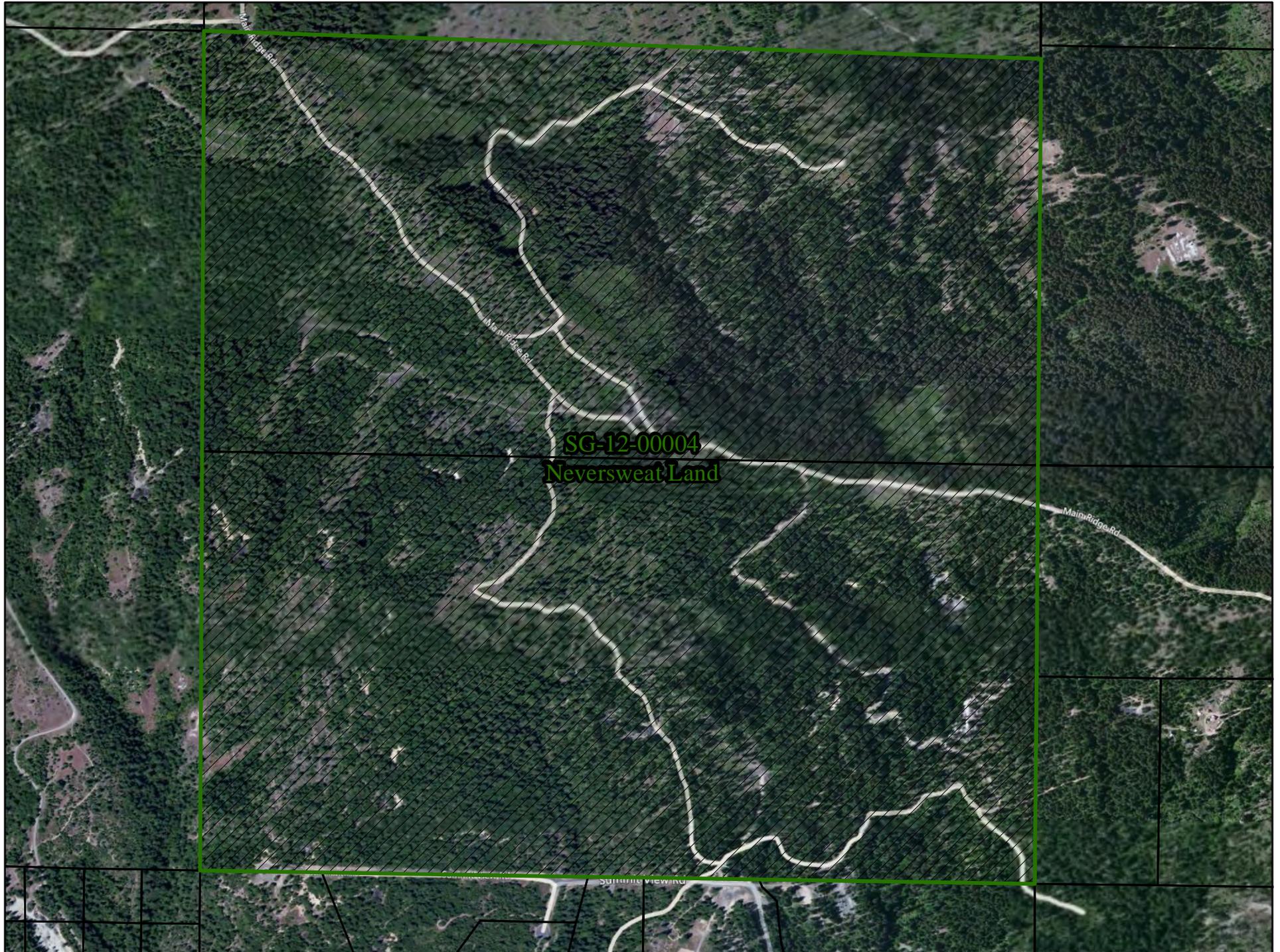
970

W 2nd St

• Cle Elum

90

Rd

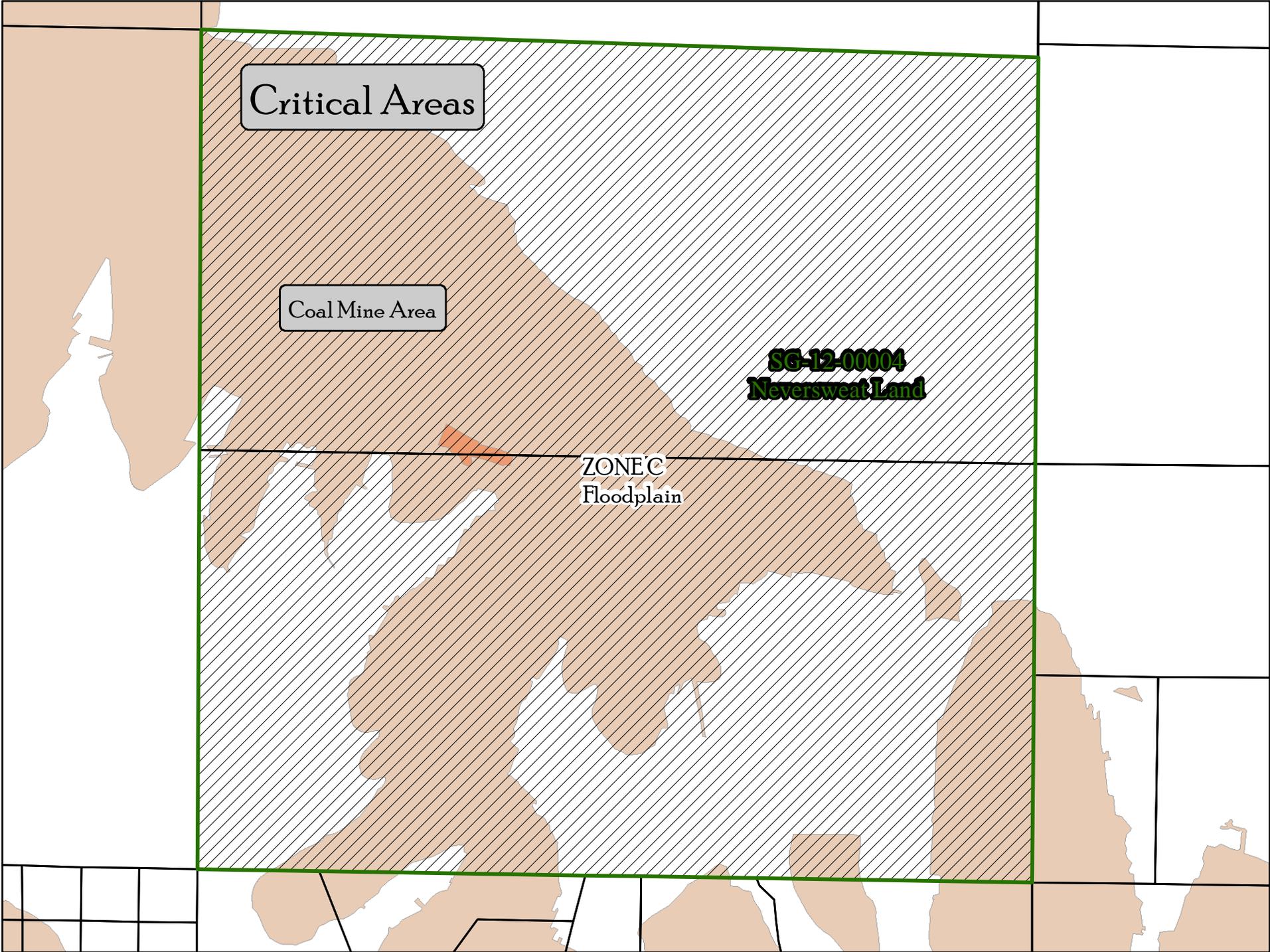


Critical Areas

Coal Mine Area

SG-12-00004
Neversweat Land

ZONE C
Floodplain



Critical Areas

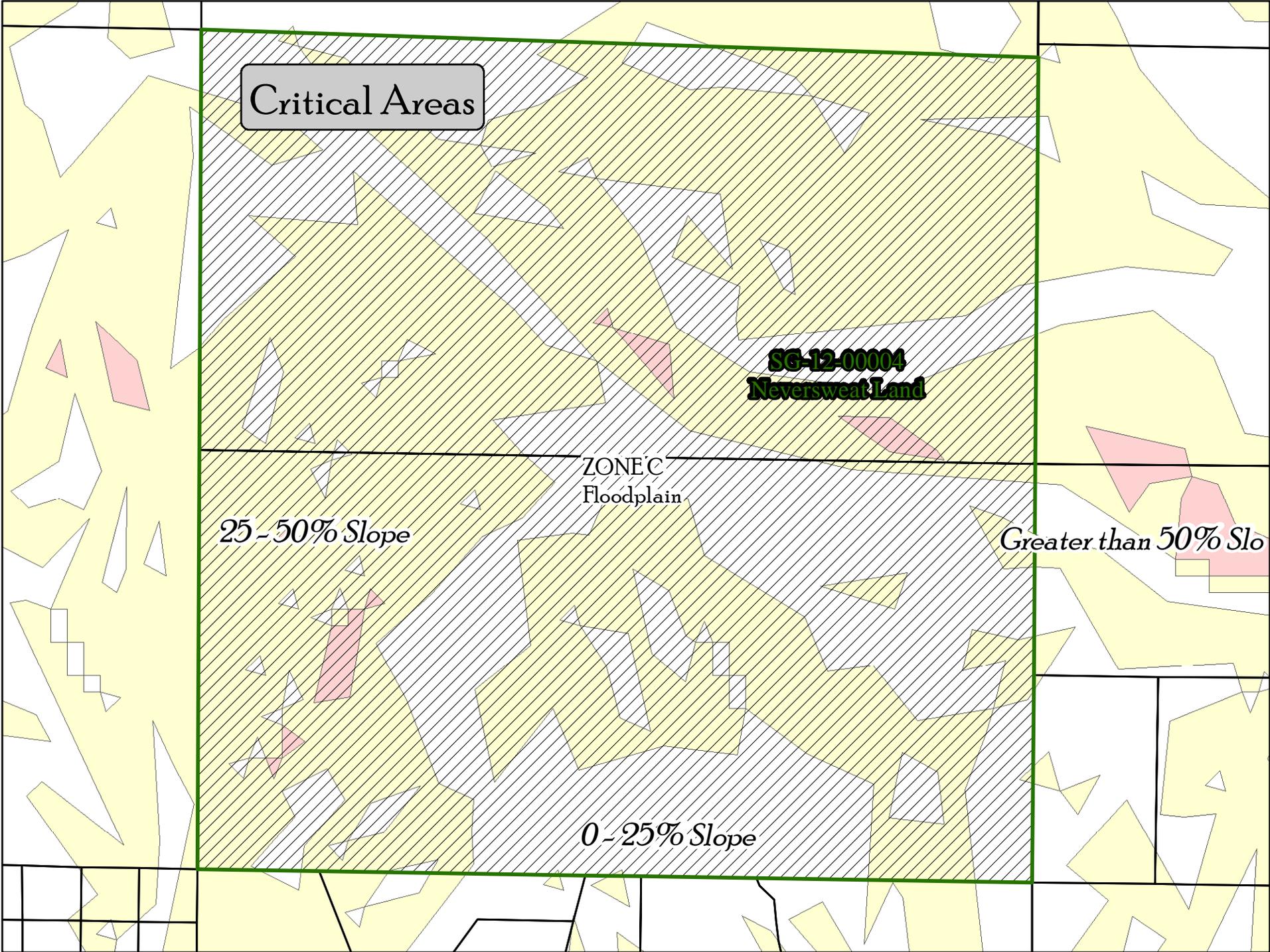
SG-12-00004
Neversweat Land

ZONE C
Floodplain

25 - 50% Slope

Greater than 50% Slo

0 - 25% Slope



Critical Areas Checklist

Wednesday, August 08, 2012

Application File Number



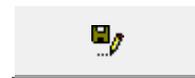
Planner

Is SEPA required Yes No



Is Parcel History required? Yes No

What is the Zoning?



Is Project inside a Fire District? Yes No

If so, which one?



Is the project inside an Irrigation District? Yes No

If so, which one?

Does project have Irrigation Approval? Yes No

Which School District?

Is the project inside a UGA? Yes No

If so which one?

Is there FIRM floodplain on the project's parcel? Yes No

If so which zone?

What is the FIRM Panel Number?

Is the Project parcel in the Floodway? Yes No

Does the project parcel contain a shoreline of the State? Yes No

If so what is the Water Body?

What is the designation?

Does the project parcel contain a wetland? Yes No

If so what type is it?

Does the project parcel intersect a PHS designation? Yes No

If so, what is the Site Name?

Is there hazardous slope in the project parcel? Yes No

If so, what type?

Does the project parcel abut a DOT road? Yes No

If so, which one?

Does the project parcel abut a Forest Service road? Yes No

If so, which one?

Does the project parcel intersect an Airport overlay zone ? Yes No

If so, which Zone is it in?

Does the project parcel intersect a BPA right of way or line? Yes No

If so, which one?

Is the project parcel in or near a Mineral Resource Land? Yes No

If so, which one?

Is the project parcel in or near a DNR Landslide area? Yes No

If so, which one?

Is the project parcel in or near a Coal Mine area? Yes No

What is the Seismic Designation?

Does the Project Application have a Title Report Attached?

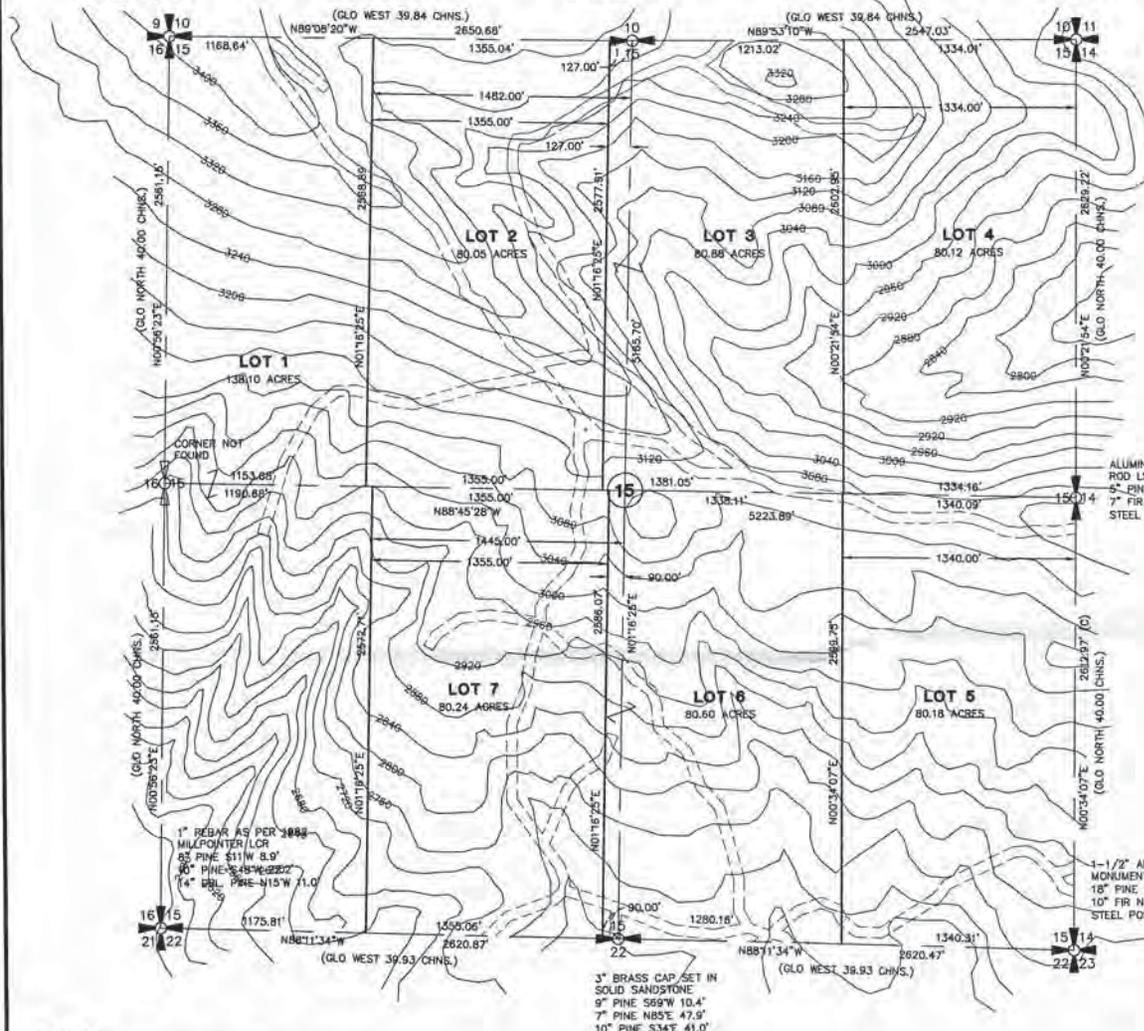
Does the Project Application have a Recorded Survey Attached?

Have the Current Years Taxes been paid?

3" BRASS CAPPED G.I.P.
6" FIR N66°E 18.2'
7" PINE S44°W 16.3'
6" FIR N59°W 27.7'

3" BRASS CAPPED G.I.P.
6" FIR N01°W 7.0'
12" PINE S23°E 6.1'
18" FIR N50°W 16.8'

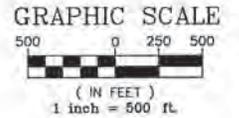
3/4" BRASS CAPPED G.I.P.
9" W. FIR S38°W 59.5'
7" FIR N17°E 31.9'
18" FIR S02°W 78.7'



NOTE:
SECTION BREAKDOWN OBTAINED
FROM RECORD OF SURVEYS RECORDED
IN BOOK 23 OF SURVEYS, PAGE 112 AND
BOOK 28 OF SURVEYS, PAGE 216
UNDER KITTITAS COUNTY FILE NOS.
199804060003 AND 200110290076

MERIDIAN

LAMBERT GRID NORTH WASHINGTON STATE COORDINATE SYSTEM OF NAD 1983/81
- SOUTH ZONE PER RECORD OF SURVEY, BOOK 23, PAGE 112, RECORDS OF
KITTITAS COUNTY, WASHINGTON.



OLD LEGAL DESCRIPTION

SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, STATE OF WASHINGTON.

NEW LEGAL DESCRIPTIONS

LOT 1

THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN, EXCEPT THE EAST 1482.00 FEET THEREOF;
TOGETHER WITH THE SOUTHWEST QUARTER OF SAID SECTION 15, EXCEPT THE EAST 1445.00 FEET THEREOF;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 2

THE WEST 1355.00 FEET OF THE EAST 1482.00 FEET OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 3

THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN, EXCEPT THE EAST 1334.00 FEET THEREOF;

TOGETHER WITH THE EAST 127.00 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 15;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 4

THE EAST 1334.00 FEET NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 5

THE EAST 1340.00 FEET SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 6

THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN, EXCEPT THE EAST 1340.00 FEET THEREOF;

TOGETHER WITH THE EAST 80.00 FEET OF THE SOUTHWEST QUARTER OF SAID SECTION 15;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 7

THE WEST 1355.00 FEET OF THE EAST 1445.00 FEET OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

SEGREGATION NOTE

THESE SEGREGATIONS ARE PREPARED IN CONFORMANCE WITH THE PROVISIONS OF KITTITAS COUNTY SUBDIVISION CODE, SECTION 16.08.015.



PRELIMINARY

SEC. 15, T. 20 N, R. 15 E, W.M.

RECORDER'S CERTIFICATE

Filed for record this ___ day of ___ 20___ at ___ M
in book ___ of ___ at page ___ at the request of
DAVID L. HILL

Mgr. _____ Supt. of Records _____

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me
or under my direction in conformance with the
requirements of the Survey Recording Act at the
request of NEVERSWEAT LAND CO., LLC in JUN, 2012

Signature _____ Certificate No. 28101



**K.C.C. 16.08.015
ADMINISTRATIVE
SEGREGATIONS
FOR
NEVERSWEAT LAND CO., LLC**



CONCEPT ENGINEERING, INC.

455 Rainier, Boulevard North
Issaquah, Washington 98027
(425) 392-8055 FAX (425) 392-0108

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DWN. BY	DBM	DATE	6/1/12	JOB NO.	32049
CHKD. BY		SCALE	1" = 500'	SHEET	1 OF 1



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926
CDS@CO.KITTITAS.WA.US
Office (509) 962-7506
Fax (509) 962-7682

"Building Partnerships – Building Communities"

ADMINISTRATIVE PARCEL SEGREGATION

(Segregation of lots 20 acres or larger, as defined by KCC 16.08.015)

Please type or print clearly in ink. Attach additional sheets as necessary. Pursuant to KCC 15A.03.040, a complete application is determined within 28 days of receipt of the application submittal packet and fee. The following items must be attached to the application packet.

REQUIRED ATTACHMENTS

Note: a separate application must be filed for each segregation request.

- Unified Site Plan of existing lot lines and proposed lot lines with distances of all existing structures, access points, well heads and septic drainfields.
- Signatures of all property owners.
- A narrative project description with at minimum the following information: project size, location, water supply, sewage disposal and all qualitative features of the proposal; include every element of the proposal in the description.
- SEPA Checklist (if not exempt per KCC 15.04 or WAC 197-11-800)
 - o Please pick up a copy of the SEPA Checklist if required
- For **preliminary approval**, please submit a sketch containing the following elements.
 1. Identify the boundary of the segregation:
 - a. The boundary lines and dimensions
 - b. Sub-Parcel identification (i.e. Parcels A, B, C or Lots 1, 2, 3, etc.)
 2. Show all existing buildings, well heads and drain fields and indicate their distances from the original exterior property lines AND from the proposed property lines. If you have a copy of an original survey, please attach. A new survey will not be needed until preliminary approval has been granted.
 3. Provide legal descriptions for each proposed tax parcel and identify by letter or number use on the map. Example: Parcel
 4. A – The North 75 feet of the West 400 feet of the Southwest quarter of the Southwest quarter of the Southwest quarter of Section 02; Township 20 North; Range 16 East; W.M.; Except the West 30 feet thereof for roads.
- For **final approval** (not required for initial application): submit a recorded survey with legal description.

APPLICATION FEES:

630.00 Kittitas County Community Development Services (KCCDS)
115.00 Kittitas County Department of Public Works
130.00 Kittitas County Fire Marshal

\$875.00 Total fees due for this application (One check made payable to KCCDS)

FOR STAFF USE ONLY

Application Received By (CDS Staff Signature): SM

DATE: 6/21/12

RECEIPT # 14473

RECEIVED

JUN 21 2012

KITTITAS COUNTY
CDS

DATE STAMP IN BOX

OPTIONAL ATTACHMENTS

- An original survey of the current lot lines. (Please do not submit a new survey of the proposed adjusted or new parcels until after preliminary approval has been issued.)
- Assessor COMPAS Information about the parcels.

GENERAL APPLICATION INFORMATION



1. Name, mailing address and day phone of land owner(s) of record:

Landowner(s) signature(s) required on application form.

Name: Neversweat Land Company, LLC
Mailing Address: 999 Third Ave., Suite 4300
City/State/ZIP: Seattle, WA 98104
Day Time Phone: 206-467-3650
Email Address: david.sprinkle@plumcreek.com

2. Name, mailing address and day phone of authorized agent, if different from landowner of record:

If an authorized agent is indicated, then the authorized agent's signature is required for application submittal.

Agent Name: David L. Hill, PLS/Concept Engineering, Inc.
Mailing Address: 455 Rainier Boulevard North
City/State/ZIP: Issaquah, WA 98027
Day Time Phone: 425-392-8055
Email Address: David@ConceptEng.com

3. Name, mailing address and day phone of other contact person

If different than land owner or authorized agent.

Name: N/a
Mailing Address: _____
City/State/ZIP: _____
Day Time Phone: _____
Email Address: _____

4. Street address of property:

Address: Tax Parcel No. 269434
City/State/ZIP: Kittitas County, WA 98941

5. Legal description of property (attach additional sheets as necessary):

Section 15, Township 20 North, Range 15 East, W.M. Kittitas County, WA

6. Property size: Approx. 620.17 acres +/- (acres)

7. Land Use Information: Zoning: Commercial Forest (CF) Comp Plan Land Use Designation: Commercial Forest (CF)



8. Existing and Proposed Lot Information:

Original Parcel Number & Acreage
(1 parcel number per application)
TPN 269434 - 620.17 acres +/-

New Acreage (1 parcel per line)
(Survey Vol. ____, Pg ____)
LOT 1 - 138.10 AC
LOT 2 - 80.05 AC.
LOT 3 - 80.88 AC.
LOT 4 - 80.12 AC.
LOT 5 - 80.18 AC.
LOT 6 - 80.60 AC.
LOT 7 - 80.24 AC

APPLICANT IS: OWNER PURCHASER LESSEE OTHER

AUTHORIZATION

9. Application is hereby made for permit(s) to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to enter the above-described location to inspect the proposed and or completed work.

All correspondence and notices will be transmitted to the Land Owner of Record and copies sent to the authorized agent or contact person, as applicable.

Signature of Authorized Agent:

Signature of Land Owner of Record

(REQUIRED if indicated on application)

(Required for application submittal):

X Donald L. Hill (date) 6-21-12

X [Signature] (date) 6/20/12
By: Donald J Sprinkle Asst Secy

THIS FORM MUST BE SIGNED BY COMMUNITY DEVELOPMENT SERVICES AND THE TREASURER'S OFFICE PRIOR TO SUBMITTAL TO THE ASSESSOR'S OFFICE.

TREASURER'S OFFICE REVIEW

Tax Status: _____ By: _____ Date: _____

COMMUNITY DEVELOPMENT SERVICES REVIEW

() This Administrative Segregation meets the requirements of Kittitas County Code (Ch. 16.08.015).

Deed Recording Vol. _____ Page _____ Date _____

Card #: _____

Parcel Creation Date: _____

Last Split Date: _____

Current Zoning District: _____

Preliminary Approval Date: _____

By: _____

Final Approval Date: _____

By: _____



CONCEPT ENGINEERING, INC.

455 Rainier Boulevard North
Issaquah, Washington 98027
(425) 392-8055 Fax: (425) 392-0108

June 21, 2012



Mr. Dan Valoff
Kittitas County
Community Development Services
411 North Ruby Street, Suite 2
Ellensburg, WA 98926

Re: Project Narrative
K.C.C Ch.. 16.06 Administrative Segregation Application
Kittitas County tax parcel 269434, located in Sec 15-20-15
Concept Job No. 32049

Dear Mr. Valoff;

NEVERSWEAT LAND COMPANY., LLC, owner of Kittitas County tax parcel 269434 wishes to create seven 80+ acre parcels out of the above mentioned 620.17+/- acre tax parcel by means of the Kittitas County Code Chapter 16.06 Administrative Segregation. This site is located in Section 15, Township 20 North, Range 15 East, W.M., Kittitas County near Roslyn. The property is vacant land used for forest product production and contains no structures, wells or septic drainfields.

The seven new parcels meet or exceed the minimum lot size for the Commercial Forest (CF) zone of 80 acres and are compliant with the current county code. The proposed lot layout will best suit the existing road network and topographical features of the land. The terrain is mountainous with moderate slope descending in a general southwesterly direction. The water supply and septic disposal will be by private well and septic drainfield per Kittitas County health department requirements.

Any future building sites will be considered at the building permit stage. No single-family home development of the property is planned by the current owner at this time.

Sincerely,

CONCEPT ENGINEERING, Inc.

David L. Hill, PLS
Survey Manager

Tax Parcel No. 269434

RECEIVED
JUN 21 2012
KITITAS COUNTY
CDS



NEW LOT LEGAL DESCRIPTIONS
SECTION 15, TOWNSHIP 20 N., RANGE 15 E., W.M.

LOT 1

THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN, EXCEPT THE EAST 1482.00 FEET THEREOF;

TOGETHER WITH THE SOUTHWEST QUARTER OF SAID SECTION 15, EXCEPT THE EAST 1445.00 FEET THEREOF;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.



LOT 2

THE WEST 1355.00 FEET OF THE EAST 1482.00 FEET OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 3

THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN, EXCEPT THE EAST 1334.00 FEET THEREOF;

TOGETHER WITH THE EAST 127.00 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 15;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 4

THE EAST 1334.00 FEET NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 5

THE EAST 1340.00 FEET SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 6

THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN, EXCEPT THE EAST 1340.00 FEET THEREOF;

TOGETHER WITH THE EAST 90.00 FEET OF THE SOUTHWEST QUARTER OF SAID SECTION 15;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.

LOT 7

THE WEST 1355.00 FEET OF THE EAST 1445.00 FEET OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 20 NORTH, RANGE 15 EAST, WILLAMETTE MERIDIAN;

SITUATE IN THE COUNTY OF KITTITAS AND STATE OF WASHINGTON.



LOT CLOSURES
SEC 15-20-15

Lot name: LOT 1

	North: 687911.5455	East: 1525252.7883
Line	Course: N 00-56-23 E	Length: 2561.15
	North: 690472.3510	East: 1525294.7925
Line	Course: N 00-56-23 E	Length: 2561.15
	North: 693033.1566	East: 1525336.7967
Line	Course: S 89-08-20 E	Length: 1168.64
	North: 693015.5935	East: 1526505.3047
Line	Course: S 01-16-25 W	Length: 2568.89
	North: 690447.3381	East: 1526448.2063
Line	Course: S 88-45-28 E	Length: 37.00
	North: 690446.5360	East: 1526485.1976
Line	Course: S 01-16-25 W	Length: 2572.71
	North: 687874.4616	East: 1526428.0143
Line	Course: N 88-11-34 W	Length: 1175.81
	North: 687911.5428	East: 1525252.7891

Perimeter: 12645.35 Area: 6,015,553 sq.ft. 138.10 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0028 Course: S 16-35-52 E
Error North: -0.00271 East: 0.00081
Precision 1: 4,466,460.91



LOT CLOSURES
SEC 15-20-15

Lot name: LOT 2

North: 690447.3378	East: 1526448.2053
Line Course: N 01-16-25 E	Length: 2568.89
North: 693015.5932	East: 1526505.3037
Line Course: S 89-08-20 E	Length: 1355.04
North: 692995.2287	East: 1527860.1907
Line Course: S 01-16-25 W	Length: 2577.91
North: 690417.9556	East: 1527802.8918
Line Course: N 88-45-28 W	Length: 1355.00
North: 690447.3309	East: 1526448.2102

Perimeter: 7856.83 Area: 3,486,955 sq.ft. 80.05 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0085 Course: S 35-26-36 E
Error North: -0.00693 East: 0.00493
Precision 1: 923,595.44



LOT CLOSURES
SEC 15-20-15

Lot name: LOT 3

	North: 690417.9598	East: 1527802.8870
Line	Course: N 01-16-25 E	Length: 2577.91
	North: 692995.2329	East: 1527860.1859
Line	Course: S 89-08-20 E	Length: 127.00
	North: 692993.3243	East: 1527987.1715
Line	Course: S 89-53-10 E	Length: 1213.02
	North: 692990.9131	East: 1529200.1891
Line	Course: S 00-21-54 W	Length: 2602.95
	North: 690388.0159	East: 1529183.6073
Line	Course: N 88-45-28 W	Length: 1381.05
	North: 690417.9560	East: 1527802.8819

Perimeter: 7901.92 Area: 3,523,080 sq.ft. 80.88 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0064 Course: S 53-14-00 W
Error North: -0.00383 East: -0.00513
Precision 1: 1,233,613.28



LOT CLOSURES
SEC 15-20-15

Lot name: LOT 4

North: 690388.0170	East: 1529183.6103
Line Course: N 00-21-54 E	Length: 2602.95
North: 692990.9142	East: 1529200.1921
Line Course: S 89-53-10 E	Length: 1334.01
North: 692988.2626	East: 1530534.1995
Line Course: S 00-21-54 W	Length: 2629.22
North: 690359.0959	East: 1530517.4503
Line Course: N 88-45-28 W	Length: 1334.16
North: 690388.0194	East: 1529183.6038

Perimeter: 7900.33 Area: 3,489,854 sq.ft. 80.12 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0068 Course: N 69-52-58 W
Error North: 0.00236 East: -0.00643
Precision 1: 1,153,587.29



LOT CLOSURES
SEC 15-20-15

Lot name: LOT 5

North: 687788.5198	East: 1529151.8748
Line Course: N 00-34-07 E	Length: 2599.75
North: 690388.1418	East: 1529177.6746
Line Course: S 88-45-28 E	Length: 1340.09
North: 690359.0898	East: 1530517.4497
Line Course: S 00-34-07 W	Length: 2612.97
North: 687746.2484	East: 1530491.5186
Line Course: N 88-11-34 W	Length: 1340.31
North: 687788.5174	East: 1529151.8753

Perimeter: 7893.13 Area: 3,492,524 sq.ft. 80.18 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0024 Course: S 12-44-37 E

Error North: -0.00237 East: 0.00054

Precision 1: 3,251,092.59



LOT CLOSURES
SEC 15-20-15

Lot name: LOT 6

North: 687831.7302	East: 1527782.3956
Line Course: N 01-16-25 E	Length: 2586.07
North: 690417.1613	East: 1527839.8758
Line Course: S 88-45-28 E	Length: 1338.11
North: 690388.1522	East: 1529177.6713
Line Course: S 00-34-07 W	Length: 2599.75
North: 687788.5303	East: 1529151.8715
Line Course: N 88-11-34 W	Length: 1280.16
North: 687828.9023	East: 1527872.3482
Line Course: N 88-11-34 W	Length: 90.00
North: 687831.7406	East: 1527782.3930

Perimeter: 7894.09 Area: 3,510,847 sq.ft. 80.60 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0107 Course: N 13-44-16 W

Error North: 0.01042 East: -0.00255

Precision 1: 736,124.38



LOT CLOSURES
SEC 15-20-15

Lot name: LOT 7

North: 687874.4644	East: 1526428.0108
Line Course: N 01-16-25 E	Length: 2572.71
North: 690446.5388	East: 1526485.1941
Line Course: S 88-45-28 E	Length: 1355.00
North: 690417.1635	East: 1527839.8757
Line Course: S 01-16-25 W	Length: 2586.07
North: 687831.7324	East: 1527782.3954
Line Course: N 88-11-34 W	Length: 1355.06
North: 687874.4666	East: 1526428.0094

Perimeter: 7868.83 Area: 3,495,069 sq.ft. 80.24 acres

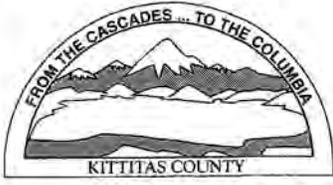
Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0026 Course: N 32-06-22 W

Error North: 0.00221 East: -0.00139

Precision 1: 3,013,105.87





KITTITAS COUNTY PERMIT CENTER
411 N. RUBY STREET, ELLENSBURG, WA 98926

RECEIPT NO.: 00014473

COMMUNITY DEVELOPMENT SERVICES
(509) 962-7506

PUBLIC HEALTH DEPARTMENT
(509) 962-7698

DEPARTMENT OF PUBLIC WORKS
(509) 962-7523

Account name: 025667

Date: 6/21/2012

Applicant: NEVERSWEAT LAND COMPANY, LLC

Type: check # 4500001776

<u>Permit Number</u>	<u>Fee Description</u>	<u>Amount</u>
SG-12-00004	ADMINISTRATIVE SEGREGATION	630.00
SG-12-00004	FM ADMINISTRATIVE SEGREGATION	130.00
SG-12-00004	PUBLIC WORKS ADMIN SEG	115.00
	Total:	875.00