

Mylar Routing Form

Project Name: CL-11-00001 Allwest LLC

Planner: Lindsey Ozbolt

Doc signed on 6/10/13

Community Development Services

Date Received: 4/4/2013
Start Routing: 4/19/13

Comments:

*• emailed Chris Cruse on 4/12/13 requesting adjainer names on 1st page final mylar, submit certificate of title, lot closures & CC&RS. (all)
• received revised mylar w/ adjoiners, title report & lot closures on 4/17/13 (all)
→ waiting for CC&RS
↳ received CC&RS on 5/24/13*

Department of Public Works

Date Received: 5/24/13
Back to CDS: 6/5/13
By: _____

Comments:



Signed 6/5/13

RECEIVED

MAY 24 2013

KITTITAS COUNTY
DEPT OF PUBLIC WORKS

Kittitas County Public Health Department

Date Received: 5/8/13
Back to CDS: 5/24/13
By: JRL

Comments:

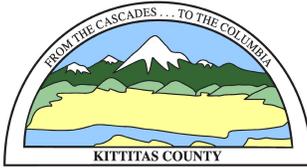
Signed 5/24/13

Treasurers Office

Date Received: 6/10/13
Back to CDS: 6/10/13
By: _____

Comments:

Signed 6/10/13



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

AGENDA STAFF REPORT

AGENDA DATE: June 18, 2013

ACTION REQUESTED: Signature of Final Mylars granting final approval to the Allwest 16-lot Performance Based Cluster Plat (CL-11-00001)

BACKGROUND: Allwest LLC, landowner, submitted an application for a 16-lot Performance Based Cluster Plat on approximately 50.58 acres of land that was zoned Agriculture-3 at the time of preliminary plat approval.

The property is located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA 98926 in a portion of Section 07, T17N, R18E, W.M., in Kittitas County. Assessor's map number 17-18-07040-0019.

INTERACTION: On February 22, 2012 the Board of County Commissioners gave preliminary plat approval to the Allwest 16-lot Performance Based Cluster Plat (CL-11-00001) through the signing of Resolution No. 2012-025. The applicant has met all the conditions as set forth in the resolution and KCC 16.09. Final mylars are before the Board for final approval.

RECOMMENDATION: Signature of the Chair on mylars for final plat approval of the Allwest 16-lot Performance Based Cluster Plat (CL-11-00001).

HANDLING Return signed mylars to staff planner for transmittal to authorized agent for recording.

ATTACHMENTS: None
Final Mylars will be available for Chair signature after the Agenda session.

LEAD STAFF: Lindsey Ozbolt, Staff Planner

TREASURER'S USE ONLY	RECORDER'S USE ONLY
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After recording return to:

JEFF SLOTHOWER
Lathrop, Winbauer, Harrel,
Slothower & Denison, L.L.P.
PO Box 1088
Ellensburg, WA 98926

DOCUMENT TITLE: DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF COTTAGE FARMS, A RESIDENTIAL COMMUNITY

DECLARANT: ALLWEST, LLC, a Washington Limited Liability Company

LEGAL DESCRIPTION:

ASSESSOR'S TAX PARCEL NO.:

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS OF
COTTAGE FARMS, A RESIDENTIAL COMMUNITY

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF COTTAGE FARMS, A RESIDENTIAL COMMUNITY (hereinafter referred to as the "Declaration") is made this ____ day of _____, 2013, by ALLWEST, LLC, a Washington Limited Liability Company (hereinafter referred to as the "Declarant").

A. WHEREAS, the Declarant owns fee title to the real property located in Kittitas County, Washington and legally described as: Lots 1-17 of the Allwest LLC Plat recorded in Book ___ of Plats at Page _____, under Auditor's File No. _____, records of Kittitas County, State of Washington, being a portion of Section 7, Township 17 North, Range 18 East, W.M (hereinafter referred to individually as a "Lot" or collectively as "The Allwest Plat" or "Plat"); and

B. WHEREAS, Lots 1,2,3 and 4 having elected to utilize Susan Road as access as a result of certain election to use Easement recorded on _____, 2013 and recorded under Kittitas County Auditor's File No. _____ and as a result, Lots 1, 2, 3 and 4 are also bound by those certain Covenants, Conditions & Restrictions recorded under Auditor's File No. 2003_____ (hereinafter the "2003 Declaration); and

Jeff Slothower
Lathrop, Winbauer, Harrel, Slothower & Denison L.L.P.
Attorneys at Law
PO Box 1088/201 West 7th Avenue
Ellensburg, WA 98926
Direct Fax No. (509) 343-3206
Tel (509) 925-6916

C. WHEREAS, it is the intent of the Declarant that certain qualities and assets of the Property be preserved, and it is desirable to protect the present and future property values and the enjoyment thereof and, to that end, the Declarant desire a means to preserve and protect the intended character of the Property.

NOW, THEREFORE,

Declarant declares that all of the Lots, as defined in paragraph 1.4 below, shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and reservations, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property. These covenants, conditions, restrictions and reservations shall run with the Lots and shall be binding upon all persons or entities now having or hereafter acquiring any right, title, or interest in and to the Lots, or any of them, shall be binding upon their respective heirs, successors, and assigns, and shall inure to the benefit of each individual and/or entity having or hereafter acquiring any right, title, or interest in and to the Lots, or any of them, and their heirs, successors, and assigns.

I. DEFINITIONS

1.1 The word “Declarant” shall mean Allwest LLC, a Washington Limited Liability Company, its successors and/or assigns.

1.2 The phrase “Development Period” shall mean the period of time during which the property shall be developed by Allwest, LLC, which period shall terminate when Declarant sells the last of Lots 1 to 16.

1.3 The Phrase “KRD” shall mean the Kittitas Reclamation District and its successors and assigns.

1.4 The word(s) “Lot(s)” shall mean Lots 1 through 17 of the Plat.

1.5 The word(s) “Lot Owner(s)” or “Owner(s)” shall mean any person or entity that holds fee title or a vendee’s interest under a real estate contract of any Lot. The word Lot Owner shall also be construed to include any person or entity that has, or claims to have, a legal or equitable interest in a Lot, including but not limited to, lien claimants, Deed of Trust beneficiaries, mortgagees, easement holders, tenants or other persons in possession. Regardless of the number of persons or entities which may qualify as a Lot Owner as defined herein, each Lot shall be entitled to only one vote in any situation in which this Declaration requires the vote of or approval by Lot Owners.

1.6 The word Plat shall mean that certain Final Plat of Allwest, LLC Plat dated _____, 2012 and recorded in Book ____ of Plats, Pages _____, under Kittitas County Auditor’s File No. _____, being a portion of Section 7, Township 17 North, Range 18 East, W.M.

1.7 The word “Property” shall mean and refer to all the real property described in Recital A above.

1.8 The word “Excluded Property” shall mean Lot 17 of the Plat.

II. PROPERTY SUBJECT TO DECLARATION

2.1 The covenants, conditions, restrictions and reservations herein are to run with Lots 1 through 16, inclusive of the Plat, and shall be binding upon all the Owners of Lots 1 through 16, their successors and assigns. This Declaration does not encumber Lot 17; provided, however, Lot 17 is benefitted by this Declaration and therefore has the authority and ability to enforce the terms and conditions of this Declaration.

2.2 As set forth above in Recital C, Lots 1, 2, 3 and 4 are also bound by the 2003 Declaration and, in the event this Declaration conflicts with the 2003 Declaration, in that event, the 2003 Declaration shall control.

III. PROPERTY RESTRICTIONS

3.1 Each Lot Owner shall use their respective Lot exclusively for residential purposes and in such a manner as to not interfere with the reasonable use and enjoyment of a Lot by the other respective Lot Owners or otherwise constitute a nuisance to the other Lot Owners.

3.2 No dwelling shall be erected, altered, placed, or permitted to remain on the Lots other than one (1) single-family residence. No Lot shall be used for any purpose other than a single-family residence, except as allowed herein.

3.3 No commercial activity shall be conducted on any Lot except as can be and is conducted totally within the residence located on the Lot and which does not involve members of the general public coming to the residence in furtherance of the commercial activity. For purposes of this Declaration, "commercial activity" shall not include agricultural activity. Agricultural activity shall not be allowed on Lots 1-16. Agricultural activity, includes, but is not limited to, the (i) breeding and raising of livestock and other farm animals; (ii) swine, poultry, birds or water fowl shall not be permitted to be bred and/or raised, and (iii) the growing and harvesting of crops. The processing of any agricultural products and container storage shall not be permitted. No feedlot operations of any kind shall be permitted.

3.4 No Lot Owner shall carry on any activity of any nature whatsoever on any Lot that is in violation of laws and statutes of the United States of America, the State of Washington, Kittitas County or any other applicable governing body now existing or hereafter created.

3.5 Structures on Lots.

3.5.1 Plan Submission and Approval. No Improvements, including, but not limited to, residences, outbuildings, barns, garages or other structures, shall be erected, placed, altered, maintained or permitted to remain on any Lot by any Owner until final plans and specifications ("Plans"), together with a written contract with the Owner's contractor who will construct the Improvements, shall have been submitted to and approved by the Declarant or the Declarant's designee. Such Plans shall be submitted by the authorized agent, by the builder of such Improvements and by the Lot Owner. The following information shall be a part of such Plans submitted to the Committee: (a) the location of the proposed structure upon the Lot in relation to the lot lines and other structures on the lot; (b) the elevation of the structure with reference to the existing and finished Lot grades ("Site Plan"); (c) the general design; (d) the interior layout; (e) the exterior finish materials and color, including roof materials; (f) any other or supplemental information required to determine whether the structure conforms with Community standards; and (g) a copy of the construction contract between Owner and Owner's contractor. The Plans shall contain no less detail than required by the appropriate governmental authority for the issuance of a building permit.

3.5.2 Basis for Approval. The Declarant's approval shall be based upon the conditions of approval for the Plat and the restrictions set forth in this Declaration. The Declarant may, however, with respect to approval of the contractor Owner hires, withhold its approval of the contractor and require the Owner to use a different contractor. The Declarant shall have the right to disapprove any Plans submitted hereunder on any reasonable grounds.

3.5.3 Variances. The Declarant shall have the authority in its sole discretion to approve Plans which do not conform to the restrictions described herein to (a) overcome practical difficulties; or (b) prevent undue hardship from being imposed on an Owner. However, such variation shall only be approved In the event that the variation will not (a) detrimentally impact the Community or its attractive development; or (b) adversely affect the character of nearby Lots. Granting such a waiver shall not constitute a waiver of the restrictions described herein.

3.5.4 Approval. The Declarant may approve Plans as submitted, or as altered or amended, or it may grant its approval to the same subject to specific conditions. Upon approval or conditional approval by the Declarant of any Plans submitted, a copy of such Plans, bearing such approval together with any conditions, shall be returned to the applicant submitting the same. The Declarant shall have the right to waive the requirement that Plans be reviewed for any Improvements to be constructed by the Declarant.

3.5.5 Construction Without Approval. If any Improvement shall be altered, erected, placed or maintained upon any Lot, or any new use commenced upon any Lot, other than in accordance with the approval of the Declarant pursuant to the provisions of the Declaration, such alternation, erection, placement, maintenance or use shall be deemed to have been undertaken in violation of this Declaration and, upon written notice from the Declarant, any such Improvement so altered, erected, placed, maintained or used upon any Lot in violation of this Declaration shall be removed or altered and/or such use shall have ceased so as to conform to this Declaration. Should such removal or alternation not be accomplished within 30 days after receipt of such notice, then the party in breach of this Declaration shall be subject to the enforcement procedures set forth in this Declaration.

3.6 No dwelling or other structure shall be maintained, constructed, located, modified or repaired on any Lot in violation of the requirements of any applicable governmental agency.

3.7 No structure shall be maintained, constructed, located, modified, or repaired on any Lot without the Lot Owner or the Lot Owner's contractor obtaining a building permit and any other permits required by any and all governmental agencies.

3.8 No pre-manufactured home, mobile home, modular home, trailer home, or relocated house shall be allowed to be placed on or erected on any Lot, whether temporary or permanent.

3.9 All single family homes must contain 1,600 square feet or more of living space, shall not exceed two stories nor be taller than 35 feet in height or exceed applicable county height limits, whichever is less. All single family homes must contain 1200 sq. ft. or more of living space on the ground floor plus an attached, fully enclosed, two or three car garage; provided that a detached and enclosed garage may be allowed so long as the ground floor area of the residence is a minimum of 1,600 square feet.

3.10 Exterior siding shall be wood, brick, stone, stucco, Hardiplank© siding or plaster. No aluminum, or substantially similar exterior siding materials shall be allowed on any structure constructed on a Lot. Roofing materials, including composition materials, must be of architectural grade, provided that rough-cut plywood siding with bats is allowed.

3.11 Exterior colors, including roofing materials and trim, shall be earth tones or shades, which shall be defined as follows: All large areas of color, such as walls and roofs shall be restricted to tones or shades in earth colors with a range of value between value 7 and value 4 on the 1 - 10 value scale. Any difference in color or change in color between walls, roofs and trim of the structure must have a contrasting hue which keeps different color tones and shades at relative equal values (by example, and only by example, if the base color is a brown (a tone or shade of red) at a mid-value 5, then the trim must be another hue of equal value 5).¹

3.12 No part of any building shall be located on any Lot nearer than 25 feet from any Lot line, even in the event the adjacent Lot is under the same ownership. No Lot Owner may apply to Kittitas County or to the appropriate governmental authority for a variance from the legal setback requirements in the zone, now existing or hereinafter adopted. Houses, garages and outbuildings may only be located on the portion of the lots identified on

¹ The terms hue and value are defined in Munsell, Albert H. Color Notation. The terms tint, shade and tone are defined in Birren, Faber. History of Color in Painting. (1965).

the site plan submitted pursuant to Paragraph 3.5 for Declarant's approval, which site plan shall define the area within each lot upon which structures may be located.

3.13 Garages and outbuildings that are allowed to be constructed on a Lot subject to Paragraph 3.5 and shall be consistent with the single family residence constructed on a Lot as to the exterior finish, style, and color scheme used. Garages and outbuildings shall conform with the exterior color and roofing material requirements of paragraphs 3.10 and 3.11.

3.14 All single-family residences and other structures erected on any Lot shall be completed within twelve (12) months from the commencement of work. The commencement of work occurs when excavation for the foundation for a structure is begun. Any reconstruction or repair work of any such structures shall be prosecuted diligently and continuously from commencement until completion.

3.15 All driveways shall be hard surface from the paved access road to the garage. Crushed rock may be approved for limit outbuilding access if approved pursuant to paragraph 3.5.

3.16 All utility wires, conduits and utility conveyance facilities shall be installed and maintained underground; provided, however, a satellite dish of less than two (2) feet across necessary to receive television or internet service shall be permitted, but only if affixed to the residence or approved four (4) foot in height mounting stand adjacent to the residence

3.17 Each Lot shall be maintained in a clean, sanitary condition at all times and shall be kept free of all junk, trash, litter, rubbish, garbage, weeds, debris, containers, equipment (other than farm equipment), and building materials (temporary storage during construction phases excluded).

3.18 Garbage receptacles and trash cans shall be sanitary and in complete conformity with municipal sanitary rules and regulations. All garbage and trash containers must be stored in such a manner so that they are not visible from another Lot or from any county road and protected from animals. No trash, garbage, ashes, yard rakings, or other organic materials resulting from landscaping activities or other refuse shall be thrown, dumped, piled, stacked, or allowed to accumulate in any way on any Lot, street or driveway; provided, however, each Lot Owner shall be allowed to store organic material in a compost pile which shall not be located closer than 50 feet of a Lot line.

3.19 No vehicle repair work shall be performed for more than a twenty-four (24) hour period unless all such vehicles are contained in a fully enclosed garage or outbuilding.

3.20 No inoperable motor vehicles, machinery, equipment, camper, boat, boat trailer, recreational vehicle, or similar item shall be stored on any portion of any Lot except within an enclosed garage or outbuilding as allowed under this Declaration. No camper or recreational vehicle shall be used or occupied on any Lot for more than 14 days (cumulative) in any 365-day period.

3.21 No commercial vehicles having three axles or more or truck and trailer combination of any kind shall be parked on any Lot or any road fronting a Lot at any time.

3.22 No trees, now existing or planted in the future, over six inches (6") in diameter as measured three feet (3') above the average ground height six inches (6") from the base may be cut down, topped or branches trimmed in excess of ten percent (10%) per year of the total length and number of limbs, unless it is:

3.22.1 In order to build a home, patio, sidewalk or deck or other structure on a Lot.

3.22.2 In order to allow entry or garage access.

3.22.3 In order to protect Owners against a diseased or dangerous tree or trees.

3.22.4 In order to comply with any requirements of any governmental authority with jurisdiction over the Development; including those now in existence or to be made law in the future.

3.22.5 In order to install any and all utilities, roadways, irrigation conveyance systems, etc.

3.23 No trees or vegetation shall be planted in such a manner as to form a “fence” or tree line where such vegetation would directly block the views of the Stuart Mountain Range from neighboring properties. Trees that inadvertently block such views shall be trimmed by a professional licensed tree company at the expense of an offended property owner wishing to protect their view. Owners shall allow limited access for such maintenance of view protection. Nothing in this provision is intended to prevent lot owners from growing trees or other landscape vegetation associated with property enjoyment.

3.24 Weapons shall be permitted on the Lots but may not be discharged except for reasons of self-defense or to protect livestock or property. No discharge of weapons shall be allowed such that it violates any law, endangers life, limb or property, or interferes with the use and enjoyment of the Property by any Lot Owners. Items considered to be weapons to be weapons shall be bows and arrows, cross bows, pistols, rifles, shotguns, slingshots, BB guns or pellet guns. No hunting shall be allowed on the Lots.

3.25 All animals on the Lots shall be properly restrained, fenced, maintained and otherwise kept so as to not interfere with any other Lot and/or so as to cause any threat or harm to any Lot Owner’s use of their Lot.

3.26 All fences shall be wood rails (three rail minimum) with wood posts or other kennel enclosures approved pursuant to paragraph 3.5.

3.27 Lots 1 through 16, inclusive, may not be divided further while this Declaration is in effect, regardless if allowed by local zoning and subdivision ordinances as they now exist or are hereafter amended.

3.28 No snowmobiles, ATVs, motorized dirt bikes and similar motorized vehicles may be used within a Lot. This is intended to specifically prohibit, among other activities, creation and maintenance of a “track” or “course” or path within a Lot or Lots over which such vehicles repeatedly travel for recreational purposes.

3.29 Signs. There shall be no signs erected or maintained on the property whatsoever including but without limitation commercial, political, and similar signs, visible from neighboring property, except:

- a) such signs as may be required by law or by any legal proceeding;
- b) signs not exceeding three square feet providing the name or number identification on a residential property, parking or storage area;
- c) during the time of construction of any structure, a job identification sign having a maximum face area of twenty square feet per sign;
- d) any owner wishing to sell or rent his property may place one sign not larger than six hundred (600) square inches advertising the property for sale.
- e) political signs supporting a candidate, levy request or initiative are allowed but may not be displayed prior to thirty (30) days prior to the election and must be removed within forty eight (48) hours after the election

3.30 All exterior lighting shall be full cut-off fixtures with the light source fully shielded, with the following exceptions:

- 3.30.1 Luminaries that have a maximum output of 260 lumens per fixture, regardless of number of bulbs (equal to one 20 watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.
- 3.31.2 Luminaries that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs (equal to one 60 watt incandescent light) may be partially shielded, provided the bulb is not visible, and the fixture has an opaque top to keep light from shining directly up.
- 3.32.3 Flood lights with external shielding may be angled provided that no light escapes above a 25 degree angle measured from the vertical line from the center of the light extended to the ground, and only if the light does not cause glare or light to shine on adjacent property or public rights-of-way. Flood lights with directional shielding are not allowed.
- 3.33.4 Holiday lights are exempt from the requirements of this Condition.
- 3.34.5 Sensor activated lighting may be unshielded provided it is located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-way or private road, and provided the light is set to only go on when activated and to go off within five minutes after activation has ceased, and the light is not triggered by activity off the property.

3.35 No oil drilling, oil development operations, oil refining, coring or mining operations of any kind will be permitting upon any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in or under the property.

3.36 All permanent utility systems, including water, gas, electric, cable television, and telephone shall be underground exclusively.

3.37 No radio towers, cell phone towers, wind turbines, including wind turbines, regardless of whether said turbines are allowed or authorized by law, electrical generating facilities, satellite dishes, except as authorized in paragraph 3.5, or meteorological towers shall be constructed or placed on any lot; provided, however, television reception satellite dishes are allowed so long as they do not exceed four (4) feet in size and are mounted on a building and approved pursuant to paragraph 5.

IV. SEWAGE

4.1 Sewage. Sewage generated on any lot must be deposited into individual septic systems on each lot, and each individual septic system shall be installed at each Lot Owner's expense. Each Lot will need to be further tested and all septic systems shall be designed and installed in conformity with Douglas County Health Department rules and regulations now existing or as hereafter amended. No septic system shall be installed without first obtaining the proper permits from the governmental entity charged with regulating the installation of septic systems. Declarant makes no representations or warranties with respect to whether the property is capable of having a single family domestic septic system installed and/or permitted.

4.2 Tanks. No stove oil tanks, gas tanks, fuel tanks, above ground or below ground shall be allowed on any lot or any portion of the Property, except tanks specifically designed to hold propane, natural gas or home heating oil in storage for use in a single family residence. Any propane or natural gas tanks which are located on any Lot or any portion of the Property shall be buried or properly screened so that no portion of the tank is able to be viewed from any other Lot or from any other portion of the Property. Propane and natural gas tanks utilized to store propane and natural gas for use in a single family residence which are stored below ground are permitted so long as they are fully located beneath the surface of the Lot on which the single family residence that such tank provides propane or natural gas to is located and that they are installed in accordance with all applicable state, local and

federal guidelines established for the installation of propane or natural gas tanks below the surface except individual 5 gallon or less propane tanks associated with barbecue appliances, patio heaters, or other similar appliance uses. Any propane or natural gas tanks which are located below the surface must be clearly marked on the surface.

V. IRRIGATION WATER

5.1 Water for outdoor irrigation is supplied to the Lots by the KRD subject to the terms and conditions of an amendatory contract between the United States of America and the Kittitas Reclamation District, dated January 20, 1949, and recorded in Book 82 of Deeds, Page 69, under Kittitas County Auditor's File No. 208267, as thereafter amended. KRD water can only be applied to property that is designated as irrigable by the KRD. The number of irrigable acres allocated to each Lot is set forth on the face of the Plat and in that certain Water Distribution Plan for _____ Property on file with the KRD, a copy of which is attached hereto and incorporated herein by reference as "Exhibit ____". For the purpose of determining which portions of the Lots are irrigable, the regulations and maps maintained by the KRD shall be determinative. All Lots and Lot Owners shall comply with all applicable rules, regulations and policies adopted by the Kittitas Reclamation District and the United States Bureau of Reclamation and the Reclamation Reform Act of 1992, as hereafter amended. Each Lot Owner is responsible for becoming familiar with such rules, regulations, policies and procedures. Each Lot Owner shall be separately responsible for any and all fees and costs charged and assessed against the Lot by the KRD now and in the future. The Lot Owners shall fully cooperate with the Water Master so that eligible Lots may receive the KRD water to which they are entitled. Declarant shall retain the right, but not the obligation, to be the Water Master for the Lots for as long as Declarant retains ownership of one or more Lots. In the event Declarant is unwilling or unable to act, the current Lot Owners shall elect, by majority vote, a Water Master each year. For purposes of this paragraph, each Lot shall have one vote for each irrigable acre as allocated by the KRD.

5.2 All of the Lots are served by an underground irrigation water delivery system, which will provide one (1) irrigation riser to each of the Lots. Each Lot Owner shall install, at its expense, a meter and buried underground irrigation system capable of distributing irrigation water to the Lot. The irrigation water delivery system on each Lot must be installed prior to the issuance of a Certificate of Occupancy for the first structure constructed on the Lot. All Lots shall provide for the separate measuring of irrigation water to their respective Lot.

5.3 No part of the lots are entitled to surface water diverted from Manastash Creek as confirmed under Yakima County Superior Court Cause No. 77-2-01484-5, State of Washington, Department of Ecology, Plaintiff, vs. James J. Acquavella, et al, Defendants, Court Claim Number 01968; however, such rights have been reserved by Declarant and are specifically not to be conveyed to any Lots. Upon conveyance of the Lots by Declarant.

5.4 If KRD rules and regulations allow, all unused KRD water that is available for delivery to a Lot that is not used by a Lot Owner shall be offered first to the owner of Lot 17 of the Allwest Cluster Plat who may use the Lot Owner's KRD water without compensating the Lot Owner. In the event the owner of Lot 17 does not desire to use the water, then in that event, subject to KRD rules and regulations, the Lot Owner may, on a once-yearly basis, offer the water to others. The owner of Lot 17 shall be the water master for deliveries until such time as 75% of the lots are sold by Declarant and the owner of Lot 17 wishes to assign by mutual consent a new water master by an owner within the Allwest Cluster Plat.

VI. HOMEOWNER'S ASSOCIATION

No Homeowners' Association shall be formed that includes the Declarant at any time. An Association cannot be formed until 75% of the lots are owned by individuals other than the Declarant. The Declarant shall be exempt and held harmless from such Association activities. No assessments shall be permitted against the Declarant or other fees or costs, so long as the Declarant holds an interest in any lot of the Allwest Cluster Plat.

VII. OIL, GAS, MINING AND WIND

No oil, gas or other mineral drilling (not including water), development operations, refining, coring, or other mining operations of any kind shall be permitted upon or in or under any Lot, nor shall wells, tanks, tunnels, or mineral excavations be permitted upon or under any Lot. No structure designed for use in boring for oil or natural gases shall be erected, maintained, or permitted upon any Lot. No wind turbine or other mechanical device which relies on the wind to generate electrical power shall be allowed on any Lot.

VIII. AGRICULTURAL CONDITION

8.1 All Lot Owners understand and acknowledge they have been informed that the Property and the Lots are located in an active agricultural area in which specific right to farm laws exist. Irrespective of such laws and their validity now or in the future, all Lot Owners conclusively understand and agree that, in the normal management of agricultural or related activities, actions and conditions will or may exist from time to time that are or may be viewed as incompatible with one or more uses and the enjoyment of the Property and Lots.

8.2 The Lot Owners are on notice and are therefore aware and understand that, in the normal, non-negligent management of agricultural or related activities, there will be noise, dust, distribution of airborne particulate matter, offensive smells, lights and other effects from the operation of farm equipment, irrigation pumps and other equipment, the movement of agricultural equipment and/or livestock.

8.3 In an agricultural area, certain actions, practices and conditions occur from time to time, including, but not limited to, the maintenance of livestock of all kinds; the cultivation and harvesting of crops; the ground and aerial application of seed, fertilizers, conditioners, herbicides, insecticides, and related plant protection and development and that some of these actions, practices, conditions and materials may be harmful and/or offensive, even when conducted in a non-negligent manner.

8.4 Agricultural activities occur in both daylight and at night and are not limited to any particular time or day of the week. In addition, agricultural activities change over time, depending on the crop or the livestock raised and that certain agricultural activities may involve activities that are or can be a nuisance and that those activities may also change in the future as a result of changes in technology and changes to accepted agricultural practices.

8.5 By owning a Lot, the Property or a portion thereof, a Lot Owner is, or may be, subjected to any and all of the agricultural activities set forth in paragraphs 9.1 through 9.4 and possibly additional activities, conditions and/or situations that may be perceived as a nuisance but which are the result of normal, ongoing and non-negligent agricultural activities.

8.6 A county or State right to Farm law may protect some but not all agricultural activities. Regardless of whether an agricultural activity is protected by such right to farm law, as now exists or hereafter implemented or amended, all Lot Owners are prohibited and precluded from taking any action, whether direct or indirect, complaining about, objecting to, limiting, or restricting any normal and non-negligent agricultural activities occurring on or about the Property regardless of whether those agricultural activities existed prior to the effective date of these Covenants, Conditions and Restrictions or arise in the future. All Lot Owners are prohibited and precluded from commencing legal action of any kind in any court of competent jurisdiction seeking damages and/or seeking injunctive relief from the result of the impacts of normal and non-negligent agricultural activities regardless of whether those agricultural activities existed prior to the effective date of these Covenants, Conditions and Restrictions or arise in the future.

IX. TERM OF COVENANT

The conditions, covenants and restrictions set forth in this Declaration shall run with and bind the Property for thirty-five (35) years from the date this Declaration is recorded, after which said covenants shall be automatically extended in perpetuity until terminated by any instrument terminating these covenants which has been signed by 75% of the Lot Owners of record at the time of the termination. This Declaration may be amended at any time so long as the amendment has been signed by at least 90% of the Lot Owners of record at the time of the amendment; provided, however, that Declarant must also approve and execute any such amendment during the Development Period and in any event, so long as Declarant retains any interest in any Lot, whichever is longer.

X. ENFORCEMENT

10.1 If there is a violation of any of the provisions of this Declaration as herein set forth or as hereinafter amended the following shall have the ability to enforce the terms and conditions of these Covenants, Conditions and Restrictions:

10.1.1 The Declarant as defined in paragraph 1.1; provided, however, the right of enforcement by Declarant shall terminate 5 years from the date of this Declaration; provided however, that such termination shall not affect the rights of enforcement by Declarant as a Lot Owner if it is a Lot Owner at the time such an amendment is executed; and/or

10.1.2 A Lot Owner as defined in paragraph 1.6; and

10.1.3 After the expiration of the Development Period, as defined in paragraph 1.2, the Declarant shall have the right, but not the obligation, so long as the Declarant or Declarant's family owns the real property legally described on Exhibit B.

10.2 A person or entity with the ability to enforce these Covenants, Conditions and Restrictions shall have the right to proceed at law or in equity to collect damages or to compel compliance with the terms and conditions of this Declaration, or to prevent the violation or anticipated violation or breach of any covenant, condition, or restriction contained herein. The prevailing party in such litigation shall also be entitled to reasonable attorney fees and costs incurred in such litigation against the non-prevailing party. In the event any suit brought a person or entity with the ability to enforce these Covenants, Conditions and Restrictions to enforce the terms and conditions of this Declaration results in a monetary judgment against a Lot Owner, said judgment shall become a lien against that person or entity's Lot in addition to becoming the personal obligation of that Lot Owner. Said lien shall be foreclosed in the manner as provided by Washington State law. In addition to having the lien, the holder of a judgment against any Lot Owner for any monetary damages awarded as a result of a violation of this Declaration shall have the option of proceeding personally against the owner of a Lot or the option of foreclosing the lien in the Lot Owner's property. In the action foreclosing the lien, the same shall include a reasonable sum for attorney fees and all costs and expenses reasonably incurred in preparation for and in prosecution of such action in addition to taxable costs, all as permitted by law. Venue for such proceedings shall be in Kittitas County, Washington. Failure by a person or entity with the ability to enforce these Covenants, Conditions and Restrictions to enforce any restriction, condition or covenant of this Declaration shall in no event be deemed a waiver of the right of a person or entity with the ability to enforce these Covenants, Conditions and Restrictions to enforce any restriction, condition, or covenant of this Declaration in the future.

10.3 If any term, covenant or condition of this Declaration or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Declaration or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Declaration shall be valid and be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the undersigned being the Declarant has hereunto set its hand and seal as of the _____ day of _____, 2013.

DECLARANT:

ALLWEST, LLC:

By: Mitchell Williams, Manager

STATE OF WASHINGTON)
) ss.
County of Kittitas)

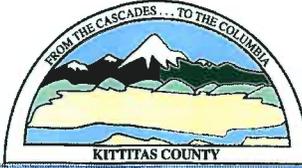
I certify that I know or have satisfactory evidence that Mitchell F. Williams, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of ALLWEST, LLC, a Washington Limited Liability Company, the corporation that executed this instrument as the free and voluntary act of corporation for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this _____ day of _____, 2012.

Printed Name: _____
Notary Public in and for the State of Washington
My commission expires: _____

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Exhibit B
Property Owned by Declarant



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"

NOTICE OF DECISION

To: Interested Parties
Applicant

From: Dan Valoff, Staff Planner

Date: March 1, 2012

Subject: Allwest LLC Performance Based Cluster Plat (CL-10-01)

Pursuant to RCW 36.70B.130 and KCC 15A.06, notice is hereby given that on February 22, 2012 the Kittitas County Board of County Commissioners approved the Allwest LLC Performance Based Cluster Plat (CL-10-01). The subject property is located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019,,

Copies of the Kittitas County Board of Commissioners Resolution 2012-025 and related file documents may be examined at Kittitas County Community Development Services, 411 N. Ruby Suite 2, Ellensburg, WA 98926. (509) 962-7506.

Issuance of this land use decisions may be appealed by parties with standing, by filing a land use petition in Superior Court, and serving said petition on all required parties pursuant to RCW 36.70C and KCC 15A.08, within twenty-one days of the issuance of the land use decision.

If you have any questions, please do not hesitate to contact our office at (509) 962-7506.

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

**PRELIMINARY PLAT APPROVAL
ALLWEST LLC PERFORMANCE BASED CLUSTER PLAT (CL-10-01)**

RESOLUTION

NO. 2012- 025

WHEREAS, according to Kittitas County Code Titles 15A, 16 & 17, relating to general rezones, adopted pursuant to RCW 36.70B & 36.70 respectively, an open record hearing was held by the Kittitas County Hearing Examiner on December 8, 2011. The project considered is a 16-lot Performance Based Cluster Plat which is described as follows:

The property is north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019. Proponent: Chris Cruse, authorized agent for Allwest LLC property owner.

WHEREAS, public testimony was heard from those persons present; and,

WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such change of zoning; and,

WHEREAS, the Hearing Examiner recommended approval of said proposed preliminary plat; and,

WHEREAS, a closed record public hearing was held by the Board of County Commissioners on February 7, 2012 to consider the Hearing Examiner's recommendation on this matter; and,

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

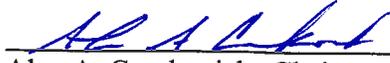
1. Chris Cruse, authorized agent for Allwest LLC property owner, has applied for a preliminary plat to subdivide a 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The project is proposed to be served by a Group B water system and individual on-site septic systems.

2. The subject property is one tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019.
3. The Kittitas County Comprehensive Plan's Land Use Element designates the subject property as Rural and the current zoning Agriculture 3.
4. Application for the Performance Based Cluster Plat was received on August 15, 2011. The application was deemed complete on August 23, 2011. The Notice of Application was issued on September 7, 2011. Said notice was published in the official county newspaper of record and was also mailed to jurisdictional government agencies, adjacent property owners as required and other interested parties. The last day to submit written comments was September 22, 2012.
5. Community Development Services issued a Mitigated Determination of Non-Significance (MDNS) on November 10, 2011. No appeals were filed.
6. On December 8, 2011 the Hearing Examiner conducted an open record hearing to consider this matter where testimony was heard. On December 20, 2011 the Hearing Examiner submitted his Recommended Findings of Fact, Conclusions of Law, and Conditions of Approval of the Allwest LLC Performance Based Cluster Plat (CL-10-01).
7. The Board of County Commissioners conducted a closed record hearing on February 7, 2012 for the purpose of considering the Allwest LLC Performance Based Cluster Plat (CL-10-01).
8. The Board of County Commissioners after review of the record and deliberation closed the hearing and a motion was made and seconded that the proposed Allwest LLC Performance Based Cluster Plat (CL-10-01) be approved, the motion carried with a vote of 2 to 0 with Commissioner O'Brien being absent.

NOW, THEREFORE BE IT RESOLVED: That the Kittitas County Board of Commissioners hereby grants approval of the Allwest LLC Performance Based Cluster Plat (CL-10-01) and adopts the Kittitas County Land Use Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval (Exhibit A) and the same hereby is, approved with the proposed development configuration (See Exhibit B).

DATED this 22nd day of February, 2012 at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON



Alan A. Crankovich, Chairman

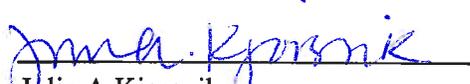


Obie O'Brien, Vice Chairman



Paul Jewell, Commissioner





Julie A Kjorsvik

APPROVED AS TO FORM:

Greg Zempel WSBA #19125

Exhibit "A"

KITTITAS COUNTY LAND USE HEARING EXAMINER

IN THE MATTER OF)
CL-11-01)
Allwest LLC)

RECOMMENDED FINDINGS OF
FACT, CONCLUSIONS OF
LAW, DECISION AND
CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on December 8, 2011, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. Chris Cruse, authorized agent for Allwest LLC property owner, has applied for a preliminary plat to subdivide a 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The project is proposed to be served by a Group B water system and individual on-site septic systems. (Staff report)
2. The applicant is Allwest LLC, authorized agent Chris Cruse, 1000 Harvest Loop #300, Ellensburg, WA 98926. (Application materials)
3. The subject property is one tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019. (Staff report)
4. Site Information:

Total Project Size:	50.58 acres
Number of Lots:	16
Zoning district	Agriculture 3
Domestic Water:	Group B water system
Sewage Disposal:	Individual on-site septic systems
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District #2 (Rural Ellensburg)
Irrigation District:	Kittitas Reclamation District

(Staff report)

5. Site Characteristics: The area is characterized as flat terrain used for agricultural purposes. (Staff report)
6. Surrounding Property:
North: Residential
South: Residential
East: Vacant
West: Vacant
(Staff report)
7. The Comprehensive Plan designation is Rural. (Staff report)
8. The subject property is zoned Agriculture 3, which allows for one residential unit per 3 acres and one-half acres for platted cluster subdivisions served by public water and sewer systems. All subdivision lots under three acres in size must be served by public water and sewer systems (KCC 17.30.040). (Staff report)
9. A complete long plat application was submitted to Community Development Services on August 15, 2011. The application was deemed complete on August 23, 2011. The Notice of Application for the preliminary plat application was issued on September 7, 2011. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on September 22, 2011. (Staff report)
10. In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner and is included as part of the record. (Staff report)
11. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on November 10, 2011. The appeal period ended on November 29, 2011 at 5:00 p.m. No appeals were filed. (Staff report)
12. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by a Group B water system and individual or community septic systems. Staff has conducted an administrative critical area review in accordance with KCC 17A and found small wetlands on the subject properties. (Staff report)
13. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.09 for Performance Based Cluster Plats. (Staff report)
14. This proposal is consistent with the provisions of KCC 16.12 Preliminary Plat Subdivision Code. The application contained all required elements necessary to review this proposal with the exception of soil logs and water availability, which will be required prior to final plat approval. All proposed lots meet the dimensional standards of KCC 17.30A for lots zoned Agriculture 3. This proposal is

consistent with the Kittitas County Code 16.12.150 in making recommendation as to the adequacy of the proposed road system, the proposed sewage disposal and potable water supply system and fire protection facilities within the subdivision. (Staff report)

15. All roads are required to meet all Kittitas County Road Standards as outlined in the October 3, 2011 memorandum issued by the Department of Public Works. As conditioned, the proposal is consistent with the provisions of KCC Title 12. (Staff report)
16. The following agencies provided comments during the comment period: Department of Ecology, Department of Health, Kittitas County Department of Public Works, Fire Marshal's Office and Environmental Health. These comments have been included as conditions of approval to address these agency concerns. (Staff report)
17. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval. (Hearing Examiner finding based on the record)
18. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
19. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
20. While this applicant is requesting performance based cluster platting, they are not requesting any bonus density points. The lots allowed under current zoning (Ag-3) results in these 50.58 acres, divided by 3-acre lots, allows for a total of 16 lots. (Public hearing record)
21. The project is consistent with the goals and policies of the Kittitas County Comprehensive Plan. Those goals include:
 - 21.1 GPO 3.1, to provide a sufficient number of housing units for future populations in rural areas of Kittitas County.
 - 21.2 GPO 3.6, to provide for future populations while protecting individual property rights.
 - 21.3 GPO 3.17, to provide a sufficient number of housing units for future populations while maintaining the rural character of Kittitas County.
 - 21.4 GPO 3.18, to provide sufficient housing units while maintaining environmental quality.
 - 21.5 GPO 8.5, to facilitate the County's need for continued diversity and densities in uses on rural lands.
 - 21.6 GPO 8.46, that residential development in rural lands must be in areas that can support adequate private water and sewer systems.(Public hearing record)

22. This application vested upon the issuance of the determination of a complete application. (Public hearing record)
23. The determination of complete application was issued on August 23, 2011, at approximately 11:00 a.m. (Public hearing record)
24. This determination of completed application and therefore this application is not affected by the Growth Management Hearing Board's Determination of Invalidity because the stay on enforcement of that order was not dissolved until August 23, 2011, at approximately 1:30 in the afternoon. (Public hearing record)
25. This application is to be construed by the rules and regulations in effect at the date and time of the determination of complete application. At the time of the issuance of the determination of complete application, the stay of the Growth Management Hearing Board's order was still in effect. (Public hearing record)
26. The following timeline is relevant:
 - 26.1 **December 11, 2006.** Kittitas County enacted Ordinance 2006-63 to update its comprehensive plan pursuant to the Growth Management Act (GMA), RCW 36.70A.130(1). Various parties challenged this ordinance by filing petitions for review with the Eastern Washington Growth Management Hearings Board (EWGMHB). *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0004c (hereafter "*Kittitas County Conservation I*").
 - 26.2 **July 22, 2007.** Kittitas County enacted Ordinance 2007-22, revising the County's development regulations. Again, various parties filed petitions for review with the EWGMHB. *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0015 (hereafter "*Kittitas County Conservation II*").
 - 26.3 **August 20, 2007.** The EWGMHB issued its *Final Decision and Order* (FDO) in *Kittitas County Conservation I*. The EWGMHB found the County to be noncompliant with GMA on various issues, and issued a determination of invalidity with respect to the expansion of the County's Urban Growth Areas (UGAs) and the de-designation of Agricultural Resource Lands. The EWGMHB also found the County to be noncompliant with GMA with respect to rural zones of greater density than one dwelling unit per five acres (outside LAMIRDs), but did not issue a determination of invalidity with respect to the R-3 and Ag-3 zones.
 - 26.4 **November 13, 2007.** The Kittitas County Superior Court issued a stay of the FDO in "*Kittitas County Conservation I*".
 - 26.5 **March 28, 2008.** The EWGMHB issued its FDO in *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0015 (hereafter "*Kittitas County Conservation II*"). The EWGMHB found the Ag-3 and R-3 zones noncompliant and issued a determination of invalidity with respect to those zones.
 - 26.6 **April 24, 2008.** The Kittitas County Superior Court issued a stay of the FDO in "*Kittitas County Conservation II*".

- 26.7 **June 2, 2008.** The Kittitas County Superior Court issued a third stay in various cases consolidated under Cause No. 08-2-00195-7.
- 26.8 The various cases consolidated in the superior court were transferred to the Supreme Court.
- 26.9 **July 28, 2011.** The Supreme Court issued its opinion in the consolidated appeals. *Kittitas County v. EWGMHB*. The Court upheld parts of the EWGMHB's decisions regarding the Ag-3 zone. The opinion did not address the effect of the prior stays.
- 26.10 **August 15, 2011.** A complete application of the Allwest cluster plat was filed with CDS.
- 26.11 **August 23, 2011.** At 11:20 a.m., CDS emailed the notice of complete application to Allwest's agent.
- 26.12 **August 23, 2011.** At 1:34 p.m., the mandate was issued by the Supreme Court in *Kittitas County v. EWGMHB*. The Mandate states that the Decision became effective on August 17, 2011.
- 26.13 **October 10, 2011.** Judge Sparks entered an order confirming that all three stays previously issued in connection with the GMA appeals were dissolved effective August 23, 2011 at 1:34 p.m. That decision was not appealed by any party.
(Public hearing record)
- 27. An open record public hearing after due legal notice was held on December 8, 2011. (Open record public hearing)
- 28. The following 38 exhibits were admitted into the record:
 - 28.1 Exhibit 1: Long Plat Application
 - 28.2 Exhibit 2: Letter of Complete Application
 - 28.3 Exhibit 3: Affidavit of Posting
 - 28.4 Exhibit 4: Notice of Application
 - 28.5 Exhibit 5: Comment letter from Dept. of Ecology 9/19/11
 - 28.6 Exhibit 6: Comment letter from Public Health 10/10/11
 - 28.7 Exhibit 7: E-mail comments from WA Dept. of Health 9/9/11
 - 28.8 Exhibit 8: Comment letter from Kittitas Co. Fire Marshal 9/20/11
 - 28.9 Exhibit 9: Memorandum – Kittitas Co. Public Works 9/12/11 & 10/3/11
 - 28.10 Exhibit 10: Comment e-mail Rich Elliott, Kittitas Valley Fire & Rescue 9/20/11
 - 28.11 Exhibit 11: E-mail comments from Chris Schedler 9/12/11
 - 28.12 Exhibit 12: E-mail comments from Linda Rahm 9/16/11
 - 28.13 Exhibit 13: Comment letter from Ted & Shelley Miller
 - 28.14 Exhibit 14: Comment letter from Christopher Schedler 9/19/11
 - 28.15 Exhibit 15: Comment letter from Carmen & Linda Rahm 9/19/11
 - 28.16 Exhibit 16: E-mail comments from Kendal & Lisa Osborn 9/19/11
 - 28.17 Exhibit 17: Comment letter from Joe & Mary O'Leary 9/20/11
 - 28.18 Exhibit 18: E-mail comments from Tom Morris 9/21/11
 - 28.19 Exhibit 19: Comment letter from Jil Zilligen 9/21/11

- 28.20 Exhibit 20: Comment letter from Bill & Lynette Arnold
- 28.21 Exhibit 21: Comment letter from Andrew & Janice Cohen 9/21/11
- 28.22 Exhibit 22: Comment letter from Robert & Sandra Ross 9/22/11
- 28.23 Exhibit 23: Comment letter from Justin Seth
- 28.24 Exhibit 24: Comment letter from Larry & Harriet Bland 9/22/11
- 28.25 Exhibit 25: Road easement agreement for the Midfield LLC Plat from Mitch Williams 9/27/11
- 28.26 Exhibit 26: Letter to Christina Wollman from Christopher Cruse re: access road width 2/28/11
- 28.27 Exhibit 27: Comment letter from Christopher Schedler 12/1/11
- 28.28 Exhibit 28: SEPA Determination of Nonsignificance (DNS) 11/10/11
- 28.29 Exhibit 29: Notice of Decision SEPA Action & Public Hearing
- 28.30 Exhibit 30: Hearing Examiner Staff Report
- 28.31 Exhibit 31: Letter from Mike Murphy to Hearing Examiner 12/7/11
- 28.32 Exhibit 32: Amended comment letter from the Fire Marshal 12/7/11
- 28.33 Exhibit 33: E-mail comments from Joe Gilbert, Environmental Health 12/8/11
- 28.34 Exhibit 34: E-mail comment from Neil Caulkins, Deputy Prosecutor 12/8/11
- 28.35 Exhibit 35: Letter from Larry & Harriet Bland 11/29/11
- 28.36 Exhibit 36: Table 12-1 Private Road Design Standards submitted by Alex Galbraith
- 28.37 Exhibit 37: Figure 12-2 Rural Local Access Roadway Section submitted by Alex Galbraith
- 28.38 Exhibit 38: Letter submitted by Alex Galbraith
(Open record public hearing)

- 29. Appearing and testifying on behalf of the applicant was Mitch Williams. Mitch Williams testified that he was an authorized representative of the applicant and was authorized to appear and speak on behalf of Allwest, LLC. Mr. Williams testified that the staff report was accurate as to its factual representations. Mr. Williams testified that all of the proposed conditions of approval were acceptable to the applicant. Mr. Williams testified that there will be irrigation rights for all 16 lots. He testified that there will be two Class B wells and that there will be actual water rights associated with this project. He testified that there will be a second cul-de-sac on Susan at the northeast corner of proposed Lot No. 2. He testified that there is a barn and agricultural pond on the site. He testified that the barn and the pond were used for his agricultural-related activities. He testified that the open tract created through this cluster plat would remain an agricultural use. He testified that all of the lots would have individual septic systems and that there was sufficient space for drainfields and reserve drainfields on each lot. Related to Exhibit 32, Mr. Williams testified that he agreed to the revised fire standard. (Open record public hearing testimony)
- 30. No member of the public testified in favor of this project. (Open record public hearing testimony)
- 31. Testifying in opposition to the project were the following persons who raised the following concerns:
 - 31.1 Robert Ross: Mr. Ross testified that he owns land south of the project parcel and adjacent. He questioned the public benefit associated with this project. He also asked that the applicant guarantee that his well will not dry up.

On question by the Hearing Examiner, the applicant, Mitch Williams, testified that the public benefit relates to the public as a whole and the benefit is as stated in the application materials. Basically, Mr. Williams testified that the public benefit was the retention of a

substantial portion of this property in agricultural land production and utilizing smaller residential footprints, and clustering the residential units together so as to minimize the use of roads and expansion of utilities throughout the project site.

- 31.2 Alex Galbraith: Mr. Galbraith testified that his property borders Lots 2 and 3 to the north of the project area. He had questions as to the location of the cul-de-sac. He had questions as to how Susan Road was going to be widened. He questioned the granting of the road variance, indicating that he was not allowed to be a part of this process. Mr. Galbraith raised questions regarding the easement which he utilizes and whether or not this easement will allow access to the applicant's property.
- 31.3 Chris Schedler: Mr. Schedler testified to his concerns as to why this project was processed given a recent Supreme Court decision. He questioned the vesting date of this application, given the recent Supreme Court decision. He also questioned what he characterized as development planning issues, citing the recent Supreme Court issue indicating that 3-acre lots in agricultural districts are harmful. He does not believe this project protects the rural character.
- 31.4 Kendal Osborn: Mr. Osborn had concerns about whether or not this project was good for the general public. He testified that he is a real estate appraiser and that there are large inventory of vacant land in Kittitas County which, in his opinion, lowers property values.
- 31.5 Joe O'Leary: Mr. O'Leary's concerns related to the retention of the rural character of the area and the impact this project will have on the rural character. He believed the development is not consistent with this rural character. He also had concerns regarding groundwater south of Susan Road as well as standing water that occasionally occurs along Susan Road.
- 31.6 Harriet Bland: Ms. Bland testified that her family had been farming in this area for 50 years. Her testimony was that farming is made more difficult with residential development. She testified as to her observations of traffic on Manastash Road. She testified as to her understanding that Midfield Road was just made for 4 homes not an additional 16 homes. She had concerns regarding irrigation water as her farm irrigates 800 acres of farmland. She also testified as to her impression of the recent Supreme Court decision and how that impacts land uses in agricultural zones.
- 31.7 Carmen Rahm: Mr. Rahm, who resides at 1041 Susan Road, had concerns related to what was actually good for the public. As he saw it there were three options, those being no development, development only using 3-acre parcels and finally this type of cluster development. In Mr. Rahm's opinion, the only person benefiting from a cluster development would be the applicant and not the public as a whole.
- 31.8 Jil Zilligen: Ms. Zilligen, who resides at 361 Midfield, expressed her observations as to the unique beauty of this valley. She testified that there are rural areas as well as urban areas and that the two areas need to be kept separate. She testified as to her understanding that there are options available for persons who wish to buy smaller lots in more densely populated areas. Ms. Zilligen's opinion was that the best public benefit is to leave this land vacant. She testified that if this project is approved, she requested the following conditions

of approval:

- 31.8.1 That the open space be left an open in perpetuity;
 - 31.8.2 That permanent traffic calming devices, including but not limited to speed bumps, be employed; and
 - 31.8.3 That an access road on the west side of Manastash Road be required.
- 31.9 Alex Galbraith: Mr. Galbraith returned to testify as to his concerns as to why he and his neighbors were not included on the variance committee for the private road variance that directly impacts him.
- 31.10 Linda Rahm: Ms. Rahm testified that she and other residents of Susan Road are the owners of that private road. She testified that they maintain the road, plow the road, etc. Ms. Rahm testified that there is construction going on in the area that continues to damage Susan Road. Ms. Rahm wanted to know whether or not the applicant would fix Susan Road after his construction activities or whether they would be forced to fix the road. She also had questions as to how the road was going to be widened to 20' if there is only 18'3" of roadway at this time.
- 31.11 Robert Ross: Mr. Ross returned to testify to reiterate that those testifying are just trying to maintain their rural lifestyle. He said they see problems on the way.
(Open record public hearing testimony)
32. Mr. Williams returned to testify on behalf of the applicant. Mr. Williams pointed to Exhibit 25. He indicated that this road easement agreement included provisions for use and maintenance of the private roads. He reiterated that the public benefit includes those benefits are that are set forth in the Comprehensive Plan. (Open record public hearing testimony)
33. Michael Murphy, attorney for the applicant, provided legal argument and no evidence. (Open record public hearing testimony)
34. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located. (Hearing Examiner finding based on the record)
35. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval. (Hearing Examiner finding based on the record)
36. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities. (Hearing Examiner finding based on the record)
37. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference. (Hearing Examiner finding based on the record)

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this recommended decision.

2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
8. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
9. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Kittitas County Code or the Comprehensive Plan.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. The application vested upon Kittitas County's issuance of a determination of complete application, that being August 23, 2011, at 11:20 a.m.
12. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

Based on the above Recommended Findings of Fact and Recommended Conclusions of Law, the Hearing Examiner hereby recommends that Application CL-11-01, Allwest LLC, be **APPROVED** subject to the following Recommended Conditions of Approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL

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

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.

2. The project shall proceed in substantial conformance with the plans and application materials which was deemed complete on August 23, 2011 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.
5. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
6. Proof of potable water must be shown prior to final plat approval.
7. A plat note discussing the spread of noxious weeds shall be shown on the plat and shall read: "Per RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds, accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeded of areas disturbed by development to preclude the proliferation of noxious weeds."

Platting Standards and Zoning Code:

8. Certificate of Title: A certificate of title of the property proposed to be platted shall be submitted with the final plat.
9. Lot Closures: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
10. Conditions, Covenants, and Restrictions: Prior to final plat approval, a copy of the proposed final Conditions, Covenants, and Restrictions shall be submitted to Community Development Services for review and approval.
11. Open Space Tracts: Prior to final plat approval, all areas not included in development lots shall be labeled as individual tracts. Tracts shall not be further subdivided or altered. All tracts, except the tract(s) containing the private road area, shall be labeled "Open Space."
12. Open Space Tract Ownership and Maintenance: Open space tracts shall be jointly owned and maintained by the developer or legally responsible owner or homeowner's association or other legal entity made up of all benefited property owners.

Stormwater and Drainage

13. This project will require a NPDES Construction Stormwater General Permit from the Washington State Department of Ecology. This permit requires that the SEPA checklist fully disclose anticipated activities, including building, road construction, and utility placements. Obtaining a permit is at least a 38 day process and may take up to 60 days if the original SEPA does not disclose all

proposed activities.

14. The NPDES permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.
15. Erosion control measures must be in place prior to any clearing, grading or construction. These control measures must be effective to prevent soil from being carried into surface water by storm water runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants.
16. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.
17. Best management practices must be used to prevent any sediment, oil, gas, or other pollutants from entering surface or ground water.

Transportation and Infrastructure

18. Timing of Improvements: This application is subject to the latest revision of the Kittitas County Road Standards, dated 9/6/05. The following conditions apply and must be completed prior to final plat approval. A Performance Bond or acceptable financial guarantee may be used, in lieu of the required improvements, per the conditions outlined in the current Kittitas County Road Standards.
19. 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 final plat approval.
20. Road Name: Midfield Drive shall be labeled on the final plat.
21. Private Road Improvements – Midfield Drive: Access from Manastash Road to the final cul-de-sac shall be constructed to meet or exceed the conditions of a High-Density Private Road that serves 15-40 tax parcels. See current 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 22', with 1' shoulders, for a total width of 24'.
 - b. Minimum centerline radius shall be 60'.
 - c. Surface requirement BST/ACP.
 - 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.
 - h. Any further subdivision or lots to be served by proposed access may result in further access requirements.

- i. All roads located within this development or roads that provide access to this development shall be constructed to current county road standards unless any other maintenance agreements, forest service road easements or state easements require higher road standards. The higher of the road standards shall apply.
 - j. All easements shall provide for AASHTO radius at the intersection with a county road.
 - k. A paved apron shall be constructed at the intersection of the proposed private intersection and the county road right-of-way.
22. Private Road Improvements – Susan Road:
- a. To serve lots 1 and 2, the road must be extended and a new cul-de-sac constructed in the vicinity of lot 2. No more than two lots can be served by a driveway off the end of a cul-de-sac.
 - b. Per the findings of Road Variance 11-08, the private portion of Susan Road must be verified to be 20’ wide, including gravel and pavement, through the road certification process. The road extension may be constructed to 20’ wide.
23. Cul-de-Sac: A cul-de-sac turn-around having an outside right-of-way or easement diameter of at least 110 feet shall be constructed at the closed end of all dead-end roads serving 3 or more lots. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2009 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.
24. Plat Notes: Plat notes shall reflect the following:
- a. Entire private road shall be inspected and certified by a civil engineer licensed in the State of Washington specifying that the road meets Kittitas County Road Standards as adopted September 6, 2005, prior to final plat approval. Any future subdivision or land use action will be reviewed under the most current road standards.
 - b. Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel.
 - c. Maintenance of the access is the responsibility of the property owners who benefit from its use.
 - d. An approved access permit will 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.
 - e. Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
 - f. A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided 5 feet on each side of interior lot lines. Said easement shall also be used for irrigation.
25. Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
- a. Access easements shall be a minimum of 20’ wide. The roadway width shall have a minimum width of 12’.

- b. The surface requirement is for a minimum gravel surface depth of 6”.
 - c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - d. Any further subdivision or lots to be served by proposed access may result in further access requirements.
26. Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
- a. The roadway shall be a minimum of 8’ wide with gravel surface.
 - b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - c. Any further subdivision or lots to be served by proposed access may result in further access requirements.
27. Plat Approvals: All plats must show the acceptance signature of the County Engineer. The acceptance block shall be as follows (per KCC 16.24.170):

EXAMINED AND APPROVED
 This ____ day of ____, A.D., 20 ____.

 Kittitas County Engineer

28. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
29. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
30. 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.
31. 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.
32. Fire Protection: Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
33. Mailbox Placement: The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.

Water and Sewer

34. The final plat notes shall include the following statements:

The approval of this division of land includes no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law.

AND

Metering will be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements.

35. **Adequate Potable Water Supply Statement:** Final approval is conditioned upon the developer/owner of the plat providing proof of potable water. Proof of potable water can be provided through several different ways depending on the source of water proposed as described and outlined in the Board of County Commissioners Resolution 2010-082.

The application states that residences will utilize a Group B Public Water System; therefore, the following information is required prior to final plat approval:

Applicants shall have a well site inspection performed by KCPHD staff; complete and submit a Group B Public Water System Workbook to either KCPHD for water systems with 3-9 connections or Washington State Department of Health (DOH) for water systems with 10-14 connections or as amended by DOH; have the well(s) drilled; and submit a copy of an agreement with an approved Kittitas County Satellite Management Agency. All infrastructure for the Group B Water System including the well/pump house and storage tanks must be completed or the developer/owner can bond for completion. Final approval of the Group B Public Water System including issuance of the public water system ID number from DOH is required prior to recommendation by KCPHD for final approval. If a bond is in place, final approval will still be recommended but all infrastructure must be completed before issuance of the first building permit within the subdivision.

36. The proponent shall apply to Ecology for a permit to appropriate public groundwater. Ecology believes the Allwest LLC Cluster Plat which proposes to provide water through two group B water systems, is one project and is entitled to one groundwater exemption of 5,000 gallons per day and, therefore, requires a water right.
37. **Water for Dust Suppression.** The Department of Ecology States: water use from road construction and dust suppression will likely be necessary given that new roads and grading are planned. Water use for construction and dust compression are not listed uses eligible for appropriation under RCW 90.44.050. Therefore, a water right will be required for water used for short term and long term construction and dust suppression needs. Temporary permits may be obtainable in short time-periods.

Fire Safety

38. Approved water storage of 30,000 gallons, with a private dry hydrant system shall be installed, or, the applicant may determine to provide every residence with an approved 13D residential sprinkler

system. Whichever option is chosen shall be noted on the final plat.

39. No fire apparatus access lane shall have a slope greater than 12%. A Variance Permit will be required for any slopes or grades greater than allowed by County Code.
40. “No Parking—Fire Lane” signs must be posted per Fire Marshal requirements on all cul-de-sacs.
41. All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2009 International Fire and Building Codes.
42. A separate permit is required for any private water storage or hydrant system and/or each individual sprinkler system.

Air Quality

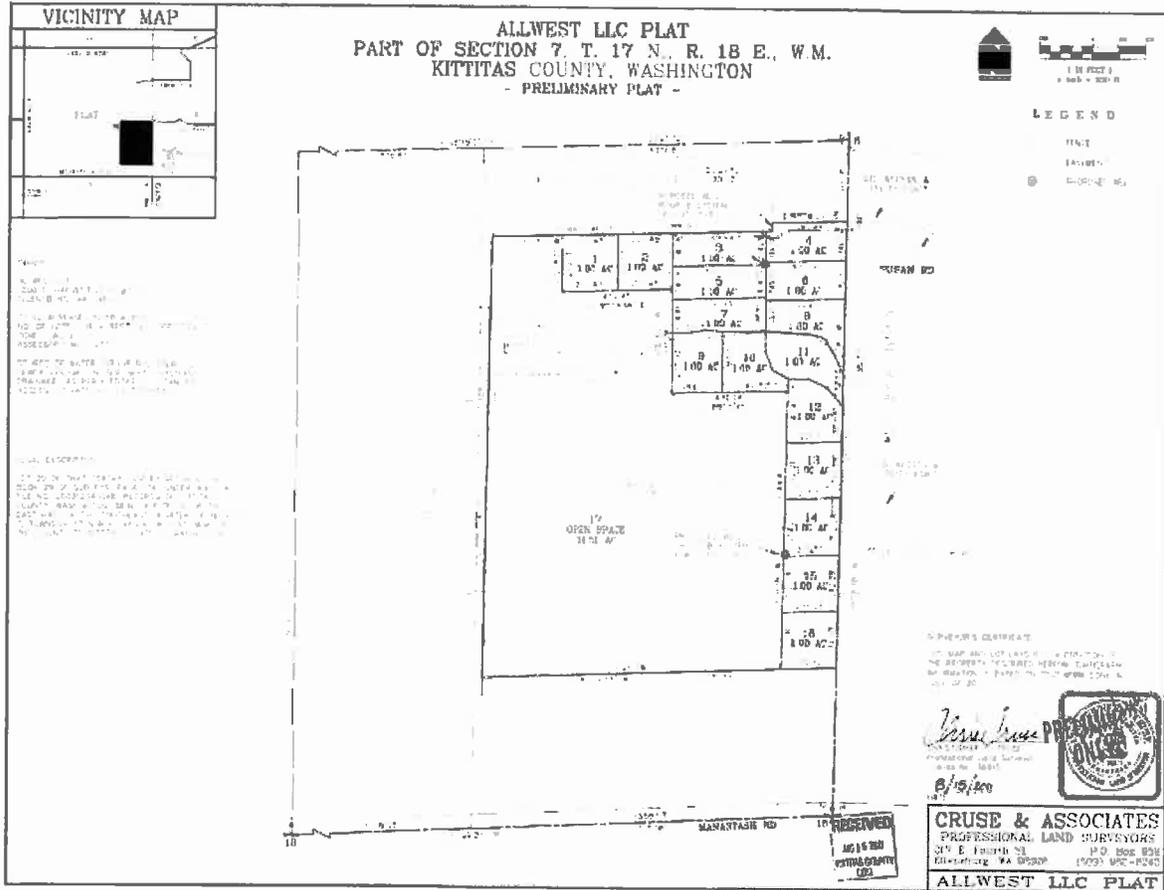
43. WAC 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the site. Dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts, or damaging property or business.
44. The applicant should create a site-specific Fugitive Dust Control Plan (FDCP) before starting this project, and then follow the plan for construction of the project and duration of activity on the property. The FDCP should include, but is not limited to, the following components:
 - 44.1 Identify all potential fugitive dust emission points.
 - 44.2 Assign dust control methods.
 - 44.3 Determine the frequency of application
 - 44.4 Record all dust control activities.
 - 44.5 Train personnel in the FDCP.
 - 44.6 Shut down during windy conditions.
 - 44.7 Follow the FDCP and monitor dust control efforts.
45. According to County standards, a water truck shall be available during construction to minimize dust emissions.

Dated this 20th day of December, 2011.

KITTITAS COUNTY HEARING EXAMINER

Andrew L. Kottkamp

Exhibit "B"



KITTITAS COUNTY LAND USE HEARING EXAMINER

IN THE MATTER OF)
)
CL-11-01)
Allwest LLC) **RECOMMENDED FINDINGS OF
FACT, CONCLUSIONS OF
LAW, DECISION AND
CONDITIONS OF APPROVAL**

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on December 8, 2011, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. Chris Cruse, authorized agent for Allwest LLC property owner, has applied for a preliminary plat to subdivide a 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The project is proposed to be served by a Group B water system and individual on-site septic systems. (Staff report)
2. The applicant is Allwest LLC, authorized agent Chris Cruse, 1000 Harvest Loop #300, Ellensburg, WA 98926. (Application materials)
3. The subject property is one tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019. (Staff report)
4. Site Information:

Total Project Size:	50.58 acres
Number of Lots:	16
Zoning district	Agriculture 3
Domestic Water:	Group B water system
Sewage Disposal:	Individual on-site septic systems
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District #2 (Rural Ellensburg)
Irrigation District:	Kittitas Reclamation District

(Staff report)
5. Site Characteristics: The area is characterized as flat terrain used for agricultural purposes. (Staff report)

6. Surrounding Property:
North: Residential
South: Residential
East: Vacant
West: Vacant
(Staff report)
7. The Comprehensive Plan designation is Rural. (Staff report)
8. The subject property is zoned Agriculture 3, which allows for one residential unit per 3 acres and one-half acres for platted cluster subdivisions served by public water and sewer systems. All subdivision lots under three acres in size must be served by public water and sewer systems (KCC 17.30.040). (Staff report)
9. A complete long plat application was submitted to Community Development Services on August 15, 2011. The application was deemed complete on August 23, 2011. The Notice of Application for the preliminary plat application was issued on September 7, 2011. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on September 22, 2011. (Staff report)
10. In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the “Land Use Action” sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner and is included as part of the record. (Staff report)
11. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on November 10, 2011. The appeal period ended on November 29, 2011 at 5:00 p.m. No appeals were filed. (Staff report)
12. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by a Group B water system and individual or community septic systems. Staff has conducted and an administrative critical area review in accordance with KCC 17A and found small wetlands on the subject properties. (Staff report)
13. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.09 for Performance Based Cluster Plats. (Staff report)
14. This proposal is consistent with the provisions of KCC 16.12:Preliminary Plat Subdivision Code: The application contained all required elements necessary to review this proposal with the exception of soil logs and water availability, which will be required prior to final plat approval. All proposed lots meet the dimensional standards of KCC 17.30A for lots zoned Agriculture 3. This proposal is consistent with the Kittitas County Code 16.12.150 in making recommendation as to the adequacy of the proposed road system, the proposed sewage disposal

and potable water supply system and fire protection facilities within the subdivision. (Staff report)

15. All roads are required to meet all Kittitas County Road Standards as outlined in the October 3, 2011 memorandum issued by the Department of Public Works. As conditioned, the proposal is consistent with the provisions of KCC Title 12. (Staff report)
16. The following agencies provided comments during the comment period: Department of Ecology, Department of Health, Kittitas County Department of Public Works, Fire Marshal's Office and Environmental Health. These comments have been included as conditions of approval to address these agency concerns. (Staff report)
17. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval. (Hearing Examiner finding based on the record)
18. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
19. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
20. While this applicant is requesting performance based cluster platting, they are not requesting any bonus density points. The lots allowed under current zoning (Ag-3) results in these 50.58 acres, divided by 3-acre lots, allows for a total of 16 lots. (Public hearing record)
21. The project is consistent with the goals and policies of the Kittitas County Comprehensive Plan. Those goals include:
 - 21.1 GPO 3.1, to provide a sufficient number of housing units for future populations in rural areas of Kittitas County.
 - 21.2 GPO 3.6, to provide for future populations while protecting individual property rights.
 - 21.3 GPO 3.17, to provide a sufficient number of housing units for future populations while maintaining the rural character of Kittitas County.
 - 21.4 GPO 3.18, to provide sufficient housing units while maintaining environmental quality.
 - 21.5 GPO 8.5, to facilitate the County's need for continued diversity and densities in uses on rural lands.
 - 21.6 GPO 8.46, that residential development in rural lands must be in areas that can support adequate private water and sewer systems.
(Public hearing record)
22. This application vested upon the issuance of the determination of a complete application.
(Public hearing record)

23. The determination of complete application was issued on August 23, 2011, at approximately 11:00 a.m. (Public hearing record)
24. This determination of completed application and therefore this application is not effected by the Growth Management Hearing Board's Determination of Invalidity because the stay on enforcement of that order was not dissolved until August 23, 2011, at approximately 1:30 in the afternoon. (Public hearing record)
25. This application is to be construed by the rules and regulations in effect at the date and time of the determination of complete application. At the time of the issuance of the determination of complete application, the stay of the Growth Management Hearing Board's order was still in effect. (Public hearing record)
26. The following timeline is relevant:
 - 26.1 **December 11, 2006.** Kittitas County enacted Ordinance 2006-63 to update its comprehensive plan pursuant to the Growth Management Act (GMA), RCW 36.70A.130(1). Various parties challenged this ordinance by filing petitions for review with the Eastern Washington Growth Management Hearings Board (EWGMHB). *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0004c (hereafter "*Kittitas County Conservation I*").
 - 26.2 **July 22, 2007.** Kittitas County enacted Ordinance 2007-22, revising the County's development regulations. Again, various parties filed petitions for review with the EWGMHB. *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0015 (hereafter "*Kittitas County Conservation II*").
 - 26.3 **August 20, 2007.** The EWGMHB issued its *Final Decision and Order* (FDO) in *Kittitas County Conservation I*. The EWGMHB found the County to be noncompliant with GMA on various issues, and issued a determination of invalidity with respect to the expansion of the County's Urban Growth Areas (UGAs) and the de-designation of Agricultural Resource Lands. The EWGMHB also found the County to be noncompliant with GMA with respect to rural zones of greater density than one dwelling unit per five acres (outside LAMIRDs), but did not issue a determination of invalidity with respect to the R-3 and Ag-3 zones.
 - 26.4 **November 13, 2007.** The Kittitas County Superior Court issued a stay of the FDO in "*Kittitas County Conservation I*".
 - 26.5 **March 28, 2008.** The EWGMHB issued its FDO in *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0015 (hereafter "*Kittitas County Conservation II*"). The EWGMHB found the Ag-3 and R-3 zones noncompliant and issued a determination of invalidity with respect to those zones.
 - 26.6 **April 24, 2008.** The Kittitas County Superior Court issued a stay of the FDO in "*Kittitas County Conservation II*".

- 26.7 **June 2, 2008.** The Kittitas County Superior Court issued a third stay in various cases consolidated under Cause No. 08-2-00195-7.
- 26.8 The various cases consolidated in the superior court were transferred to the Supreme Court.
- 26.9 **July 28, 2011.** The Supreme Court issued its opinion in the consolidated appeals. *Kittitas County v. EWGMHB*. The Court upheld parts of the EWGMHB's decisions regarding the Ag-3 zone. The opinion did not address the effect of the prior stays.
- 26.10 **August 15, 2011.** A complete application of the Allwest cluster plat was filed with CDS.
- 26.11 **August 23, 2011.** At 11:20 a.m., CDS emailed the notice of complete application to Allwest's agent.
- 26.12 **August 23, 2011.** At 1:34 p.m., the mandate was issued the Supreme Court in *Kittitas County v. EWGMHB*. The Mandate states that the Decision became effective on August 17, 2011.
- 26.13 **October 10, 2011.** Judge Sparks entered an order confirming that all three stays previously issued in connection with the GMA appeals were dissolved effective August 23, 2011 at 1:34 p.m. That decision was not appealed by any party.
(Public hearing record)
27. An open record public hearing after due legal notice was held on December 8, 2011. (Open record public hearing)
28. The following 38 exhibits were admitted into the record:
 - 28.1 Exhibit 1: Long Plat Application
 - 28.2 Exhibit 2: Letter of Complete Application
 - 28.3 Exhibit 3: Affidavit of Posting
 - 28.4 Exhibit 4: Notice of Application
 - 28.5 Exhibit 5: Comment letter from Dept. of Ecology 9/19/11
 - 28.6 Exhibit 6: Comment letter from Public Health 10/10/11
 - 28.7 Exhibit 7: E-mail comments from WA Dept. of Health 9/9/11
 - 28.8 Exhibit 8: Comment letter from Kittitas Co. Fire Marshal 9/20/11
 - 28.9 Exhibit 9: Memorandum – Kittitas Co. Public Works 9/12/11 & 10/3/11
 - 28.10 Exhibit 10: Comment e-mail Rich Elliott, Kittitas Valley Fire & Rescue 9/20/11
 - 28.11 Exhibit 11: E-mail comments from Chris Schedler 9/12/11
 - 28.12 Exhibit 12: E-mail comments from Linda Rahm 9/16/11
 - 28.13 Exhibit 13: Comment letter from Ted & Shelley Miller
 - 28.14 Exhibit 14: Comment letter from Christopher Schedler 9/19/11
 - 28.15 Exhibit 15: Comment letter from Carmen & Linda Rahm 9/19/11
 - 28.16 Exhibit 16: E-mail comments from Kendal & Lisa Osborn 9/19/11
 - 28.17 Exhibit 17: Comment letter from Joe & Mary O'Leary 9/20/11
 - 28.18 Exhibit 18: E-mail comments from Tom Morris 9/21/11

- 28.19 Exhibit 19: Comment letter from Jil Zilligen 9/21/11
- 28.20 Exhibit 20: Comment letter from Bill & Lynette Arnold
- 28.21 Exhibit 21: Comment letter from Andrew & Janice Cohen 9/21/11
- 28.22 Exhibit 22: Comment letter from Robert & Sandra Ross 9/22/11
- 28.23 Exhibit 23: Comment letter from Justin Seth
- 28.24 Exhibit 24: Comment letter from Larry & Harriet Bland 9/22/11
- 28.25 Exhibit 25: Road easement agreement for the Midfield LLC Plat from Mitch Williams 9/27/11
- 28.26 Exhibit 26: Letter to Christina Wollman from Christopher Cruse re: access road width 2/28/11
- 28.27 Exhibit 27: Comment letter from Christopher Schedler 12/1/11
- 28.28 Exhibit 28: SEPA Determination of Nonsignificance (DNS) 11/10/11
- 28.29 Exhibit 29: Notice of Decision SEPA Action & Public Hearing
- 28.30 Exhibit 30: Hearing Examiner Staff Report
- 28.31 Exhibit 31: Letter from Mike Murphy to Hearing Examiner 12/7/11
- 28.32 Exhibit 32: Amended comment letter from the Fire Marshal 12/7/11
- 28.33 Exhibit 33: E-mail comments from Joe Gilbert, Environmental Health 12/8/11
- 28.34 Exhibit 34: E-mail comment from Neil Caulkins, Deputy Prosecutor 12/8/11
- 28.35 Exhibit 35: Letter from Larry & Harriet Bland 11/29/11
- 28.36 Exhibit 36: Table 12-1 Private Road Design Standards submitted by Alex Galbraith
- 28.37 Exhibit 37: Figure 12-2 Rural Local Access Roadway Section submitted by Alex Galbraith
- 28.38 Exhibit 38: Letter submitted by Alex Galbraith
(Open record public hearing)

- 29. Appearing and testifying on behalf of the applicant was Mitch Williams. Mitch Williams testified that he was an authorized representative of the applicant and was authorized to appear and speak on behalf of Allwest, LLC. Mr. Williams testified that the staff report was accurate as to its factual representations. Mr. Williams testified that all of the proposed conditions of approval were acceptable to the applicant. Mr. Williams testified that there will be irrigation rights for all 16 lots. He testified that there will be two Class B wells and that there will be actual water rights associated with this project. He testified that there will be a second cul-de-sac on Susan at the northeast corner of proposed Lot No. 2. He testified that there is a barn and agricultural pond on the site. He testified that the barn and the pond were used for his agricultural-related activities. He testified that the open tract created through this cluster plat would remain an agricultural use. He testified that all of the lots would have individual septic systems and that there was sufficient space for drainfields and reserve drainfields on each lot. Related to Exhibit 32, Mr. Williams testified that he agreed to the revised fire standard. (Open record public hearing testimony)
- 30. No member of the public testified in favor of this project. (Open record public hearing testimony)
- 31. Testifying in opposition to the project were the following persons who raised the following concerns:

- 31.1 Robert Ross: Mr. Ross testified that he owns land south of the project parcel and adjacent. He questioned the public benefit associated with this project. He also asked that the applicant guarantee that his well will not dry up.

On question by the Hearing Examiner, the applicant, Mitch Williams, testified that the public benefit relates to the public as a whole and the benefit is as stated in the application materials. Basically, Mr. Williams testified that the public benefit was a retention of a substantial portion of this property in agricultural land production and utilizing smaller residential footprints, and clustering the residential units together so as to minimize the use of roads and expansion of utilities throughout the project site.

- 31.2 Alex Galbraith: Mr. Galbraith testified that his property borders Lots 2 and 3 to the north of the project area. He had questions as to the location of the cul-de-sac. He had questions as to how Susan Road was going to be widened. He questioned the granting of the road variance, indicating that he was not allowed to be a part of this process. Mr. Galbraith raised questions regarding the easement which he utilizes and whether or not this easement will allow access to the applicant's property.
- 31.3 Chris Schedler: Mr. Schedler testified to his concerns as to why this project was processed given a recent Supreme Court decision. He questioned the vesting date of this application, given the recent Supreme Court decision. He also questioned what he characterized as development planning issues, citing the recent Supreme Court issue indicating that 3-acre lots in agricultural districts are harmful. He does not believe this project protects the rural character.
- 31.4 Kendal Osborn: Mr. Osborn had concerns about whether or not this project was good for the general public. He testified that he is a real estate appraiser and that there are large inventory of vacant land in Kittitas County which, in his opinion, lowers property values.
- 31.5 Joe O'Leary: Mr. O'Leary's concerns related to the retention of the rural character of the area and the impact this project will have on the rural character. He believed the development is not consistent with this rural character. He also had concerns regarding groundwater south of Susan Road as well as standing water that occasionally occurs along Susan Road.
- 31.6 Harriet Bland: Ms. Bland testified that her family had been farming in this area for 50 years. Her testimony was that farming is made more difficult with residential development. She testified as to her observations of traffic on Manastash Road. She testified as to her understanding that Midfield Road was just made for 4 homes not an additional 16 homes. She had concerns regarding irrigation water as her farm irrigates 800 acres of farmland. She also testified as to her impression of the recent Supreme Court decision and how that impacts land uses in agricultural zones.
- 31.7 Carmen Rahm: Mr. Rahm, who resides at 1041 Susan Road, had concerns related to what was actually good for the public. As he saw it there were three options, those being no development, development only using 3-acre parcels and finally this type of

cluster development. In Mr. Rahm's opinion, the only person benefiting from a cluster development would be the applicant and not the public as a whole.

- 31.8 Jil Zilligen: Ms. Zilligen, who resides at 361 Midfield, expressed her observations as to the unique beauty of this valley. She testified that there are rural areas as well as urban areas and that the two areas need to be kept separate. She testified as to her understanding that there are options available for persons who wish to buy smaller lots in more densely populated areas. Ms. Zilligen's opinion was that the best public benefit is to leave this land vacant. She testified that if this project is approved, she requested the following conditions of approval:
- 31.8.1 That the open space be left an open in perpetuity;
 - 31.8.2 That permanent traffic calming devices, including but not limited to speed bumps, be employed; and
 - 31.8.3 That an access road on the west side of Manastash Road be required.
- 31.9 Alex Galbraith: Mr. Galbraith returned to testify as to his concerns as to why he and his neighbors were not included on the variance committee for the private road variance that directly impacts him.
- 31.10 Linda Rahm: Ms. Rahm testified that she and other residents of Susan Road are the owners of that private road. She testified that they maintain the road, plow the road, etc. Ms. Rahm testified that there is construction going on in the area that continues to damage Susan Road. Ms. Rahm wanted to know whether or not the applicant would fix Susan Road after his construction activities or whether they would be forced to fix the road. She also had questions as to how the road was going to be widened to 20' if there is only 18'3" of roadway at this time.
- 31.11 Robert Ross: Mr. Ross returned to testify to reiterate that those testifying are just trying to maintain their rural lifestyle. He said they see problems on the way. (Open record public hearing testimony)
32. Mr. Williams returned to testify on behalf of the applicant. Mr. Williams pointed to Exhibit 25. He indicated that this road easement agreement included provisions for use and maintenance of the private roads. He reiterated that the public benefit includes those benefits are that are set forth in the Comprehensive Plan. (Open record public hearing testimony)
33. Michael Murphy, attorney for the applicant, provided legal argument and no evidence. (Open record public hearing testimony)
34. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located. (Hearing Examiner finding based on the record)
35. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval. (Hearing Examiner finding based on the record)

36. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities. (Hearing Examiner finding based on the record)
37. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference. (Hearing Examiner finding based on the record)

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this recommended decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
8. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
9. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Kittitas County Code or the Comprehensive Plan.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. The application vested upon Kittitas County's issuance of a determination of complete application, that being August 23, 2011, at 11:20 a.m.
12. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

Based on the above Recommended Findings of Fact and Recommended Conclusions of Law, the Hearing Examiner hereby recommends that Application CL-11-01, Allwest LLC, be **APPROVED** subject to the following Recommended Conditions of Approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL

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

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials which was deemed complete on August 23, 2011 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.
5. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
6. Proof of potable water must be shown prior to final plat approval.
7. A plat note discussing the spread of noxious weeds shall be shown on the plat and shall read: "Per RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds, accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds."

Platting Standards and Zoning Code:

8. Certificate of Title: A certificate of title of the property proposed to be platted shall be submitted with the final plat.
9. Lot Closures: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
10. Conditions, Covenants, and Restrictions: Prior to final plat approval, a copy of the proposed final Conditions, Covenants, and Restrictions shall be submitted to Community Development Services for review and approval.
11. Open Space Tracts: Prior to final plat approval, all areas not included in development lots shall be labeled as individual tracts. Tracts shall not be further subdivided or altered. All tracts, except the tract(s) containing the private road area, shall be labeled "Open Space."

12. Open Space Tract Ownership and Maintenance: Open space tracts shall be jointly owned and maintained by the developer or legally responsible owner or homeowner's association or other legal entity made up of all benefited property owners.

Stormwater and Drainage

13. This project will require a NPDES Construction Stormwater General Permit from the Washington State Department of Ecology. This permit requires that the SEPA checklist fully disclose anticipated activities, including building, road construction, and utility placements. Obtaining a permit is at least a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.
14. The NPDES permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.
15. Erosion control measures must be in place prior to any clearing, grading or construction. These control measures must be effective to prevent soil from being carried into surface water by storm water runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants.
16. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.
17. Best management practices must be used to prevent any sediment, oil, gas, or other pollutants from entering surface or ground water.

Transportation and Infrastructure

18. Timing of Improvements: This application is subject to the latest revision of the Kittitas County Road Standards, dated 9/6/05. The following conditions apply and must be completed prior to the issuance of a building permit for any of the structures within this plat. A Performance Bond or acceptable financial guarantee may be used, in lieu of the required improvements, per the conditions outlined in the current Kittitas County Road Standards.
19. 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.
20. Road Name: Midfield Drive shall be labeled on the final plat.

21. Private Road Improvements – Midfield Drive: Access from Manastash Road to the final cul-de-sac shall be constructed to meet or exceed the conditions of a High-Density Private Road that serves 15-40 tax parcels. See current 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 22', with 1' shoulders, for a total width of 24'.
 - b. Minimum centerline radius shall be 60'.
 - c. Surface requirement BST/ACP.
 - 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.
 - h. Any further subdivision or lots to be served by proposed access may result in further access requirements.
 - i. All roads located within this development or roads that provide access to this development shall be constructed to current county road standards unless any other maintenance agreements, forest service road easements or state easements require higher road standards. The higher of the road standards shall apply.
 - j. All easements shall provide for AASHTO radius at the intersection with a county road.
 - k. A paved apron shall be constructed at the intersection of the proposed private intersection and the county road right-of-way.
22. Private Road Improvements – Susan Road:
- a. To serve lots 1 and 2, the road must be extended and a new cul-de-sac constructed in the vicinity of lot 2. No more than two lots can be served by a driveway off the end of a cul-de-sac.
 - b. Per the findings of Road Variance 11-08, the private portion of Susan Road must be verified to be 20' wide, including gravel and pavement, through the road certification process. The road extension may be constructed to 20' wide.
23. Cul-de-Sac: A cul-de-sac turn-around having an outside right-of-way or easement diameter of at least 110 feet shall be constructed at the closed end of all dead-end roads serving 3 or more lots. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2009 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.
24. Plat Notes: Plat notes shall reflect the following:
- a. Entire private road shall be inspected and certified by a civil engineer licensed in the State of Washington specifying that the road meets Kittitas County Road Standards as adopted September 6, 2005, prior to the issuance of a building permit. Any future subdivision or land use action will be reviewed under the most current road standards.
 - b. Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel.

- c. Maintenance of the access is the responsibility of the property owners who benefit from its use.
 - d. An approved access permit will 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.
 - e. Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
 - f. A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided 5 feet on each side of interior lot lines. Said easement shall also be used for irrigation.
25. Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
- a. Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
 - b. The surface requirement is for a minimum gravel surface depth of 6".
 - c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - d. Any further subdivision or lots to be served by proposed access may result in further access requirements.
26. Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
- a. The roadway shall be a minimum of 8' wide with gravel surface.
 - b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - c. Any further subdivision or lots to be served by proposed access may result in further access requirements.
27. Plat Approvals: All plats must show the acceptance signature of the County Engineer. The acceptance block shall be as follows (per KCC 16.24.170):
- EXAMINED AND APPROVED
 This ____ day of ____, A.D., 20__.
- _____
- Kittitas County Engineer
28. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
29. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
30. 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.

31. 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.
32. Fire Protection: Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
33. Mailbox Placement: The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.

Water and Sewer

34. The final plat notes shall include the following statements:

The approval of this division of land includes no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law.

AND

Metering will be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements.

35. Adequate Potable Water Supply Statement: Final approval is conditioned upon the developer/owner of the plat providing proof of potable water. Proof of potable water can be provided through several different ways depending on the source of water proposed as described and outlined in the Board of County Commissioners Resolution 2010-082.

The application states that residences will utilize a Group B Public Water System; therefore, the following information is required prior to final plat approval:

Applicants shall have a well site inspection performed by KCPHD staff; complete and submit a Group B Public Water System Workbook to either KCPHD for water systems with 3-9 connections or Washington State Department of Health (DOH) for water systems with 10-14 connections or as amended by DOH; have the well(s) drilled; and submit a copy of an agreement with an approved Kittitas County Satellite Management Agency. All infrastructure for the Group B Water System including the well/pump house and storage tanks must be completed or the developer/owner can bond for completion. Final approval of the Group B Public Water System including issuance of the public water system ID number from DOH is required prior to recommendation by KCPHD for final approval. If a bond is in place, final approval will still be recommended but all infrastructure must be completed before issuance of the first building permit within the subdivision.

36. The proponent shall apply to Ecology for a permit to appropriate public groundwater, if seeking to use the groundwater exemption shall submit to Ecology a request for determination that the proposed exempt use would be water budget neutral. No new exempt uses under RCW 90.44.050 may commence unless Ecology has approved a request for determination that the proposed exempt use would be water budget neutral. Chapter 173-150 WAC provides for the existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in this area becomes limited the use could be curtailed by those with senior water rights. Ecology believes the Allwest LLC Cluster Plat which proposes to provide water through two group B water systems, is one project and is entitled to one groundwater exemption of 5,000 gallons per day and, therefore, requires a water right.
37. Water for Dust Suppression. The Department of Ecology States: water use from road construction and dust suppression will likely be necessary given that new roads and grading are planned. Water use for construction and dust suppression are not listed uses eligible for appropriation under RCW 90.44.050. Therefore, a water right will be required for water used for short term and long term construction and dust suppression needs. Temporary permits may be obtainable in short time-periods.

Fire Safety

38. Approved water storage of 30,000 gallons, with a private dry hydrant system shall be installed, or, the applicant may determine to provide every residence with an approved 13D residential sprinkler system. Whichever option is chosen shall be noted on the final plat.
39. No fire apparatus access lane shall have a slope greater than 12%. A Variance Permit will be required for any slopes or grades greater than allowed by County Code.
40. "No Parking—Fire Lane" signs must be posted per Fire Marshal requirements on all cul-de-sacs.
41. All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2009 International Fire and Building Codes.
42. A separate permit is required for any private water storage or hydrant system and/or each individual sprinkler system.

Air Quality

43. WAC 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the site. Dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts, or damaging property or business.

44. The applicant should create a site-specific Fugitive Dust Control Plan (FDCP) before starting this project, and then follow the plan for construction of the project and duration of activity on the property. The FDCP should include, but is not limited to, the following components:
 - 44.1 Identify all potential fugitive dust emission points.
 - 44.2 Assign dust control methods.
 - 44.3 Determine the frequency of application
 - 44.4 Record all dust control activities.
 - 44.5 Train personnel in the FDCP.
 - 44.6 Shut down during windy conditions.
 - 44.7 Follow the FDCP and monitor dust control efforts.

45. According to County standards, a water truck shall be available during construction to minimize dust emissions.

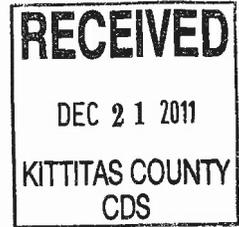
Dated this 20th day of December, 2011.

KITTITAS COUNTY HEARING EXAMINER

Andrew L. Kottkamp

PROJECT NAME: **Allwest LLC - PBCP (CL-11-01)**

Index # <small>*Numbers in lower right hand corner</small>	Document Name
1	Long Plat Application
2	Letter of Complete Application
3	Affidavit of Posting
4	Notice of Application
5	Comment letter from Dept. of Ecology 9/19/11
6	Comment letter from Public Health 10/10/11
7	E-mail comments from WA Dept of Health 9/9/11
8	Comment letter from Kittitas Co. Fire Marshal 9/20/11
9	Memorandum – Kittitas Co. Public Works 9/12/11 & 10/3/11
10	Comment e-mail Rich Elliott, Kittitas Valley Fire & Rescue 9/20/11
11	E-mail comments from Chris Schedler 9/12/11
12	E-mail comments from Linda Rahm 9/16/11
13	Comment letter from Ted & Shelley Miller
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15	Comment letter from Carmen & Linda Rahm 9/19/11
16	E-mail comments from Kendal & Lisa Osborn 9/19/11
17	Comment letter from Joe & Mary O’Leary 9/20/11
18	E-mail comments from Tom Morris 9/21/11
19	Comment letter from Jil Zilligen 9/21/11
20	Comment letter from Bill & Lynette Arnold
21	Comment letter from Andrew & Janice Cohen 9/21/11
22	Comment letter from Robert & Sandra Ross 9/22/11



KITTITAS COUNTY LAND USE HEARING EXAMINER

IN THE MATTER OF)	RECOMMENDED FINDINGS OF
)	FACT, CONCLUSIONS OF
CL-11-01)	LAW, DECISION AND
Allwest LLC)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on December 8, 2011, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. Chris Cruse, authorized agent for Allwest LLC property owner, has applied for a preliminary plat to subdivide a 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The project is proposed to be served by a Group B water system and individual on-site septic systems. (Staff report)
2. The applicant is Allwest LLC, authorized agent Chris Cruse, 1000 Harvest Loop #300, Ellensburg, WA 98926. (Application materials)
3. The subject property is one tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019. (Staff report)
4. Site Information:

Total Project Size:	50.58 acres
Number of Lots:	16
Zoning district	Agriculture 3
Domestic Water:	Group B water system
Sewage Disposal:	Individual on-site septic systems
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District #2 (Rural Ellensburg)
Irrigation District:	Kittitas Reclamation District

 (Staff report)
5. Site Characteristics: The area is characterized as flat terrain used for agricultural purposes. (Staff report)

6. Surrounding Property:
North: Residential
South: Residential
East: Vacant
West: Vacant
(Staff report)
7. The Comprehensive Plan designation is Rural. (Staff report)
8. The subject property is zoned Agriculture 3, which allows for one residential unit per 3 acres and one-half acres for platted cluster subdivisions served by public water and sewer systems. All subdivision lots under three acres in size must be served by public water and sewer systems (KCC 17.30.040). (Staff report)
9. A complete long plat application was submitted to Community Development Services on August 15, 2011. The application was deemed complete on August 23, 2011. The Notice of Application for the preliminary plat application was issued on September 7, 2011. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on September 22, 2011. (Staff report)
10. In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner and is included as part of the record. (Staff report)
11. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on November 10, 2011. The appeal period ended on November 29, 2011 at 5:00 p.m. No appeals were filed. (Staff report)
12. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by a Group B water system and individual or community septic systems. Staff has conducted and an administrative critical area review in accordance with KCC 17A and found small wetlands on the subject properties. (Staff report)
13. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.09 for Performance Based Cluster Plats. (Staff report)
14. This proposal is consistent with the provisions of KCC 16.12:Preliminary Plat Subdivision Code: The application contained all required elements necessary to review this proposal with the exception of soil logs and water availability, which will be required prior to final plat approval. All proposed lots meet the dimensional standards of KCC 17.30A for lots zoned Agriculture 3. This proposal is consistent with the Kittitas County Code 16.12.150 in making recommendation as to the adequacy of the proposed road system, the proposed sewage disposal

- and potable water supply system and fire protection facilities within the subdivision. (Staff report)
15. All roads are required to meet all Kittitas County Road Standards as outlined in the October 3, 2011 memorandum issued by the Department of Public Works. As conditioned, the proposal is consistent with the provisions of KCC Title 12. (Staff report)
 16. The following agencies provided comments during the comment period: Department of Ecology, Department of Health, Kittitas County Department of Public Works, Fire Marshal's Office and Environmental Health. These comments have been included as conditions of approval to address these agency concerns. (Staff report)
 17. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval. (Hearing Examiner finding based on the record)
 18. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
 19. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
 20. While this applicant is requesting performance based cluster platting, they are not requesting any bonus density points. The lots allowed under current zoning (Ag-3) results in these 50.58 acres, divided by 3-acre lots, allows for a total of 16 lots. (Public hearing record)
 21. The project is consistent with the goals and policies of the Kittitas County Comprehensive Plan. Those goals include:
 - 21.1 GPO 3.1, to provide a sufficient number of housing units for future populations in rural areas of Kittitas County.
 - 21.2 GPO 3.6, to provide for future populations while protecting individual property rights.
 - 21.3 GPO 3.17, to provide a sufficient number of housing units for future populations while maintaining the rural character of Kittitas County.
 - 21.4 GPO 3.18, to provide sufficient housing units while maintaining environmental quality.
 - 21.5 GPO 8.5, to facilitate the County's need for continued diversity and densities in uses on rural lands.
 - 21.6 GPO 8.46, that residential development in rural lands must be in areas that can support adequate private water and sewer systems.
(Public hearing record)
 22. This application vested upon the issuance of the determination of a complete application.
(Public hearing record)

23. The determination of complete application was issued on August 23, 2011, at approximately 11:00 a.m. (Public hearing record)
24. This determination of completed application and therefore this application is not effected by the Growth Management Hearing Board's Determination of Invalidity because the stay on enforcement of that order was not dissolved until August 23, 2011, at approximately 1:30 in the afternoon. (Public hearing record)
25. This application is to be construed by the rules and regulations in effect at the date and time of the determination of complete application. At the time of the issuance of the determination of complete application, the stay of the Growth Management Hearing Board's order was still in effect. (Public hearing record)
26. The following timeline is relevant:
 - 26.1 **December 11, 2006.** Kittitas County enacted Ordinance 2006-63 to update its comprehensive plan pursuant to the Growth Management Act (GMA), RCW 36.70A.130(1). Various parties challenged this ordinance by filing petitions for review with the Eastern Washington Growth Management Hearings Board (EWGMHB). *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0004c (hereafter "*Kittitas County Conservation I*").
 - 26.2 **July 22, 2007.** Kittitas County enacted Ordinance 2007-22, revising the County's development regulations. Again, various parties filed petitions for review with the EWGMHB. *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0015 (hereafter "*Kittitas County Conservation II*").
 - 26.3 **August 20, 2007.** The EWGMHB issued its *Final Decision and Order* (FDO) in *Kittitas County Conservation I*. The EWGMHB found the County to be noncompliant with GMA on various issues, and issued a determination of invalidity with respect to the expansion of the County's Urban Growth Areas (UGAs) and the de-designation of Agricultural Resource Lands. The EWGMHB also found the County to be noncompliant with GMA with respect to rural zones of greater density than one dwelling unit per five acres (outside LAMIRDs), but did not issue a determination of invalidity with respect to the R-3 and Ag-3 zones.
 - 26.4 **November 13, 2007.** The Kittitas County Superior Court issued a stay of the FDO in "*Kittitas County Conservation I*".
 - 26.5 **March 28, 2008.** The EWGMHB issued its FDO in *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0015 (hereafter "*Kittitas County Conservation II*"). The EWGMHB found the Ag-3 and R-3 zones noncompliant and issued a determination of invalidity with respect to those zones.
 - 26.6 **April 24, 2008.** The Kittitas County Superior Court issued a stay of the FDO in "*Kittitas County Conservation II*".

- 26.7 **June 2, 2008.** The Kittitas County Superior Court issued a third stay in various cases consolidated under Cause No. 08-2-00195-7.
- 26.8 The various cases consolidated in the superior court were transferred to the Supreme Court.
- 26.9 **July 28, 2011.** The Supreme Court issued its opinion in the consolidated appeals. *Kittitas County v. EWGMHB*. The Court upheld parts of the EWGMHB's decisions regarding the Ag-3 zone. The opinion did not address the effect of the prior stays.
- 26.10 **August 15, 2011.** A complete application of the Allwest cluster plat was filed with CDS.
- 26.11 **August 23, 2011.** At 11:20 a.m., CDS emailed the notice of complete application to Allwest's agent.
- 26.12 **August 23, 2011.** At 1:34 p.m., the mandate was issued the Supreme Court in *Kittitas County v. EWGMHB*. The Mandate states that the Decision became effective on August 17, 2011.
- 26.13 **October 10, 2011.** Judge Sparks entered an order confirming that all three stays previously issued in connection with the GMA appeals were dissolved effective August 23, 2011 at 1:34 p.m. That decision was not appealed by any party.
(Public hearing record)
27. An open record public hearing after due legal notice was held on December 8, 2011. (Open record public hearing)
28. The following 38 exhibits were admitted into the record:
- 28.1 Exhibit 1: Long Plat Application
 - 28.2 Exhibit 2: Letter of Complete Application
 - 28.3 Exhibit 3: Affidavit of Posting
 - 28.4 Exhibit 4: Notice of Application
 - 28.5 Exhibit 5: Comment letter from Dept. of Ecology 9/19/11
 - 28.6 Exhibit 6: Comment letter from Public Health 10/10/11
 - 28.7 Exhibit 7: E-mail comments from WA Dept. of Health 9/9/11
 - 28.8 Exhibit 8: Comment letter from Kittitas Co. Fire Marshal 9/20/11
 - 28.9 Exhibit 9: Memorandum – Kittitas Co. Public Works 9/12/11 & 10/3/11
 - 28.10 Exhibit 10: Comment e-mail Rich Elliott, Kittitas Valley Fire & Rescue 9/20/11
 - 28.11 Exhibit 11: E-mail comments from Chris Schedler 9/12/11
 - 28.12 Exhibit 12: E-mail comments from Linda Rahm 9/16/11
 - 28.13 Exhibit 13: Comment letter from Ted & Shelley Miller
 - 28.14 Exhibit 14: Comment letter from Christopher Schedler 9/19/11
 - 28.15 Exhibit 15: Comment letter from Carmen & Linda Rahm 9/19/11
 - 28.16 Exhibit 16: E-mail comments from Kendal & Lisa Osborn 9/19/11
 - 28.17 Exhibit 17: Comment letter from Joe & Mary O'Leary 9/20/11
 - 28.18 Exhibit 18: E-mail comments from Tom Morris 9/21/11

- 28.19 Exhibit 19: Comment letter from Jil Zilligen 9/21/11
- 28.20 Exhibit 20: Comment letter from Bill & Lynette Arnold
- 28.21 Exhibit 21: Comment letter from Andrew & Janice Cohen 9/21/11
- 28.22 Exhibit 22: Comment letter from Robert & Sandra Ross 9/22/11
- 28.23 Exhibit 23: Comment letter from Justin Seth
- 28.24 Exhibit 24: Comment letter from Larry & Harriet Bland 9/22/11
- 28.25 Exhibit 25: Road easement agreement for the Midfield LLC Plat from Mitch Williams 9/27/11
- 28.26 Exhibit 26: Letter to Christina Wollman from Christopher Cruse re: access road width 2/28/11
- 28.27 Exhibit 27: Comment letter from Christopher Schedler 12/1/11
- 28.28 Exhibit 28: SEPA Determination of Nonsignificance (DNS) 11/10/11
- 28.29 Exhibit 29: Notice of Decision SEPA Action & Public Hearing
- 28.30 Exhibit 30: Hearing Examiner Staff Report
- 28.31 Exhibit 31: Letter from Mike Murphy to Hearing Examiner 12/7/11
- 28.32 Exhibit 32: Amended comment letter from the Fire Marshal 12/7/11
- 28.33 Exhibit 33: E-mail comments from Joe Gilbert, Environmental Health 12/8/11
- 28.34 Exhibit 34: E-mail comment from Neil Caulkins, Deputy Prosecutor 12/8/11
- 28.35 Exhibit 35: Letter from Larry & Harriet Bland 11/29/11
- 28.36 Exhibit 36: Table 12-1 Private Road Design Standards submitted by Alex Galbraith
- 28.37 Exhibit 37: Figure 12-2 Rural Local Access Roadway Section submitted by Alex Galbraith
- 28.38 Exhibit 38: Letter submitted by Alex Galbraith
(Open record public hearing)

- 29. Appearing and testifying on behalf of the applicant was Mitch Williams. Mitch Williams testified that he was an authorized representative of the applicant and was authorized to appear and speak on behalf of Allwest, LLC. Mr. Williams testified that the staff report was accurate as to its factual representations. Mr. Williams testified that all of the proposed conditions of approval were acceptable to the applicant. Mr. Williams testified that there will be irrigation rights for all 16 lots. He testified that there will be two Class B wells and that there will be actual water rights associated with this project. He testified that there will be a second cul-de-sac on Susan at the northeast corner of proposed Lot No. 2. He testified that there is a barn and agricultural pond on the site. He testified that the barn and the pond were used for his agricultural-related activities. He testified that the open tract created through this cluster plat would remain an agricultural use. He testified that all of the lots would have individual septic systems and that there was sufficient space for drainfields and reserve drainfields on each lot. Related to Exhibit 32, Mr. Williams testified that he agreed to the revised fire standard. (Open record public hearing testimony)
- 30. No member of the public testified in favor of this project. (Open record public hearing testimony)
- 31. Testifying in opposition to the project were the following persons who raised the following concerns:

- 31.1 Robert Ross: Mr. Ross testified that he owns land south of the project parcel and adjacent. He questioned the public benefit associated with this project. He also asked that the applicant guarantee that his well will not dry up.

On question by the Hearing Examiner, the applicant, Mitch Williams, testified that the public benefit relates to the public as a whole and the benefit is as stated in the application materials. Basically, Mr. Williams testified that the public benefit was a retention of a substantial portion of this property in agricultural land production and utilizing smaller residential footprints, and clustering the residential units together so as to minimize the use of roads and expansion of utilities throughout the project site.

- 31.2 Alex Galbraith: Mr. Galbraith testified that his property borders Lots 2 and 3 to the north of the project area. He had questions as to the location of the cul-de-sac. He had questions as to how Susan Road was going to be widened. He questioned the granting of the road variance, indicating that he was not allowed to be a part of this process. Mr. Galbraith raised questions regarding the easement which he utilizes and whether or not this easement will allow access to the applicant's property.
- 31.3 Chris Schedler: Mr. Schedler testified to his concerns as to why this project was processed given a recent Supreme Court decision. He questioned the vesting date of this application, given the recent Supreme Court decision. He also questioned what he characterized as development planning issues, citing the recent Supreme Court issue indicating that 3-acre lots in agricultural districts are harmful. He does not believe this project protects the rural character.
- 31.4 Kendal Osborn: Mr. Osborn had concerns about whether or not this project was good for the general public. He testified that he is a real estate appraiser and that there are large inventory of vacant land in Kittitas County which, in his opinion, lowers property values.
- 31.5 Joe O'Leary: Mr. O'Leary's concerns related to the retention of the rural character of the area and the impact this project will have on the rural character. He believed the development is not consistent with this rural character. He also had concerns regarding groundwater south of Susan Road as well as standing water that occasionally occurs along Susan Road.
- 31.6 Harriet Bland: Ms. Bland testified that her family had been farming in this area for 50 years. Her testimony was that farming is made more difficult with residential development. She testified as to her observations of traffic on Manastash Road. She testified as to her understanding that Midfield Road was just made for 4 homes not an additional 16 homes. She had concerns regarding irrigation water as her farm irrigates 800 acres of farmland. She also testified as to her impression of the recent Supreme Court decision and how that impacts land uses in agricultural zones.
- 31.7 Carmen Rahm: Mr. Rahm, who resides at 1041 Susan Road, had concerns related to what was actually good for the public. As he saw it there were three options, those being no development, development only using 3-acre parcels and finally this type of

cluster development. In Mr. Rahm's opinion, the only person benefiting from a cluster development would be the applicant and not the public as a whole.

- 31.8 Jil Zilligen: Ms. Zilligen, who resides at 361 Midfield, expressed her observations as to the unique beauty of this valley. She testified that there are rural areas as well as urban areas and that the two areas need to be kept separate. She testified as to her understanding that there are options available for persons who wish to buy smaller lots in more densely populated areas. Ms. Zilligen's opinion was that the best public benefit is to leave this land vacant. She testified that if this project is approved, she requested the following conditions of approval:
- 31.8.1 That the open space be left an open in perpetuity;
 - 31.8.2 That permanent traffic calming devices, including but not limited to speed bumps, be employed; and
 - 31.8.3 That an access road on the west side of Manastash Road be required.
- 31.9 Alex Galbraith: Mr. Galbraith returned to testify as to his concerns as to why he and his neighbors were not included on the variance committee for the private road variance that directly impacts him.
- 31.10 Linda Rahm: Ms. Rahm testified that she and other residents of Susan Road are the owners of that private road. She testified that they maintain the road, plow the road, etc. Ms. Rahm testified that there is construction going on in the area that continues to damage Susan Road. Ms. Rahm wanted to know whether or not the applicant would fix Susan Road after his construction activities or whether they would be forced to fix the road. She also had questions as to how the road was going to be widened to 20' if there is only 18'3" of roadway at this time.
- 31.11 Robert Ross: Mr. Ross returned to testify to reiterate that those testifying are just trying to maintain their rural lifestyle. He said they see problems on the way. (Open record public hearing testimony)
32. Mr. Williams returned to testify on behalf of the applicant. Mr. Williams pointed to Exhibit 25. He indicated that this road easement agreement included provisions for use and maintenance of the private roads. He reiterated that the public benefit includes those benefits are that are set forth in the Comprehensive Plan. (Open record public hearing testimony)
33. Michael Murphy, attorney for the applicant, provided legal argument and no evidence. (Open record public hearing testimony)
34. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located. (Hearing Examiner finding based on the record)
35. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval. (Hearing Examiner finding based on the record)

36. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities. (Hearing Examiner finding based on the record)
37. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference. (Hearing Examiner finding based on the record)

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this recommended decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interest will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.
8. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
9. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Kittitas County Code or the Comprehensive Plan.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. The application vested upon Kittitas County's issuance of a determination of complete application, that being August 23, 2011, at 11:20 a.m.
12. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

Based on the above Recommended Findings of Fact and Recommended Conclusions of Law, the Hearing Examiner hereby recommends that Application CL-11-01, Allwest LLC, be **APPROVED** subject to the following Recommended Conditions of Approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL

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

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials which was deemed complete on August 23, 2011 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.
5. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
6. Proof of potable water must be shown prior to final plat approval.
7. A plat note discussing the spread of noxious weeds shall be shown on the plat and shall read: "Per RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds, accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds."

Platting Standards and Zoning Code:

8. Certificate of Title: A certificate of title of the property proposed to be platted shall be submitted with the final plat.
9. Lot Closures: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
10. Conditions, Covenants, and Restrictions: Prior to final plat approval, a copy of the proposed final Conditions, Covenants, and Restrictions shall be submitted to Community Development Services for review and approval.
11. Open Space Tracts: Prior to final plat approval, all areas not included in development lots shall be labeled as individual tracts. Tracts shall not be further subdivided or altered. All tracts, except the tract(s) containing the private road area, shall be labeled "Open Space."

12. Open Space Tract Ownership and Maintenance: Open space tracts shall be jointly owned and maintained by the developer or legally responsible owner or homeowner's association or other legal entity made up of all benefited property owners.

Stormwater and Drainage

13. This project will require a NPDES Construction Stormwater General Permit from the Washington State Department of Ecology. This permit requires that the SEPA checklist fully disclose anticipated activities, including building, road construction, and utility placements. Obtaining a permit is at least a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.
14. The NPDES permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.
15. Erosion control measures must be in place prior to any clearing, grading or construction. These control measures must be effective to prevent soil from being carried into surface water by storm water runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants.
16. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.
17. Best management practices must be used to prevent any sediment, oil, gas, or other pollutants from entering surface or ground water.

Transportation and Infrastructure

18. Timing of Improvements: This application is subject to the latest revision of the Kittitas County Road Standards, dated 9/6/05. The following conditions apply and must be completed prior to the issuance of a building permit for any of the structures within this plat. A Performance Bond or acceptable financial guarantee may be used, in lieu of the required improvements, per the conditions outlined in the current Kittitas County Road Standards.
19. 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.
20. Road Name: Midfield Drive shall be labeled on the final plat.

21. Private Road Improvements – Midfield Drive: Access from Manastash Road to the final cul-de-sac shall be constructed to meet or exceed the conditions of a High-Density Private Road that serves 15-40 tax parcels. See current 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 22', with 1' shoulders, for a total width of 24'.
 - b. Minimum centerline radius shall be 60'.
 - c. Surface requirement BST/ACP.
 - 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.
 - h. Any further subdivision or lots to be served by proposed access may result in further access requirements.
 - i. All roads located within this development or roads that provide access to this development shall be constructed to current county road standards unless any other maintenance agreements, forest service road easements or state easements require higher road standards. The higher of the road standards shall apply.
 - j. All easements shall provide for AASHTO radius at the intersection with a county road.
 - k. A paved apron shall be constructed at the intersection of the proposed private intersection and the county road right-of-way.
22. Private Road Improvements – Susan Road:
- a. To serve lots 1 and 2, the road must be extended and a new cul-de-sac constructed in the vicinity of lot 2. No more than two lots can be served by a driveway off the end of a cul-de-sac.
 - b. Per the findings of Road Variance 11-08, the private portion of Susan Road must be verified to be 20' wide, including gravel and pavement, through the road certification process. The road extension may be constructed to 20' wide.
23. Cul-de-Sac: A cul-de-sac turn-around having an outside right-of-way or easement diameter of at least 110 feet shall be constructed at the closed end of all dead-end roads serving 3 or more lots. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2009 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.
24. Plat Notes: Plat notes shall reflect the following:
- a. Entire private road shall be inspected and certified by a civil engineer licensed in the State of Washington specifying that the road meets Kittitas County Road Standards as adopted September 6, 2005, prior to the issuance of a building permit. Any future subdivision or land use action will be reviewed under the most current road standards.
 - b. Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel.

- c. Maintenance of the access is the responsibility of the property owners who benefit from its use.
 - d. An approved access permit will 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.
 - e. Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
 - f. A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided 5 feet on each side of interior lot lines. Said easement shall also be used for irrigation.
25. Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.
- a. Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
 - b. The surface requirement is for a minimum gravel surface depth of 6".
 - c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - d. Any further subdivision or lots to be served by proposed access may result in further access requirements.
26. Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.
- a. The roadway shall be a minimum of 8' wide with gravel surface.
 - b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
 - c. Any further subdivision or lots to be served by proposed access may result in further access requirements.
27. Plat Approvals: All plats must show the acceptance signature of the County Engineer. The acceptance block shall be as follows (per KCC 16.24.170):
- EXAMINED AND APPROVED
 This ____ day of ____, A.D., 20 ____.
- _____
 Kittitas County Engineer
28. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
29. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
30. 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.

31. 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.
32. Fire Protection: Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
33. Mailbox Placement: The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.

Water and Sewer

34. The final plat notes shall include the following statements:

The approval of this division of land includes no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law.

AND

Metering will be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements.

35. Adequate Potable Water Supply Statement: Final approval is conditioned upon the developer/owner of the plat providing proof of potable water. Proof of potable water can be provided through several different ways depending on the source of water proposed as described and outlined in the Board of County Commissioners Resolution 2010-082.

The application states that residences will utilize a Group B Public Water System; therefore, the following information is required prior to final plat approval:

Applicants shall have a well site inspection performed by KCPHD staff; complete and submit a Group B Public Water System Workbook to either KCPHD for water systems with 3-9 connections or Washington State Department of Health (DOH) for water systems with 10-14 connections or as amended by DOH; have the well(s) drilled; and submit a copy of an agreement with an approved Kittitas County Satellite Management Agency. All infrastructure for the Group B Water System including the well/pump house and storage tanks must be completed or the developer/owner can bond for completion. Final approval of the Group B Public Water System including issuance of the public water system ID number from DOH is required prior to recommendation by KCPHD for final approval. If a bond is in place, final approval will still be recommended but all infrastructure must be completed before issuance of the first building permit within the subdivision.

36. The proponent shall apply to Ecology for a permit to appropriate public groundwater, if seeking to use the groundwater exemption shall submit to Ecology a request for determination that the proposed exempt use would be water budget neutral. No new exempt uses under RCW 90.44.050 may commence unless Ecology has approved a request for determination that the proposed exempt use would be water budget neutral. Chapter 173-150 WAC provides for the existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in this area becomes limited the use could be curtailed by those with senior water rights. Ecology believes the Allwest LLC Cluster Plat which proposes to provide water through two group B water systems, is one project and is entitled to one groundwater exemption of 5,000 gallons per day and, therefore, requires a water right.
37. Water for Dust Suppression. The Department of Ecology States: water use from road construction and dust suppression will likely be necessary given that new roads and grading are planned. Water use for construction and dust suppression are not listed uses eligible for appropriation under RCW 90.44.050. Therefore, a water right will be required for water used for short term and long term construction and dust suppression needs. Temporary permits may be obtainable in short time-periods.

Fire Safety

38. Approved water storage of 30,000 gallons, with a private dry hydrant system shall be installed, or, the applicant may determine to provide every residence with an approved 13D residential sprinkler system. Whichever option is chosen shall be noted on the final plat.
39. No fire apparatus access lane shall have a slope greater than 12%. A Variance Permit will be required for any slopes or grades greater than allowed by County Code.
40. “No Parking—Fire Lane” signs must be posted per Fire Marshal requirements on all cul-de-sacs.
41. All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2009 International Fire and Building Codes.
42. A separate permit is required for any private water storage or hydrant system and/or each individual sprinkler system.

Air Quality

43. WAC 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the site. Dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts, or damaging property or business.

44. The applicant should create a site-specific Fugitive Dust Control Plan (FDCP) before starting this project, and then follow the plan for construction of the project and duration of activity on the property. The FDCP should include, but is not limited to, the following components:
- 44.1 Identify all potential fugitive dust emission points.
 - 44.2 Assign dust control methods.
 - 44.3 Determine the frequency of application
 - 44.4 Record all dust control activities.
 - 44.5 Train personnel in the FDCP.
 - 44.6 Shut down during windy conditions.
 - 44.7 Follow the FDCP and monitor dust control efforts.
45. According to County standards, a water truck shall be available during construction to minimize dust emissions.

Dated this 20th day of December, 2011.

KITTITAS COUNTY HEARING EXAMINER

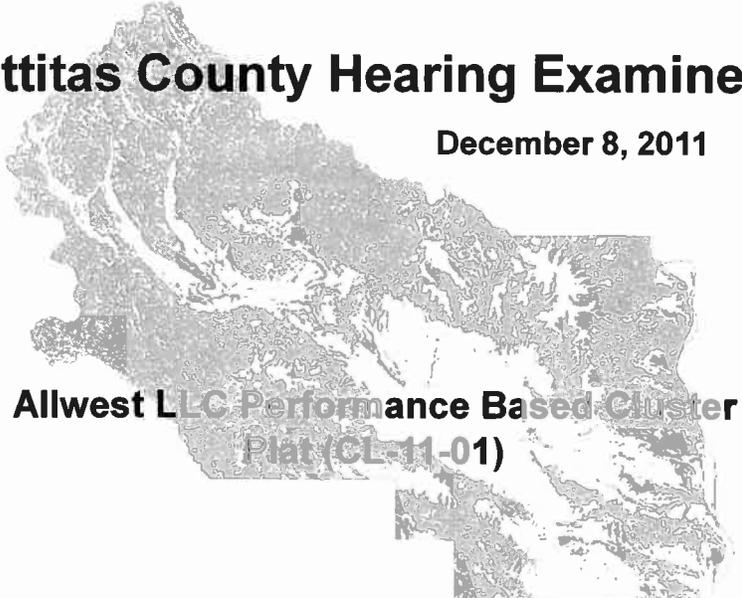


Andrew L. Kottkamp

Kittitas County Hearing Examiner

December 8, 2011

**Allwest LLC Performance Based Cluster
Plat (CL-11-01)**



Good Evening Mr. Hearing Examiner

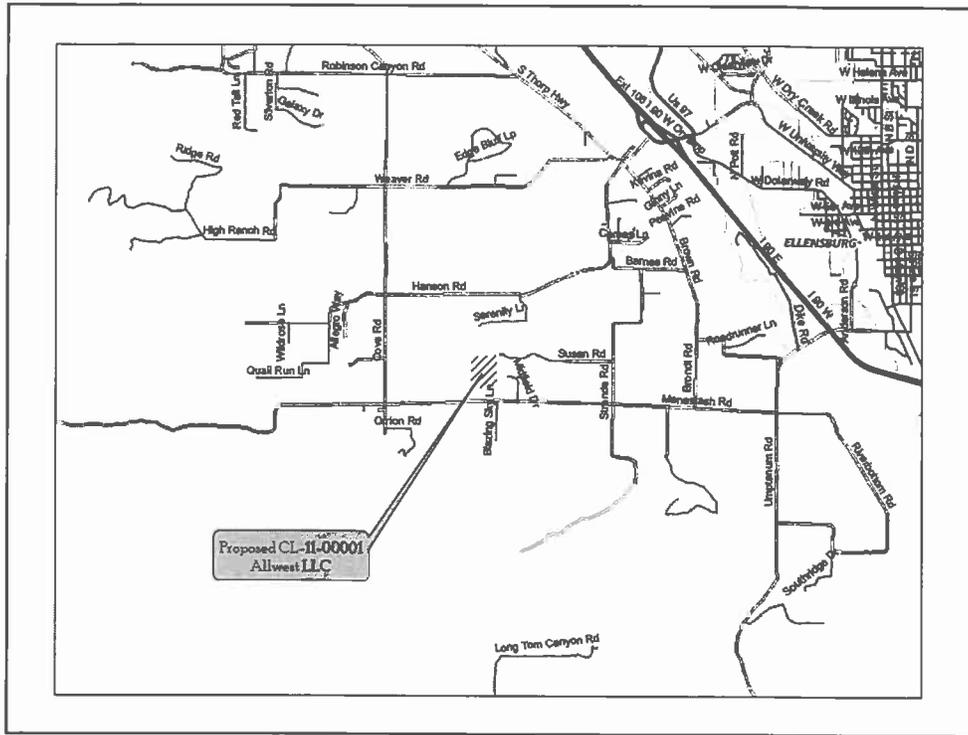
For the record

You have before you tonight for consideration is the Allwest LLC Performance Based Cluster Plat.

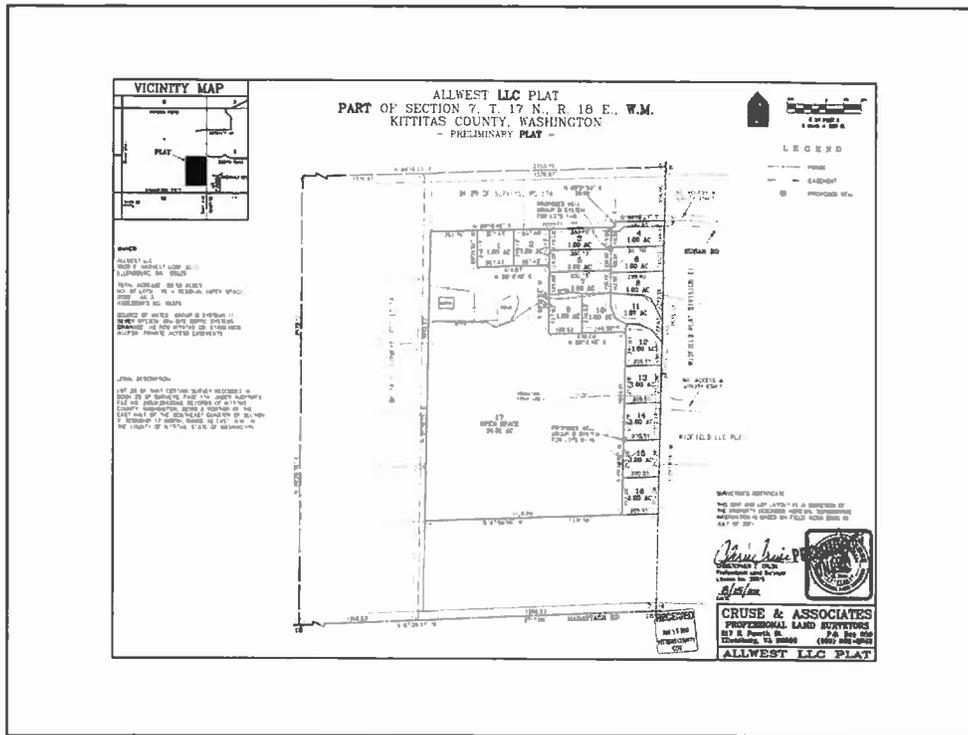
Overview of Proposal

- 16 lot Performance Based Cluster Plat on 50.58 acres.
- Zoning: Agriculture-3
- Group “B” water system and individual on-site septic systems are proposed.

Chris Cruse, authorized agent for Allwest LLC, property owner, has applied for a performance based cluster plat to subdivide a 50.58 acre parcel into sixteen (16) one-acre lots and one 34.51 acre open space lot. The project is proposed to be served by a Group B water system and individual on-site septic systems.



The subject property is located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg



Copy of the plat map showing the lot configuration for the Allwest Cluster Plat. A minimum of twenty five percent (25%) of the area within the project boundary must be set aside in open space prior to application of the Public Benefit Rating System contained in KCC 16.09.090. Total bonus density points = 0

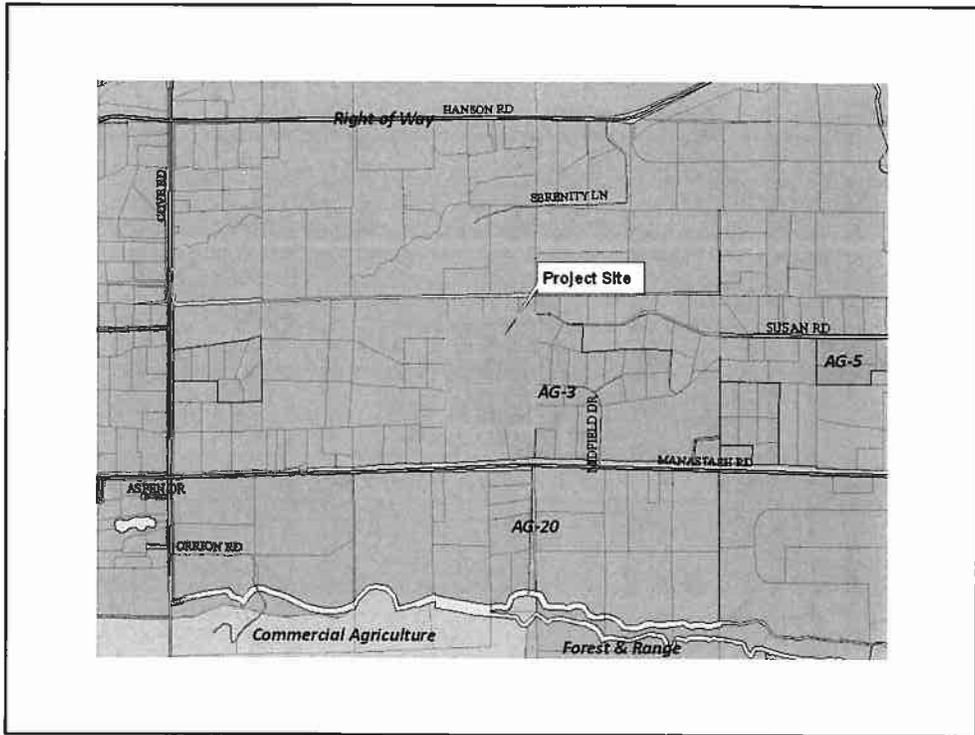
Calculations for project:

Current zone for project is Agriculture 3

Allowed density for the Agriculture 3 zone is 1 unit per 3 acres

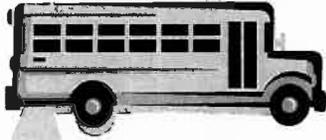
Subject parcel is a total of 50.58 acres

Lots allowed under current zoning (Agriculture 3) = $50.58 \text{ acres} / 3 \text{ acres} = 16 \text{ lots}$

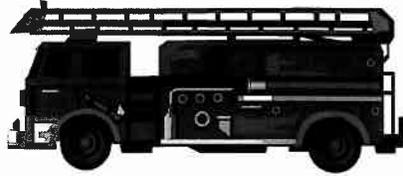


The subject property is zoned Ag 3.

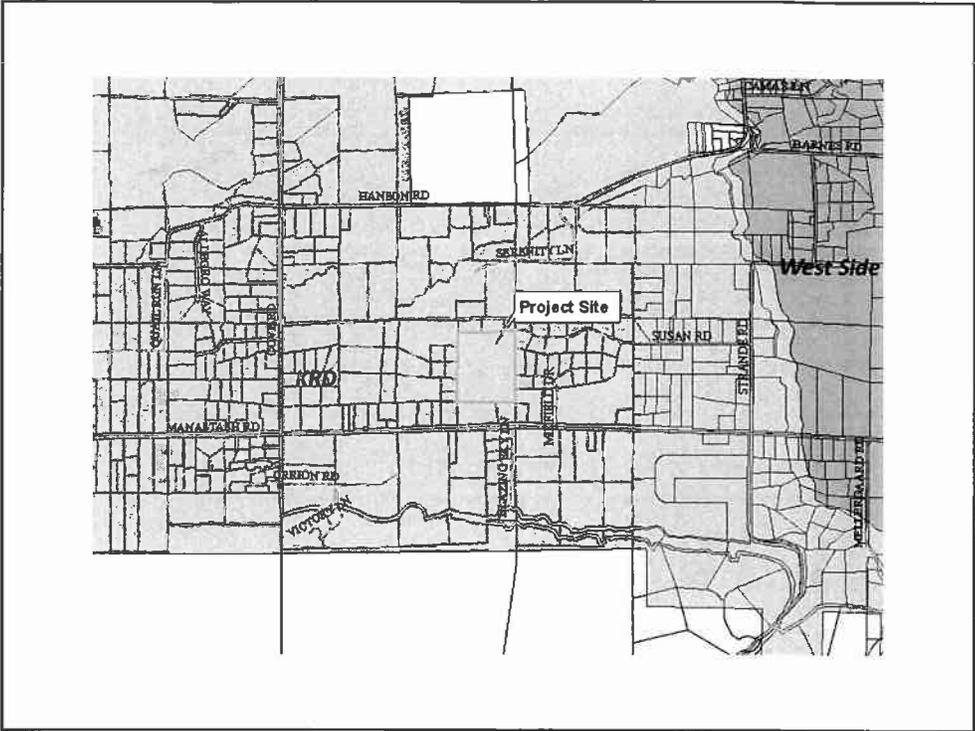
Ellensburg School District



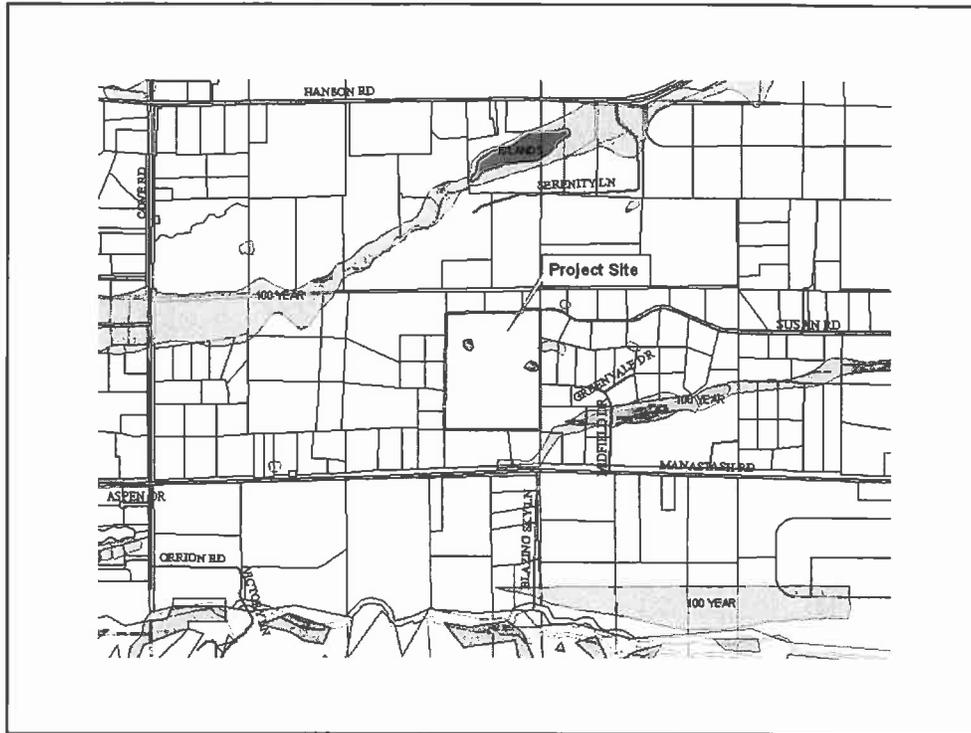
**Fire District #2 (Rural
Ellensburg)**



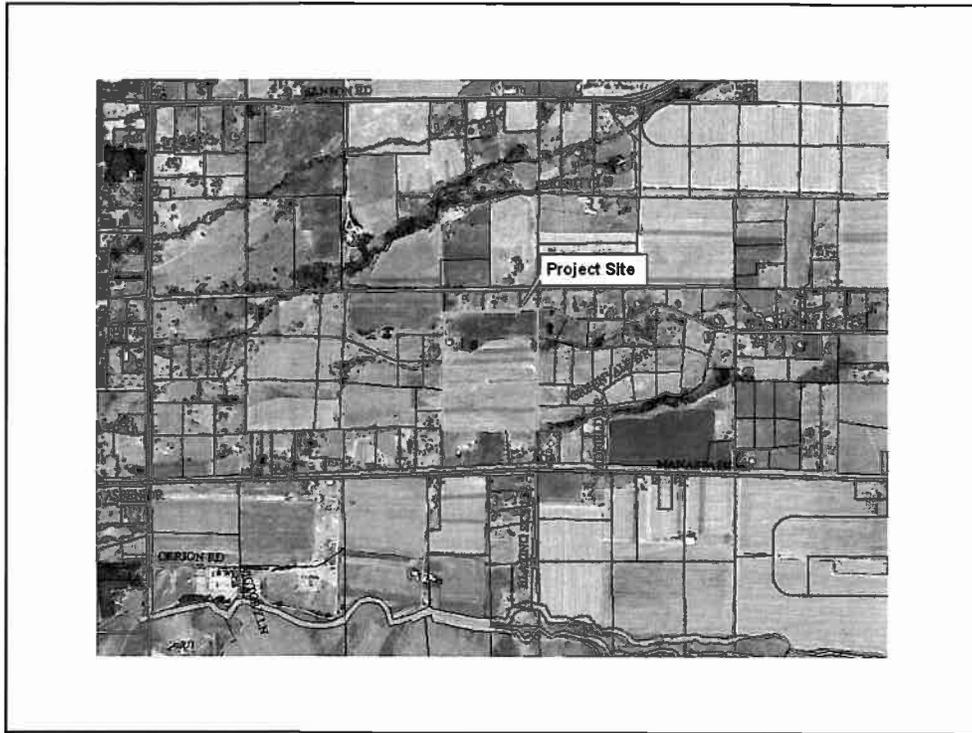
The property is located within the Ellensburg School District. It is located within the Fire District #2 service area.



Located within the Kittitas Reclamation District boundary



An administrative critical areas review was done in compliance with KCC 17A..
Small wetlands were identified on the property.



2009 air photo of the area.

Notices

- Application received August 15, 2011 and deemed complete on August 23, 2011.
- Notice of Application was issued and published on September 7, 2011.
- Comments were received from Department of Ecology, Department of Health, Kittitas County Department of Public Works, Fire Marshal's Office and Environmental Health.
- SEPA DNS issued September 23, 2010.

In review: A complete long plat application was submitted to Community Development Services on August 15, 2011. The application was deemed complete on August 23, 2011. The Notice of Application for the preliminary plat application was issued on Sept. 7, 2011. Comments were received from Department of Ecology, Department of Health, Kittitas County Department of Public Works, Fire Marshal's Office and Environmental Health. A Determination of Non-Significance (DNS) was issued on November 10, 2011, no appeals filed. **Staff recommends approval of the Allwest PBCP subject to the conditions contained in the staff report.**

Questions ?

???

Andrew L. Kottkamp, Hearing Examiner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926

RE: Hearing on Allwest LLC Cluster Plat

Please enter this statement into the record for the Kittitas County Hearing Examiner's review of the Allwest LLC Cluster Plat application. As a home owner at 1371 Susan road, property that borders approximately 500 feet of the proposed Allwest Plat to the north, more specifically bordering lots 2 and 3 of the proposed plat, I ask you to advise to the Kittitas County Board of Commissioners that the application to create 16 one-acre lots in current Agriculture-3 zone be denied.

- 1) The proposed Allwest Plat (16 one acre lots) is not compatible with the surrounding property off of Susan road and Midfield Drive area. The acceptance of a low-density development such as this would permanently strip the surrounding area of its rural agricultural nature.
- 2) An issue arises with the existing private road with the acceptance of additional lot access off of the west end of Susan road. Allowing lots 1 through 4 to have access to Susan road would force the developer under Kittitas County Code 12.01.090 to improve the existing roadways to the current standard, approximately 2500 feet of the existing internal private road would need to be brought up to the current standard under chapter 12.12.020 table 12-1 and table 12-2 private road minimum design standards.

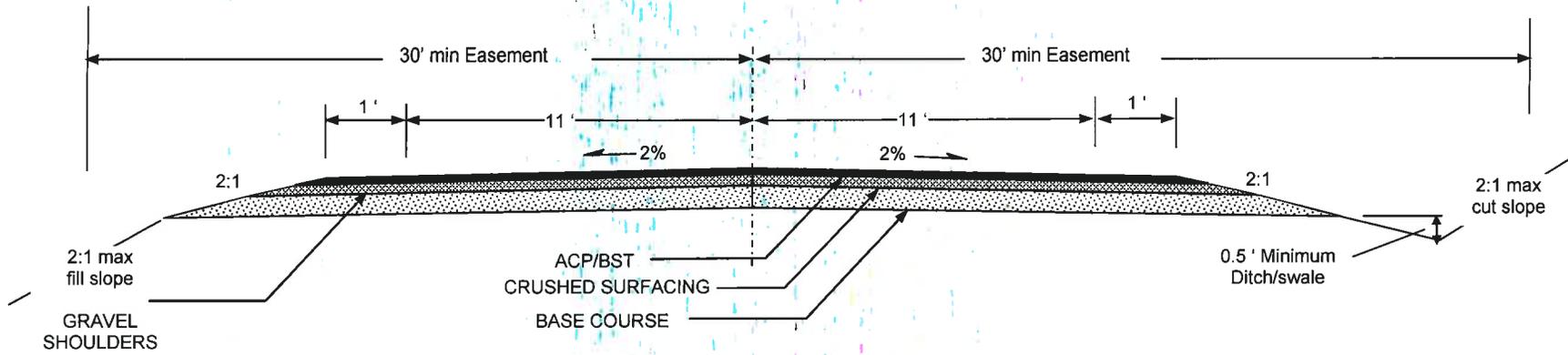
CL11-01

EX 38

EX - 37

RURAL AREA PRIVATE ROADWAY DESIGN STANDARDS

ROADWAY CLASSIFICATION: PRIVATE ROAD LOCAL ACCESS
AVERAGE DAILY TRAFFIC (ADT): 141 TO 400 (15-40 LOTS)



LocalAccessUnder400.doc

KITTITAS COUNTY
DEPARTMENT OF
PUBLIC WORKS

REVISIONS	DATE

ROADWAY
STANDARDS

RURAL LOCAL ACCESS
ROADWAY SECTION
ADT 141 - 400
FIGURE 12 - 2
04/19/04

CL 11-01
EX 37

**Table 12-1
Private Road Minimum Design Standards**

Design Elements	Private Roads					
	Driveway		High-Density			Low Density
	Single	Joint-Use	0 - 5 Acres Average Lot Size			5.01 Acres and Larger Average Lot Size ⁽¹⁾
Number of Lots Served	1	2	3 - 14	15 - 40	40+ ⁽²⁾	3 - 40+
Minimum Easement Width	0	20	40	60	60	60
Paved Apron ⁽³⁾	N/A	N/A	Req'd	Req'd	Req'd	Req'd
Roadway Width	8	12	20	22	AASHTO	20
Graveled Shoulder Width	N/A	N/A	1	1	AASHTO	1
Minimum Centerline Radius (ft)	N/A	N/A	60	60	AASHTO	60
Surfacing Requirements ⁽⁴⁾	Gravel	Gravel	Gravel	BST/ACP	AASHTO	Gravel
Minimum Crushed Stone Depth	N/A	6"	6"	6"	AASHTO	6"
Maximum Grade % ⁽⁵⁾						
Flat	N/A	N/A	8	8	8	12
Rolling	N/A	N/A	12	12	12	
Mountainous	N/A	N/A	12	12	12	
County Road Approach Permit	Req'd	Req'd	Req'd	Req'd	Req'd	Req'd
Stopping Site Distance	N/A	N/A	AASHTO	AASHTO	AASHTO	AASHTO
Entering Site Distance	N/A	N/A	AASHTO	AASHTO	AASHTO	AASHTO
Ditch Slope (inside slope)	Slopes steeper than 2:1 should only be used when achieving a 2:1 slope is impractical					
⁽¹⁾ Residual lots within a proposed development shall not be considered when computing average lot size ⁽²⁾ Engineer design per AASHTO and/or WSDOT required for 40+ High-Density lots. ⁽³⁾ Applies to all roads accessing existing paved roadway ⁽⁴⁾ All private roadways serving three or more lots shall achieve 95% compaction and shall be inspected and certified by a licensed engineer prior to surfacing. ⁽⁵⁾ A variance request is required for grades above 12%.						

eL11-01
EX 36

November 29, 2011

**Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, Wa 98926**

To Dan Valoff, Staff Planner,

We would like to reiterate again some of the great concerns with the All west LLC Cluster Plat (CL-11-00001).

- 1. We have farmed at our location 3404 Manastash Road for fifty years and have asked for consideration to the agriculture area how hard it is to farm with the housing that has kept creeping into our area and creating major problems with our farming.**

- 2. By allowing the cluster of sixteen homes you are allowing more impact on the Manastash road which was built in the "60"s. there has been no restructuring of the main road and it has no edges to the road. The sheriff's office try's to maintain the speed limit but very hard and at times can become very dangerous for them as there is no way of pulling a car off the side of the road.**

- 3. Allowing a cluster to development around the farming industry, would allow all the surrounding farm ground to be developed into one acre lots. Not because a land owner wants too, it will make it just harder to farm. This cluster is surrounded by farm ground and with the impact the clusters seem to create what does this do for the farming area. The equipment is large and people do not like to slow down nor do they tolerate the equipment in their way without blowing horns and passing in bad areas. With more traffic put on this road anyone farming will have to contact the sheriff's office to escort them to a different field each time of moving . Which can be several times in one day during the haying seasons?**

CL-11-01

EX 35

4. There are a lot of bike riders on this road at different times of the year and the cars will not even slow down for them.
5. It was our understanding when the property, Midfield was rezoned for the eight lots which has four homes on it at this time, the road built was to accommodate only for these lots and would not be used for any other impact. A cluster of sixteen (16) homes and 2 to 3 cars each residence could be fifty cars coming and going maybe 3 to 4 times a day. This road was not built for the amount of traffic they are talking about. It turns right at the drive way which we use in the winter for feeding cattle and is a real hassle right now to turn in and drive out of with the heavy traffic.
6. Water is a great concern as we are all aware of and even greater in the Manastash area. This plat should not even be considered until the water quality and quantity has been proven to be available for each proposed lot. The county's responsibility to ensure this has been emphasized in the recent Supreme Court decision directing the county to ensure this through its GMA planning.
7. Clusters are fine if built in the right location, where they can be eventually absorbed into cities with sewer and water and are UGAS. We certainly hope you will consider what this does to a farming area.
8. The 50.58 acres of ground that is being put into one acre lots what is the next step if the builder decides he does not want to farm the other 34.51 acres of ground, does this allow him to develop the rest in two a cluster? If this allowed the surrounding area of farm ground which consists of approximately 2,000 acres would be entitled to do the same if forced to do so. How do we protect agriculture that does provide food we all buy in the store and we all do support the business in town.

Thank you for time and hope that you will look at the situation we have here and consider the problems ahead.

**Larry and Harriet Bland
3440 Manastash Rd
Ellensburg, Wa 98926**

Dan Valoff

From: Andrew Kottkamp [andy@wenatcheelaw.com]
Sent: Thursday, December 08, 2011 10:47 AM
To: Dan Valoff
Subject: RE: Amended land use action comment letter

Dan

Please share this with the applicant's attorney. I will make it an exhibit tonight.

Andrew Kottkamp

Kottkamp & Yedinak P.L.L.C.
435 Orondo Ave.
P.O. Box 1667
Wenatchee, WA 98801
(509) 667-8667
www.wenatcheelaw.com

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From: Dan Valoff [mailto:dan.valoff@co.kittitas.wa.us]
Sent: Thursday, December 08, 2011 10:40 AM
To: 'Andrew Kottkamp'
Subject: FW: Amended land use action comment letter

Andy,

Below is a response to your question regarding vesting of this application from Neil Caulkins, Deputy Prosecutor. I hope this answers your questions. See you tonight.

Dan Valoff
Staff Planner

Kittitas County Community Development Services
411 N Ruby Street Suite 2
Ellensburg, WA 98926
dan.valoff@co.kittitas.wa.us
P: 509.962.7637
F: 509.962.7682



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From: Neil Caulkins
Sent: Thursday, December 08, 2011 10:21 AM
To: Dan Valoff
Subject: RE: Amended land use action comment letter

CL-11-01
EX 34

The stay (which enjoined the Hearings Board's Order of invalidity among other things) was dissolved on the 23rd of August at about 1:30 in the afternoon. The application in question here was deemed complete by the County prior to that. The notice of complete application was sent out at about 11:00 a.m. on the 23rd I am told. A land use application vests to the land use controls in effect at the time an application is deemed complete. That happened, in this case, prior to the dissolution of the stay, and so this matter is not affected by the order of invalidity nor the recent Supreme Court opinion as it vested prior to the effective date of either.

Neil Caulkins
Deputy Prosecuting Attorney

From: Dan Valoff
Sent: Thursday, December 08, 2011 9:34 AM
To: Neil Caulkins
Subject: FW: Amended land use action comment letter

Good morning Neil,
Can you help answer the Hearing Examiner's question? I have attached a letter from Murphy that is being submitted into the record at tonight's hearing.

Dan Valoff
Staff Planner

Kittitas County Community Development Services
411 N Ruby Street Suite 2
Ellensburg, WA 98926
dan.valoff@co.kittitas.wa.us
P: 509.962.7637
F: 509.962.7682



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From: Andrew Kottkamp [mailto:andy@wenatcheelaw.com]
Sent: Thursday, December 08, 2011 9:27 AM
To: Dan Valoff
Subject: RE: Amended land use action comment letter

Dan
I would welcome it if the County Prosecuting Attorney wanted to offer his opinion on the issue of vesting of this application and the impact of the recent Supreme Court decision on this application.
Andy

Andrew Kottkamp
Kottkamp & Yedinak P.L.L.C.
435 Orondo Ave.
P.O. Box 1667
Wenatchee, WA 98801
(509) 667-8667
www.wenatcheelaw.com

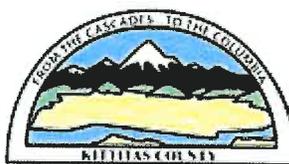
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From: Dan Valoff [mailto:dan.valoff@co.kittitas.wa.us]
Sent: Thursday, December 08, 2011 9:23 AM
To: 'Andrew Kottkamp'
Subject: FW: Amended land use action comment letter

Andy,
Here is an exhibit for tonight's hearing. I will be bringing a hard copy to the hearing.

Dan Valoff
Staff Planner

Kittitas County Community Development Services
411 N Ruby Street Suite 2
Ellensburg, WA 98926
dan.valoff@co.kittitas.wa.us
P: 509.962.7637
F: 509.962.7682



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From: Brenda Larsen
Sent: Wednesday, December 07, 2011 3:23 PM
To: Dan Valoff; 'Mitch Williams'
Subject: Amended land use action comment letter

Please find attached the comment letter dated 12-07-11. Thanks!!

Brenda Larsen
Kittitas County Fire Marshal
509-962-7000

Notice: All email sent to this address will be received by the Kittitas County e-mail system and may be subject to public disclosure under Chapter 42.56 RCW and to archiving and review.

message id: 586117109ed1bdac24b48719d091a11

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2012.0.1873 / Virus Database: 2102/4666 - Release Date: 12/07/11

Dan Valoff

From: Joe Gilbert
Sent: Thursday, December 08, 2011 1:51 PM
To: Dan Valoff
Cc: 'Mitch Williams'
Subject: Allwest Cluster Plat Hearing

Dan,

As a response to Mitch Williams question regarding minimum land area requirements, the Table below is the minimum land area requirement from the WAC 246-272A. From my experience with the soils in the Allwest plat area, these soils would meet either type 4 or 5, at worst a 6. Which is still below the 1 acre threshold proposed in the Allwest Plat with a public water source (Group B Well).

Please add to the record for the Hearing tonight. Thanks

TABLE X

Minimum Land Area Requirement

Single-Family Residence or Unit Volume of Sewage

Type of Water Supply	Soil Type (defined by WAC 246-272A-0220)					
	1	2	3	4	5	6
Public	0.5 acre	12,500 sq. ft.	15,000 sq. ft.	18,000 sq. ft.	20,000 sq. ft.	22,000 sq. ft.
	2.5 acre ¹					
Individual, on each lot	1.0 acre	1 acre	1 acre	1 acre	2 acres	2 acres
	2.5 acres ¹					

JOE GILBERT
ENVIRONMENTAL HEALTH SPECIALIST II
LICENSED ON-SITE SEPTIC DESIGNER

Kittitas County Public Health

507 N. Nanum St. Suite #102

Ellensburg, WA, 98926

Phone:(509) 933-8262 / Fax:(509) 962-7581

joe.gilbert@co.kittitas.wa.us

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CL-11-01
EX 33



KITTITAS COUNTY FIRE MARSHAL'S OFFICE

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

Office (509) 962-7657 Fax (509) 962-7682

December 7, 2011

Dan Valoff
Staff Planner II
Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA 98926

Re: Allwest Cluster Plat (CP-11-00001)

Dear Mr. Valoff:

Upon review of the above mentioned land use action and discussion with the applicant, I have modified the original requirements to the following:

- Approved water storage of 30,000 gallons, with a private dry hydrant system shall be installed, or, the applicant may determine to provide every residence with an approved 13D residential sprinkler system. Whichever option is chosen shall be noted on the final plat.
- No fire apparatus access lane shall have a slope greater than 12%. A Variance Permit will be required for any slopes or grades greater than allowed by County Code.
- "No Parking-Fire Lane" signs must be posted per Fire Marshal requirements on all cul-de-sacs.
- All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2009 International Fire and Building Codes.
- A separate permit is required for any private water storage or hydrant system and/or each individual sprinkler system.

Any questions or concerns regarding fire service features may be directed to the Kittitas County Fire Marshal's Office at (509) 962-7000.

Sincerely,

Brenda Larsen
Fire Marshal

CL-11-01
EX 32



Michael J. Murphy
E-Mail: mmurphy@groffmurphy.com

December 7, 2011

VIA EMAIL
(andy@wenatcheelaw.com)

Andrew Kottkamp
Hearing Examiner
Kottkamp & Yedinak, P.L.L.C.
435 Orondo Avenue
Wenatchee, WA 98801

Re: Allwest LLC Performance Based Cluster Plat (CL-11-00001)
Hearing Date: December 8, 2011

Dear Mr. Kottkamp:

The purpose of this letter is to respond to Mr. Christopher Schedler’s letter received by CDS on December 1, 2011.

The Schedler letter makes a number of points, but the thrust of the letter is the claim that the County should reject the cluster plat because it is not consistent with the recent Washington State Supreme Court decision in *Kittitas County v. EWGMHB*, 172 W.2d 144, 256 P.3d 1193 (2011).

Mr. Schedler’s first argument is that there is a “procedural issue” with processing the Allwest cluster plat application because it did not vest before the Supreme Court decision. This argument is without merit. The relevant chronology is as follows:

December 11, 2006. Kittitas County enacted Ordinance 2006-63 to update its comprehensive plan pursuant to the Growth Management Act (GMA), RCW 36.70A.130(1). Various parties challenged this ordinance by filing petitions for review with the Eastern Washington Growth Management Hearings Board (EWGMHB). *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0004c (hereafter “*Kittitas County Conservation I*”).

July 22, 2007. Kittitas County enacted Ordinance 2007-22, revising the County’s development regulations. Again, various parties filed petitions for review with the EWGMHB. *Kittitas County Conservation v. Kittitas County*, EWGMHB No. 07-1-0015 (hereafter “*Kittitas County Conservation II*”).

GROFF MURPHY, PLLC
300 EAST PINE STREET SEATTLE WASHINGTON 98122
(206) 628-9500 www.groffmurphy.com (206) 628-9506 FACSIMILE

August 20, 2007. The EWGMHB issued its *Final Decision and Order (FDO)* in *Kittitas County Conservation I*. The EWGMHB found the County to be noncompliant with GMA on various issues, and issued a determination of invalidity with respect to the expansion of the County's Urban Growth Areas (UGAs) and the de-designation of Agricultural Resource Lands. The EWGMHB also found the County to be noncompliant with GMA with respect to rural zones of greater density than one dwelling unit per five acres (outside LAMIRDs), but did not issue a determination of invalidity with respect to the R-3 and Ag-3 zones.

November 13, 2007. The Kittitas County Superior Court issued a stay of the FDO in "*Kittitas County Conservation I*".

March 28, 2008. The EWGMHB issued its FDO in *Kittitas County Conservation v. Kittitas County, EWGMHB No. 07-1-0015* (hereafter "*Kittitas County Conservation II*"). The EWGMHB found the Ag-3 and R-3 zones noncompliant and issued a determination of invalidity with respect to those zones.

April 24, 2008. The Kittitas County Superior Court issued a stay of the FDO in "*Kittitas County Conservation II*".

June 2, 2008. The Kittitas County Superior Court issued a third stay in various cases consolidated under Cause No. 08-2-00195-7.

The various cases consolidated in the superior court were transferred to the Supreme Court.

July 28, 2011. The Supreme Court issued its opinion in the consolidated appeals. *Kittitas County v. EWGMHB, supra*. The Court upheld parts of the EWGMHB's decisions regarding the Ag-3 zone, but did so on fairly narrow grounds. The opinion did not address the effect of the prior stays.

August 15, 2011. A complete application for the Allwest cluster plat was filed with CDS.

August 23, 2011. At 11:20 a.m., CDS emailed the notice of complete application to Allwest's agent. **(Exhibit A)**

August 23, 2011. At 1:34 p.m., the mandate was issued the Supreme Court in *Kittitas County v. EWGMHB*. The Mandate states that the Decision became effective on August 17, 2011. **(Exhibit B)**

October 10, 2011. Judge Sparks entered an order confirming that all three stays previously issued in connection with the GMA appeals were dissolved effective August 23, 2011 at 1:34 p.m. That decision was not appealed by any party. (**Exhibit C**)

The law is well settled that a determination of invalidity has no effect on existing applications that vest prior to the determination of invalidity. RCW 36.70A.302 provides:

(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

Although the EWGMHB issued a determination of invalidity for the Ag-3 zone on March 28, 2008, that decision was promptly stayed by the superior court, and the various stays remained in effect until August 23, 2011 at 1:34 p.m. per Judge Sparks' ruling. Consequently, project permit applications in the Ag-3 zones continued to vest until that date.

The Schedler letter asserts that the plat did not vest until August 23, 2011. This assertion is without merit. As you know, completed preliminary plat applications vest pursuant to RCW 58.17.033(1). That section provides as follows:

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

The language of RCW 58.17.033 makes it clear that the plat application vests "at the time a fully completed application . . . has been submitted." This interpretation has been confirmed by case law. *Weyerhaeuser v. Pierce County*, 95 Wn. App. 883, 890, 976 P.2d 1279 (1999). The relevant Kittitas County Code provision, KCC 16.12.120, is consistent with the statutory language and case law: it requires the "director to affix a file number and date of receipt of the application" after determining completeness. The director does not affix the date that he or she determined it was complete; he or she affixes the date of receipt.

The Allwest completed applications for a preliminary plat in the Ag-3 zone vested on August 15, 2011, the date that it was submitted. The fact that the determination of completeness

was made eight days later is completely irrelevant.¹ In short, the assertion that the vesting date is August 23, 2011 is erroneous. Accordingly, that application was not affected by the EWGMHB's decisions, the Supreme Court's decision, or the lifting of the stays. And it will not be affected by anything that might happen in the future on remand. The prior EWGMHB decisions and the Supreme Court decision handed down on July 28, 2011 are simply not relevant to the consideration of this plat.

Citing an internal memo from Neil Caulkins dated August 23, 2011, the Schedler letter also argues that any application seeking to create densities greater than one dwelling unit per five acres that involves a change to the zoning map is subject to the order of invalidity and cannot be processed. First, the Schedler letter intentionally omits a key sentence from the Caulkins memo. The missing sentence, which is where the elipses are located in the Schedler letter quote from the Caulkins memo, states as follows:

A motion is being filed to move the Superior Court to dissolve the stay and send the matter back to the Hearings Board. (**Exhibit D**, p. 3 of Memo)

It is clear in context, i.e., with the full quote, that the statement quoted in the Schedler letter regarding the order of invalidity coming back into effect, was predicated on the assumption that the stay would have to be lifted by motion, which it was on October 10, 2011. Mr. Caulkins was not opining that the County could no longer process any applications involving Ag-3 zoned property as result of the Supreme Court decision. The stay still had to be lifted. Moreover, the Allwest application is a plat, not a rezone. There is no change to the zoning map. Hence, the selective quotes from Mr. Caulkins' memo are not relevant at all. The selective quotes are certainly not authority. And Mr. Caulkins' memo – whatever it says -- does not trump the fact that the Allwest plat vested under the rules in effect on August 15, 2011, before the stay was lifted and the order of invalidity took effect.

The Schedler letter goes on to argue the “merits” of whether one-acre cluster plat lots violate the Growth Management Act by failing to protect the rural character of the area. This argument, however, is actually a challenge to the Ag-3 zoning and the cluster plat ordinance under the Growth Management Act. These are the very issues that were before the EWGMHB. The law is well settled that a project opponent cannot challenge a project permit application by arguing that the ordinance that allows the project violates the Growth Management Act. *Woods v. Kittitas County*, 162 Wn.2d 597, 174 P.3d 25 (2007). Such challenges are subject to the exclusive jurisdiction of the Growth Management Hearings Boards.

Finally, the Schedler letter asserts that because the County's comprehensive plan is out of compliance with the Growth Management Act, there is “no basis upon which to make a development planning decision on the Allwest application.” The letter claims that the matter

¹ Even if the August 23, 2011 date and time were relevant, the record is clear that the determination of completeness was issued at 11:20 a.m., before the stay was lifted at 1:34 p.m.

Andrew Kottkamp
December 7, 2011
Page 5

cannot be considered until such a time as the comprehensive plan is brought into compliance with the GMA. This assertion is merely a repackaging of the prior arguments. Under the GMA, the County's development regulations are presumed valid upon adoption. RCW 36.70A.320(1). As set forth above, the order of invalidity regarding the County's comprehensive plan and development regulations did not become effective until *after* the Allwest plat vested under RCW 36.70A.302(2). Hence, the application is to be considered under the existing comprehensive plan and development regulations, which are valid for the purpose of processing this plat, regardless of what might happen to them in the future in the remand process.

Based on the foregoing, the arguments set forth in the Schedler letter should be rejected. The Allwest plat vested prior to the lifting of the stay on the order of invalidity, and thus the plat is to be considered and processed under the existing comprehensive plan and development regulations, including the provisions of the KCC Chap. 16.09, which govern Performance Based Cluster Plats.

Very truly yours,

GROFF MURPHY, PLLC

Michael J. Murphy

MJM:br

cc: Dan Valoff (via email)
Mitch Williams (via email)

Exhibit A

Jeff Watson

From: Jeff Watson
Sent: Tuesday, August 23, 2011 11:20 AM
To: Chris Cruse (cruseandassoc@kvalley.com)
Subject: CL-11-00001 Allwest LLC
Attachments: CL-11-00001 Allwest LLC Deem Complete Signed.pdf

CL-11-00001 Allwest LLC

See attached for deem complete; additional documentation on the web. Dan Valoff is the planner of record for this application.

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

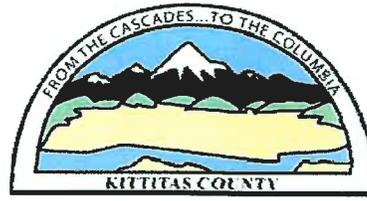


Exhibit B

THE SUPREME COURT OF WASHINGTON

KITTITAS COUNTY, a political subdivision of the State of Washington; BUILDING INDUSTRY ASSOCIATION OF WASHINGTON (BIAW), a Washington not-for-profit corporation; CENTRAL WASHINGTON HOME BUILDERS ASSOCIATION (CWHBA), a Washington not-for-profit corporation; MITCHELL F. WILLIAMS, d/b/a MF WILLIAMS CONSTRUCTION CO.; TEANAWAY RIDGE, LLC,; KITTITAS COUNTY FARM BUREAU; SON VIDA II; and AMERICAN FOREST LAND COMPANY,

Petitioners,

v.

EASTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD; KITTITAS COUNTY CONSERVATION, RIDGE; FUTUREWISE; and WASHINGTON DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT,

Respondents.

MANDATE

NO. 84187-0

C/A No. 26547-1-III

Kittitas County Superior Court
No. 07-2-00549-1

BY RONALD J. BERPENTER
CLERK
11 AUG 22 PM 1:34
A. J. BERPENTER

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in and for Kittitas County.

The opinion of the Supreme Court of the State of Washington was filed on July 28, 2011, became final on August 17, 2011. This cause is remanded to the Eastern Washington Growth Management Hearings Board for further proceedings in accordance with the attached true copy of the opinion.

Pursuant to Rule of Appellate Procedure 14.3, costs are taxed as follows:

No costs bills having been timely filed, costs are deemed waived.



IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed the seal of
said Court at Olympia, this 23rd day
of August, 2011.

A handwritten signature in black ink, appearing to read "Ronald R. Carpenter", written over a horizontal line.

Ronald R. Carpenter
Clerk of the Supreme Court
State of Washington

cc: Hon. Joyce Julsrud, Clerk
Kittitas County Superior Court
Alexander Weal Mackie
Patrick W. Ryan
Eric S. Merrifield
Timothy M. Harris
Julie Sund Nichols
Neil Alan Caulkins
Suzanne Michelle Becker
Jeffrey David Slothower
Marc Worthy
Keith Patrick Scully
Tim Trohimovich
Alan D. Copsy
Dorothy Harris Jaffe
Reporter of Decisions

Exhibit C

FILED

11 OCT 10 AM 9:45

KITTITAS COUNTY
SUPERIOR COURT CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KITTITAS COUNTY

KITTITAS COUNTY, a political
subdivision of the State of Washington;
BUILDING INDUSTRY ASSOCIATION
OF WASHINGTON (BLAW), a
Washington not-for-profit corporation;
CENTRAL WASHINGTON HOME
BUILDERS ASSOCIATION (CWHBA), a
Washington not-for-profit corporation;
MITCHELL F. WILLIAMS, d/b/a MF
WILLIAMS CONSTRUCTION CO.;
TEANAWAY RIDGE, LLC; KITTITAS
COUNTY FARM BUREAU; SON VIDA
II; and AMERICAN FOREST LAND
COMPANY,

Petitioners,

v.

EASTERN WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD;
KITTITAS COUNTY CONSERVATION;
RIDGE; FUTUREWISE; and
WASHINGTON DEPARTMENT OF
COMMUNITY, TRADE AND
ECONOMIC DEVELOPMENT,

Respondents.

Nos. 07-2-00552-1 and 08-2-00195-7

(EWGMHB Nos. 07-1-0004c and 07-1-0015)

(Court of Appeals No. 26547-1-III)

(Supreme Court No. 84187-0)

~~Proposed~~ *SR*

**ORDER CONFIRMING DISSOLUTION
AND LIFTING OF SUPERIOR COURT
STAYS**

Appendix 1: Proposed Order Confirming
Dissolution of Stays - 1

futurewise

*Building communities
Protecting the land*

814 Second Ave., Ste 500
Seattle, Washington 98104
(206) 343-0681 Ext. 118
email: tim@futurewise.org

Exhibit C

74

1 Based upon the mandate and decision of the Supreme Court of Washington and after
2 considering the arguments of the parties and the briefs, records, and files of this case, the Court
3 being fully advised of the premises; the Court FINDS and CONCLUDES:

4 1. Stays authorized by the Washington Administrative Procedure Act, in RCW
5 34.05.550, are temporary remedies precluding the enforcement of the administrative order during
6 a judicial appeal.

7 2. Stays authorized by the constitutional and inherent authority of the superior court
8 are also temporary remedies precluding enforcement of the administrative decision while the
9 appeal is pending. *Mentor v. Nelson*, 31 Wn. App. 615, 620, 644 P.2d 685, 688 (1982).

10 3. Stays are ancillary procedural matters, so under the terms of RCW 34.05.510(2)
11 the court rules control. The Washington Courts look to the Rules of Appellate Procedure (RAP)
12 in hearing appeals of Growth Management Hearings Board decisions. RAP 8.6 provides that
13 “[t]he issuance of the mandate as provided in rule 12.5 terminates any delay of enforcement of a
14 trial court decision obtained pursuant to rule 8.1 and terminates orders entered pursuant to rule
15 8.3” including stays.

16 4. The Supreme Court of Washington’s opinion became final on August 17, 2011.
17 The mandate was issued on August 23, 2001 at 1:34 pm terminating all appeals in these cases.

18 5. So the three stays issued in these cases dissolved and were lifted on August 23,
19 2001 at 1:34 p.m.

20 Based on these findings and conclusions it is hereby ORDERED:

21 1. This order confirms that the stay granted by *Central Washington Home Builders*
22 *Association, et al. v. Eastern Washington Growth Management Hearings Board, et al.*, Kittitas
23 County Superior Court Case No. 07-2-00552-1 Order Granting Motion to Stay the Eastern

24 **Appendix 1: Proposed Order Confirming
Dissolution of Stays - 2**

futurewise
*Building communities
Protecting the land*

814 Second Ave., Ste 500
Seattle, Washington 98104
(206) 343-0681 Ext. 118
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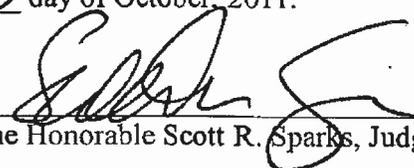
Exhibit C

1 Washington Growth Management Hearings Board's Final Decision and Order on November 13,
2 2007, dissolved and was lifted on August 23, 2001 at 1:34 p.m.

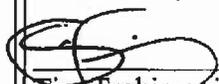
3 2. This order confirms that the stay granted by *Central Washington Home Builders*
4 *Association et al. v. Eastern Washington Growth Management Hearings Board et al.*, Kittitas
5 County Superior Court Case No. 08-2-00195-7 Memorandum Decision and Order of Stay on
6 April 24, 2008, dissolved and was lifted on August 23, 2001 at 1:34 p.m.

7 3. This order confirms that the stay granted by *Kittitas County et al. v. Kittitas*
8 *County Conservation et al.*, Kittitas County Superior Court Case Nos. 08-2-00231-7; 08-2-
9 00224-4; 08-2-00195-7; 08-2-00239-2; 08-2-00210-4 (Consolidated under 08-2-00195-7) Order
10 of Stay on June 2, 2008, dissolved and was lifted on August on August 23, 2001 at 1:34 p.m.

11 SO ORDERED and done in open court this 10 day of October, 2011.

12 
13 The Honorable Scott R. Sparks, Judge

14 Presented by:

15 
16 Tim Trohimevich, WSBA No. 22367
17 Attorney for Kittitas County Conservation,
18 RIDGE, and Futurewise

24 Appendix 1: Proposed Order Confirming
Dissolution of Stays - 3



814 Second Ave., Ste 500
Seattle, Washington 98104
(206) 343-0681 Ext. 118
email: tim@futurewise.org

Exhibit C

Exhibit D

9/12/11
FR: Neil

MEMO

To: BOCC
From: Neil A. Caulkins
Re: Comp Plan Compliance in Light of Supreme Court Decision
Date: August 23, 2011

This memorandum seeks to describe what the Supreme Court held in its recent decision regarding the challenged comprehensive plan provisions and development regulations as well as describe the work that will need to be accomplished to come into compliance and make some recommendations as to how to conduct that work and the timeframe involved.

Background

The cases began as first a pair of challenges, brought by the Department of Commerce (then CTED) and Futurewise (along with Kittitas County Conservation and RIDGE), to the GMA-compliance of the County's comprehensive plan. Challenges were made to a variety of issues including three-acre zoning, clusters, PUDs, UGNs, and various designation changes. The Hearings Board ruled largely against the County and the County appealed the three-acre density question while BIAW appealed both the three acre density question and the GMA-compliance of clusters and PUDs. (The other issues have subsequently, except for the size of Kittitas' UGA, been brought into compliance.) The appealed issues were stayed pending appellate review and the two appeals were consolidated.

Shortly thereafter Kittitas County's update to its development regulations were also challenged before the hearings board which again ruled largely against Kittitas County. That Final Decision and Order spawned 5 appeals and was stayed pending appellate review. These five cases were consolidated and eventually also consolidated with the appeals of the comprehensive plan by the appellate courts. During briefing, the case attracted various parties who intervened and joined the litigation as amicus curiae such as Pacific Legal Foundation, CELP, and the DOE. Oral argument was held last fall and the decision was issued July 28, 2011. The Supreme Court issued its mandate August 23, 2011.

Decision

The Supreme Court divided its decision into eight sections, and so this memo will summarize those eight holdings. As a general proposition, the Supreme Court held that the Hearings Board's decision was appropriate, that the County had failed to conduct some foundational work as to the Growth Management Act, and yet the Court withheld determination upon the specific development tools, such as three-acre zoning, PUDs, clusters, and one-time lot splits, remanding that back to the Hearings Board to see if it could be convinced of the GMA compliance of those techniques once the foundational work actually was done and the County demonstrated how those techniques fit in and implemented those comprehensive plan concepts.

First, the Court held that our public testimony was irrelevant to show how three-acre zoning is consistent with rural character, protects it, or harmonizes the goals of the GMA. It only shows how it meets the short-term economic needs of farmers and rural landowners. It does not prove that short-term profit by subdivision will preserve rural character in the long-term. The Court gave very little credence to our unique “rural sprawl” problem and saw no evidence as to how three-acre zoning remedies that alleged problem.

Second, the Court found no written record explaining how our rural element harmonized the planning goals of the GMA and met the act’s requirements. Third, it appeared to the Court that the Hearings Board used a bright line rule, but because there was nothing in the record explaining our consideration of local circumstances in planning our rural element, the Court declined to strike the ruling and remanded that matter for us to justify it.

Fourth, the Court found that Kittitas County does not protect rural character. Our GPOs mouth words that regulations should address GMA requirements, but do not actually require or assure that that happens, “aspirational principles, not imperatives.” Instead of parroting the GMA’s language that rural character should be protected, our comp plan must include criteria that actually provide such protection. PUDs, clusters, conditional uses, and one-time lot splits in Ag-20 might be GMA compliant if there are sufficient controls that protect rural character.

Fifth, the Court found that the County’s plan failed to provide for a mix of rural densities. The Court discussed that, without showing in the comp plan where and how much development could potentially occur, that a series of site-specific rezones, directed merely by landowner desire, could undo the GMA provisions for rural element, protection of rural character, and guaranty of mix of appropriate rural densities.

Sixth, the Court found that conditional use permits and one-time splits in commercial ag lack standards to protect agricultural lands. The Court found that the County’s CUP process lacked criteria related to conservation of ag lands or encouragement of the ag economy. Either technique could be GMA-compliant if appropriate controls existed.

Seventh, the Court held that the Hearings Board should have deferred to the County as to airport regulation. Finally, the Court held that the County’s subdivision regulation cannot permit evasion of compliance with water permitting requirements. The Court affirmed the finding that it violated the GMA to not require information on lands in common ownership. While the Court reaffirmed the role of the DOE in permitting water rights, it found the County had a role to make a Campbell & Gwinn determination solely for purposes of its obligation under the GMA (Ch. 36.70A RCW; 58.17.110; and 19.27.097, all part of the GMA).

Compliance Effort

Now that the Supreme Court has issued its mandate, appellate review is terminated and the stays, by their own terms, would no longer be necessary. A motion is being drafted to move the Superior Court to dissolve the stay and send the matter back to the Hearings Board. This would bring back into effect the Hearings Board's Final Order, particularly in the development regulation appeal, which contained a finding of invalidity. That finding was for numerous zoning designations that created densities greater than one dwelling unit per five acres (R-3, Ag-3, performance based cluster plats, etc.) but also included the zoning map. Hence, I believe that any application seeking to create densities greater than one per five that involves a change to the zoning map, that is deemed complete after whatever date the Superior Court dissolves the stay would be under the order of invalidity and the County could not process such application. Such application would not vest.

The Hearings Board will eventually set a new compliance schedule. In the mean time, the County can certainly move forward in that it knows what work needs to be done. While significant work needs to be done, it can be accomplished with existing staff and by reusing the public participation models the County has employed in recent compliance efforts.

As part of defining our rural element and describing what our rural character is and how it shall be protected, the County needs to engage in several efforts, which can be carried out concurrently. First, the County needs to take stock of existing development patterns. In many ways, this first portion of the task is answering questions of land capacity-how much new population (growth) can be accommodated (management) now. This is a mapping exercise that our staff and equipment can accomplish. It needs to generate maps of where we are now, our starting point. It needs to show all lots actually created in Kittitas County, including by short plat, long plat, exempt/administrative segregation, one-time split, etc, as well as amass information as to when lots were created. This also needs to show lots that are proposed in applications that are currently making their way through the approval system. It may also be necessary to amass information as to lot creation within the County's municipalities.

As a second part of this inquiry, the County will need to obtain a clear picture of how much population (growth) has been coming into the County and where it's been going (management). We will need census information, all well permits, OFM numbers, and building permits, etc. It will also be necessary to bring in the findings of the Aquavella case and the USGS study as water will be a limiting factor upon development and because protection of ground and surface water, as the GMA requires, was a key issue in this case. These first two portions of the investigation will inform the description of what Kittitas County is now and, hence, what is its rural element and character that will be the subject of protection. These first two portions of the inquiry will also illuminate policy shortcomings in that they will show whether or not population (growth) has been happening in the County in accord with the population allocations made by the KCCOG (management), and hence, whether or not the County's policies have been successfully focusing growth into the urban areas as we've (via the KCCOG) established that they should. If a disjunct between where the population has been settling (growth) and where

the County policies say it should (management) appears, then that disjunct will also expose what policies need to be altered to get growth to conform to County policies. The basic idea is that, when growth does not conform to County policies (presumably in the form of too much growth in the rural areas and not enough in the urban areas when compared to KCCOG population allocations), then the County's GMA-required efforts to protect the rural element/character and to direct growth into urban areas is failing and the policies must be adjusted to remedy that failure. In short, this two-part base-line shows us where we are and what is or is not working such that we can define what our rural element/character is and what needs doing to protect it.

Another part of the background work needs to be in researching the provisions in other counties for rural element, protection of rural character, and guaranty of appropriate mix of rural densities. The County staff has met with representatives from the Department of Commerce, the entity charged with shepherding municipalities through the GMA. They have assured us that Kittitas County is one of the cases they, as an organization, have a commitment to expend resources towards our effort with GMA compliance. This is largely because, due to the County's rural nature and proximity to King County, it is the "flash point" on the question of protection of rural character. The Department of Commerce will be sending us sample documents to review as examples of comprehensive plans and development regulations that define the rural element, protect rural character, and guaranty a mix of rural densities. This will be an important means of avoiding reinvention of the wheel-to crib from GMA-compliant regulations from other jurisdictions.

Another means of avoiding wheel reinvention that County staff can be, and is engaged in, is the evaluation of work the County has already done. A couple years ago, the County's Land Use Advisory Committee completed some work and made recommendations as to amendments to the comprehensive plans and development regulations. Similarly, there was a draft of the comprehensive plan that was significantly different than what the Planning Commission and BOCC approved in 2004 that received good comments from the Department of Commerce that should be dusted off and reexamined. Given that a part of the rural element is driven by local circumstances and local vision, if some useable work has already been done locally that could shed light on those circumstances and vision, then it would be most efficient to make use of it rather than start from scratch. Hence, a part of the background (to drafting of proposed comp plan and dev. reg. amendments) is evaluating work already completed by the County that may be helpful in defining our local rural element, exemplifying means to locally protect rural character, or describing how we can guaranty a mix of rural densities.

After conducting the above-described inquiries (mapping, review of docs from other jurisdictions, review of previous Kittitas County docs), staff will draft appropriate proposed amendments to the comprehensive plan, particularly the rural element, and development regulations. The rural policies need to meet the statutory requirements and create enough clear direction that enforceable code provisions can be written to implement them. These policies need to be specific and point to how development regulations will protect rural character and meet the goals and requirements of the GMA.

Upon completion of this drafting, the public participation program begins. The proposed amendments will be presented to the public in a series of open houses in both the upper and lower County. The proposed amendments will be posted to the County's website and notice of the postings and open houses will be disseminated through email, web posting, and newspaper PSAs. After the open houses, the proposed amendments will be presented to the Planning Commission who will take testimony and written comments from the public and create both an administrative record and a recommendation to the BOCC. The BOCC will, in turn, also hold public hearing in which it too takes testimony and written comment and augments the record. Along the way, and subsequent to close of the record, staff will provide response to comments received. The BOCC will then deliberate, decide, and direct staff to prepare enabling documents.

As a rough estimate of the time-line for this process, I would estimate at least twelve months. This would be roughly divided as shown on the attached proposed schedule. I have been in conversation with Futurewise, and it expressed a belief that it would take the County a year, and was supportive of allowance for such a time-frame.



KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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CDS@CO.KITTTITAS.WA.US

Office (509) 962-7506

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"Building Partnerships – Building Communities"

STAFF REPORT

ALLWEST LLC PERFORMANCE BASED CLUSTER PLAT

TO: Kittitas County Hearing Examiner
FROM: Kittitas County Community Development Services Staff
RE: Allwest LLC Performance Based Cluster Plat (CL-09-01)
DATE: December 8, 2011 Hearing

I. GENERAL INFORMATION

Requested Action: Chris Cruse, authorized agent for Allwest LLC, property owner, has applied for a performance based cluster plat to subdivide a 50.58 acre parcel into sixteen (16) one-acre lots and one 34.51 acre open space lot. The project is proposed to be served by a Group B water system and individual on-site septic systems.

Location: The subject property is one tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019.

II. SITE INFORMATION

Total Project Size: 50.58 acres
Number of Lots: 16
Zoning District: Agriculture-3
Domestic Water: Group B water system
Sewage Disposal: Individual on-site septic systems
Power/Electricity: Puget Sound Energy
Fire Protection: Fire District #2 (Rural Ellensburg)
Irrigation District: Kittitas Reclamation District

Site Characteristics:

North: Residential

South: Residential

East: Vacant

West: Vacant

Access: The proposed project will have access from Manastash and Susan Road. The access road will be constructed to meet Kittitas County Road Standards. All required roadway improvements will be the responsibility of the developer. A second access route is not required.

Zoning and Development Standards: The purpose and intent of the agricultural (A-3) zone is to provide for an area where various agricultural activities and low density residential developments co-exist compatibly. The Ag-3 zone is predominately agricultural-oriented lands and it is not the intent of this section to impose further restrictions on continued agricultural activities therein.

KCC 16.09 allows for **Performance Based Cluster Platting** to assist in the implementation of Kittitas County's policy to provide tools to foster appropriate densities, while making development economically feasible, benefits to the greater community through an effort to conserve water resources by minimizing the development of exempt wells by encouraging group water systems, to protect public health by reducing the number of septic drain fields, by concentrating urban densities in urban growth areas and by minimizing the impact of "Rural Sprawl" in rural

lands, as designated in the Kittitas County Comprehensive Plan, Kittitas County finds that this "Performance Based Cluster Platting" technique would foster the development of urban and rural designated lands at appropriate densities, while protecting the environment and maintaining a high quality of life in Kittitas County. Public Benefit Rating System (PBRS) elements are items that are not already required by code. When a public benefit is demonstrated then bonus density points will apply. The density bonus is limited to use in the rural designations with a 100% bonus in the Rural -3, Agriculture -3, Rural -5 and Agriculture - 5 zones. There is no limit to density bonus within the Urban Growth Areas and the Urban Growth Nodes. A minimum of twenty five percent (25%) of the area within the project boundary must be set aside in open space prior to application of the Public Benefit Rating System contained in KCC 16.09.090.

The applicant has demonstrated the Public Benefit Rating System (PBRS) with the following elements. The Hearing Examiner can further condition these elements as necessary to meet the intent of the Ordinance for Performance Based Cluster Platting. These elements will be conditions of approval for the Allwest LLC Plat in order to qualify for the density bonus allowed through Performance Based Cluster Platting.

Element	Area	Bonus Points
Open space total	34.51 acres	0
Development Area	16.07	0
Group B water system		0
Total	50.58 acres	0 points

Total bonus density points = 0

Calculations for project:

Current zone for project is Agriculture 3
 Allowed density for the Agriculture 3 zone is 1 unit per 3 acres
 Subject parcel is a total of 50.58 acres

Lots allowed under current zoning (Agriculture 3) = **50.58 acres/3acres = 16 lots**

III. ADMINISTRATIVE REVIEW

Notice of Application: A complete long plat application was submitted to Community Development Services on August 15, 2011. The application was deemed complete on August 23, 2011. The Notice of Application for the preliminary plat application was issued on September 7, 2011. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on September 22, 2011.

Posting of Site: In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner and is included as part of the record.

IV. COMPREHENSIVE PLAN

The Kittitas County Comprehensive Plan designates the subject property as Rural. Kittitas County has established the following goals and policies to guide future housing developments. These goals and policies were developed in response to existing housing conditions and identified needs within the county, and support the County Wide Planning Policies:

GPO 3.1 Provide a sufficient number of housing units for future populations in rural areas of Kittitas County.

GPO 3.6 Provide for future populations while protecting individual property rights.

GPO 3.17 Provide a sufficient number of housing units for future populations while maintaining the rural character of Kittitas County.

GPO 3.18 Provide sufficient housing units while maintaining environmental quality.

GPO 8.5 Kittitas County recognizes and agrees with the need for continued diversity in densities and uses on Rural Lands.

GPO 8.46 Residential development in rural lands must be in areas that can support adequate private water and sewer systems.

V. ENVIRONMENTAL REVIEW

Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Determination of Non-Significance (DNS) was issued on November 10, 2011. The appeal period ended on November 29, 2011 at 5:00 p.m. No appeals were filed.

VI. AGENCY AND PUBLIC COMMENTS

Applicable agencies have been given the opportunity to review this proposal. Agency comments have been included as Exhibits in the Hearing Examiner packet.

Several public comments were submitted on this proposal which have been included as exhibits in the Hearing Examiner packet.

VII. PROJECT ANALYSIS

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.

Comprehensive Plan Consistency:

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan, including those listed above in section IV of this report. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by a Group B water system and individual onsite septic systems.

Consistency with the provisions of KCC 17A Critical Areas:

Staff has conducted an administrative critical area review in accordance with KCC 17A and found small wetlands, on the subject properties.

Consistency with the provisions of KCC 16.09: Performance Based Cluster Platting Code:

The application contained all required elements necessary to review this proposal with the exception of soil logs, which will be required prior to final plat approval. All proposed lots meet the dimensional standards of KCC 17.30A for lots zoned Agriculture 3. As conditioned, this proposal is consistent with the Kittitas County Subdivision Code for Performance Based Cluster Plats.

Consistency with the provisions of KCC 16.12: Preliminary Plat Subdivision Code:

The application contained all required elements necessary to review this proposal with the exception of soil logs and water availability, which will be required prior to final plat approval. All proposed lots meet the dimensional standards of KCC 17.30A for lots zoned Agriculture 3. This proposal is consistent with the Kittitas County Code 16.12.150 in making recommendation as to the adequacy of the proposed road system, the proposed sewage

disposal and potable water supply system and fire protection facilities within the subdivision.

Consistency with the provisions of KCC Title 12: Roads and Bridges:

All roads are required to meet all Kittitas County Road Standards as outlined in the memorandum issued by the Department of Public Works prior to issuance of a building permit. As conditioned, the proposal is consistent with the provisions of KCC Title 12.

Agency Comments:

The following agencies provided comments during the comment period: Department of Ecology, Department of Health, Kittitas County Department of Public Works, Fire Marshal's Office and Environmental Health. These comments have been included as conditions of approval to address these agency concerns.

Public Comments:

Several public comments were submitted on this proposal which have been included as exhibits in the Hearing Examiner packet.

VIII. RECOMMENDATION

As conditioned below, the application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 12 and Title 16.12 of the Kittitas County Code and the Kittitas County Comprehensive Plan. Staff recommends **approval** of the Allwest LLC Performance Based Cluster Plat; file number (CL-11-01), subject to the following findings of fact and conditions:

Suggested Findings of Fact

1. Chris Cruse, authorized agent for Allwest LLC property owner, has applied for a preliminary plat to subdivide a 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The project is proposed to be served by a Group B water system and individual on-site septic systems.
2. The subject property is one tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019.
3. Site Information:

Total Project Size:	50.58 acres
Number of Lots:	16
Zoning district	Agriculture 3
Domestic Water:	Group B water system
Sewage Disposal:	Individual on-site septic systems
Power/Electricity:	Puget Sound Energy
Fire Protection:	Fire District #2 (Rural Ellensburg)
Irrigation District:	Kittitas Reclamation District
4. Site Characteristics: The area is characterized as flat terrain used for agricultural purposes.
5. Surrounding Property:

<u>North:</u>	Residential
<u>South:</u>	Residential
<u>East:</u>	Vacant
<u>West:</u>	Vacant

6. The Comprehensive Plan designation is Rural.
7. The subject property is zoned Agriculture 3, which allows for one residential unit per 3 acres and one-half acres for platted cluster subdivisions served by public water and sewer systems. All subdivision lots under three acres in size must be served by public water and sewer systems (KCC 17.30.040).
8. A complete long plat application was submitted to Community Development Services on August 15, 2011. The application was deemed complete on August 23, 2011. The Notice of Application for the preliminary plat application was issued on September 7, 2011. This notice was published in the official county paper of record and was mailed to jurisdictional government agencies, adjacent property owners and other interested parties. The last day to submit written comments was on September 22, 2011.
9. In accordance with Kittitas County code 15A.030.110, this project was accurately posted with the "Land Use Action" sign as provided by Community Development Services. The Affidavit of Posting was signed by the applicant and returned to the planner and is included as part of the record.
10. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this 15 day comment period and other information on file with Community Development Services, a Mitigated Determination of Non-Significance (MDNS) was issued on November 10, 2011. The appeal period ended on November 29, 2011 at 5:00 p.m. No appeals were filed.
11. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. The proposed subdivision will be adequately served by rural levels of service. The lots will be served by a Group B water system and individual or community septic systems. Staff has conducted an administrative critical area review in accordance with KCC 17A and found small wetlands on the subject properties.
12. This proposal is consistent with the Kittitas County Subdivision Code Chapter 16.09 for Performance Based Cluster Plats.
13. This proposal is consistent with the provisions of KCC 16.12:Preliminary Plat Subdivision Code: The application contained all required elements necessary to review this proposal with the exception of soil logs and water availability, which will be required prior to final plat approval. All proposed lots meet the dimensional standards of KCC 17.30A for lots zoned Agriculture 3. This proposal is consistent with the Kittitas County Code 16.12.150 in making recommendation as to the adequacy of the proposed road system, the proposed sewage disposal and potable water supply system and fire protection facilities within the subdivision.
14. All roads are required to meet all Kittitas County Road Standards as outlined in the October 3, 2011 memorandum issued by the Department of Public Works. As conditioned, the proposal is consistent with the provisions of KCC Title 12.
15. The following agencies provided comments during the comment period: Department of Ecology, Department of Health, Kittitas County Department of Public Works, Fire Marshal's Office and Environmental Health. These comments have been included as conditions of approval to address these agency concerns

Suggested Conclusions:

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.

2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interest will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 16 Subdivision, Title 17 Zoning, Title 17A Critical Areas, Title 15 Environmental, and Title 12 Roads and Bridges.

Suggested Conditions of Approval:

1. The project shall proceed in substantial conformance with the plans and application materials which was deemed complete on August 23, 2011 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. It is the responsibility of the applicant to contact the Kittitas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.
4. Soil logs need to be scheduled and dug at a mutually convenient time. The developer/owner shall provide soil logs as per Chapter 246-272 WAC or as amended. The information obtained will be recorded and placed in the plat file for future reference. The information obtained from these soil logs is for plat approval purposes only and does not constitute a site evaluation in conjunction with the issuance of a permit for any specific lot.
5. Proof of potable water must be shown prior to final plat approval.
6. A plat note discussing the spread of noxious weeds shall be shown on the plat and shall read: "Per RCW 17.10.140 Landowners are responsible for controlling and preventing the spread of noxious weeds, accordingly, the Kittitas County Noxious Weed Board recommends immediate reseeding of areas disturbed by development to preclude the proliferation of noxious weeds."

Platting Standards and Zoning Code:

1. Certificate of Title: A certificate of title of the property proposed to be platted shall be submitted with the final plat.
2. Lot Closures: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
3. Conditions, Covenants, and Restrictions: Prior to final plat approval, a copy of the proposed final Conditions, Covenants, and Restrictions shall be submitted to Community Development Services for review and approval.
4. Open Space Tracts: Prior to final plat approval, all areas not included in development lots shall be labeled as individual tracts. Tracts shall not be further subdivided or altered. All tracts, except the tract(s) containing the private road area, shall be labeled "Open Space."
5. Open Space Tract Ownership and Maintenance: Open space tracts shall be jointly owned and maintained by the developer or legally responsible owner or homeowner's association or other legal entity made up of all benefited property owners.

Stormwater and Drainage

6. This project will require a NPDES Construction Stormwater General Permit from the Washington State Department of Ecology. This permit requires that the SEPA checklist fully disclose anticipated activities, including building, road construction, and utility placements. Obtaining a permit is at least a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.
7. The NPDES permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.
8. Erosion control measures must be in place prior to any clearing, grading or construction. These control measures must be effective to prevent soil from being carried into surface water by storm water runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants.
9. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.
10. Best management practices must be used to prevent any sediment, oil, gas, or other pollutants from entering surface or ground water.

Transportation and Infrastructure

Timing of Improvements: This application is subject to the latest revision of the Kittitas County Road Standards, dated 9/6/05. The following conditions apply and must be completed prior to the issuance of a building permit for any of the structures within this plat. A Performance Bond or acceptable financial guarantee may be used, in lieu of the required improvements, per the conditions outlined in the current Kittitas County Road Standards.

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.

Road Name: Midfield Drive shall be labeled on the final plat.

Private Road Improvements – Midfield Drive: Access from Manastash Road to the final cul-de-sac shall be constructed to meet or exceed the conditions of a High-Density Private Road that serves 15-40 tax parcels. See current 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 22', with 1' shoulders, for a total width of 24'.
- b. Minimum centerline radius shall be 60'.
- c. Surface requirement BST/ACP.
- 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.
- h. Any further subdivision or lots to be served by proposed access may result in further access requirements.

- i. All roads located within this development or roads that provide access to this development shall be constructed to current county road standards unless any other maintenance agreements, forest service road easements or state easements require higher road standards. The higher of the road standards shall apply.
- j. All easements shall provide for AASHTO radius at the intersection with a county road.
- k. A paved apron shall be constructed at the intersection of the proposed private intersection and the county road right-of-way.

Private Road Improvements – Susan Road:

- a. To serve lots 1 and 2, the road must be extended and a new cul-de-sac constructed in the vicinity of lot 2. No more than two lots can be served by a driveway off the end of a cul-de-sac.
- b. Per the findings of Road Variance 11-08, the private portion of Susan Road must be verified to be 20' wide, including gravel and pavement, through the road certification process. The road extension may be constructed to 20' wide.

Cul-de-Sac: A cul-de-sac turn-around having an outside right-of-way or easement diameter of at least 110 feet shall be constructed at the closed end of all dead-end roads serving 3 or more lots. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2009 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.

Plat Notes: Plat notes shall reflect the following:

- a. Entire private road shall be inspected and certified by a civil engineer licensed in the State of Washington specifying that the road meets Kittitas County Road Standards as adopted September 6, 2005, prior to the issuance of a building permit. Any future subdivision or land use action will be reviewed under the most current road standards.
- b. Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel.
- c. Maintenance of the access is the responsibility of the property owners who benefit from its use.
- d. An approved access permit will 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.
- e. Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
- f. A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided 5 feet on each side of interior lot lines. Said easement shall also be used for irrigation.

Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.

- a. Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
- b. The surface requirement is for a minimum gravel surface depth of 6".
- c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
- d. Any further subdivision or lots to be served by proposed access may result in further access requirements.

Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.

- a. The roadway shall be a minimum of 8' wide with gravel surface.
- b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
- c. Any further subdivision or lots to be served by proposed access may result in further access requirements.

Plat Approvals: All plats must show the acceptance signature of the County Engineer. The acceptance block shall be as follows (per KCC 16.24.170):

EXAMINED AND APPROVED
This ____ day of ____, A.D., 20__.

Kittitas County Engineer

Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.

Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.

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.

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.

Fire Protection: Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.

Mailbox Placement: The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.

Water and Sewer

11. The final plat notes shall include the following statements:

The approval of this division of land includes no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law.

AND

Metering will be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements.

12. Adequate Potable Water Supply Statement: Final approval is conditioned upon the developer/owner of the plat providing proof of potable water. Proof of potable water can be provided through several different ways depending on the source of water proposed as described and outlined in the Board of County Commissioners Resolution 2010-082.

The application states that residences will utilize a Group B Public Water System; therefore, the following information is required prior to final plat approval:

Applicants shall have a well site inspection performed by KCPHD staff; complete and submit a Group B Public Water System Workbook to either KCPHD for water systems with 3-9 connections or Washington State Department of Health (DOH) for water systems with 10-14 connections or as amended by DOH; have the well(s) drilled; and submit a copy of an agreement with an approved Kittitas County Satellite Management Agency. All infrastructure for the Group B Water System including the well/pump house and storage tanks must be completed or the developer/owner can bond for completion. Final approval of the Group B Public Water System including issuance of the public water system ID number from DOH is required prior to recommendation by KCPHD for final approval. If a bond is in place, final approval will still be recommended but all infrastructure must be completed before issuance of the first building permit within the subdivision.

13. The proponent shall apply to Ecology for a permit to appropriate public groundwater, if seeking to use the groundwater exemption shall submit to Ecology a request for determination that the proposed exempt use would be water budget neutral. No new exempt uses under RCW 90.44.050 may commence unless Ecology has approved a request for determination that the proposed exempt use would be water budget neutral. Chapter 173-150 WAC provides for the existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in this area becomes limited the use could be curtailed by those with senior water rights. Ecology believes the Allwest LLC Cluster Plat which proposes to provide water through two group B water systems, is one project and is entitled to one groundwater exemption of 5,000 gallons per day and, therefore, requires a water right.
14. Water for Dust Suppression. The Department of Ecology States: water use from road construction and dust suppression will likely be necessary given that new roads and grading are planned. Water use for construction and dust compression are not listed uses eligible for appropriation under RCW 90.44.050. Therefore, a water right will be required for water used for short term and long term construction and dust suppression needs. Temporary permits may be obtainable in short time-periods.

Fire Safety

15. Approved water storage of 30,000 gallons, with a private fire hydrant system shall be installed. This amount may be reduced by 50% when the plat note requires all residences to provide residential sprinkler systems, defensible space setbacks and non-combustible exterior building materials.
16. Water storage and hydrant spacing shall comply with the International Fire Code.
17. No fire apparatus access lane shall have a slope greater than 12%. A variance permit will be required for any slopes or grades greater than allowed by County Code.
18. "No Parking—Fire Lane" signs must be posted per Fire Marshal requirements on all cul-de-sacs.
19. All bridges shall be required to be certified.

20. All development, design and construction shall comply with Kittitas County Code Kittitas County Zoning and the 2006 International Fire and Building Codes.
21. A separate permit is required for any private water storage or hydrant system. The hydrant system shall be subject to plan review through the Fire Marshal's Office and shall be subject to an annual Operational Permit.

Air Quality

22. WAC 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the site. Dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts, or damaging property or business.
23. The applicant should create a site-specific Fugitive Dust Control Plan (FDCP) before starting this project, and then follow the plan for construction of the project and duration of activity on the property. The FDCP should include, but is not limited to, the following components:
 - Identify all potential fugitive dust emission points.
 - Assign dust control methods.
 - Determine the frequency of application
 - Record all dust control activities.
 - Train personnel in the FDCP.
 - Shut down during windy conditions.
 - Follow the FDCP and monitor dust control efforts.
24. According to County standards, a water truck shall be available during construction to minimize dust emissions.



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"

NOTICE OF DECISION SEPA ACTION AND PUBLIC HEARING

To: Interested County Departments & Agencies with jurisdiction
Adjacent Property Owners
Applicant

From: Dan Valoff, Staff Planner

Date: November 10, 2011

Subject: Allwest LLC Cluster Plat (File No.: CL-10-00001)

Please find the attached Determination of Nonsignificance (DNS) for the above referenced project. A Notice of Application for the submitted application was mailed on September 7, 2011.

NOTICE IS HEREBY given that pursuant to 43.21(C) RCW, Kittitas County Community Development Services did on November 10, 2011 make a Determination of Non-Significance (DNS) for Chris Cruse authorized agent for property owner Allwest LLC for a preliminary plat application to subdivide a 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The subject property is one tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019. The complete application file may be viewed at Kittitas County Community Development Services, 411 N. Ruby St. Suite 2, Ellensburg, WA 98926. Staff Planner: Dan Valoff.

Any action to set aside, enjoin, review, or otherwise challenge such administrative SEPA action on the grounds of noncompliance with the provisions of chapter 43.21RCW shall be commenced on or before November 29, 2011 at 5:00 p.m. to the Kittitas County Board of Commissioners, Rm. 108, County Courthouse, Ellensburg, WA 98926. Appeals of SEPA threshold determinations shall be consolidated with appeals of final permit approval, according to 15A.04.020, Chapter [43.21C RCW](#) and Chapter [15.04 KCC](#) (such as a decision to require particular mitigation measures or to deny a proposal). A single simultaneous hearing before one hearing body will consider the agency decision on a proposal and any environmental determinations made, with the exception of the appeal, if any, of a threshold determination of significance.

NOTICE IS HEREBY given that a hearing on said application before the Kittitas County Hearing Examiner has been scheduled for **December 8, 2011 at 6:00 p.m.** in the Kittitas County Courthouse Auditorium, Ellensburg, WA. 98926. Anyone with an interest in this matter is urged to attend said hearing where testimony will be taken. Written comments will be received and documents may be viewed at the above address prior to the hearing. Interested persons are encouraged to verify prior to attending.

Notice of SEPA Action and Public Hearing
Allwest Cluster Plat
(CL-10-00001)

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Date: November 8, 2011

Publish Daily Record: November 10 & November 17, 2011

DAILY RECORD/KITTITAS PUB
ORDER CONFIRMATION (CONTINUED)

Salesperson: KATHY ADAMS

Printed at 11/08/11 10:56 by cad18

Acct #: 84329

Ad #: 566966

Status: N

**Notice of SEPA Action and
Public Hearing
Allwest Cluster Plat
(CL-10-00001)**

NOTICE IS HEREBY given that pursuant to 43.21(C) RCW, Kittitas County Community Development Services did on November 10, 2011 make a Determination of Non-Significance (DNS) for Chris Cruse authorized agent for property owner Allwest LLC for a preliminary plat application to subdivide a 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The subject property is one tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019The complete application file may be viewed at Kittitas County Community Development Services, 411 N. Ruby St. Suite 2, Ellensburg, WA 98926. Staff Planner: Dan Valoff.

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NOTICE IS HEREBY given that a hearing on said application before the Kittitas County Hearing Examiner has been scheduled for December 8, 2011 at 6:00 p.m. in the Kittitas County Courthouse Auditorium, Ellensburg, WA. 98926. Anyone with an interest in this matter is urged to attend said hearing where testimony will be taken. Written comments will be received and documents may be viewed at the above address prior to the hearing. Interested persons are encouraged to verify prior to attending.

Date: November 8, 2011
Publish Daily Record: November 10 & November 17, 2011

DAILY RECORD/KITTITAS PUB
ORDER CONFIRMATION

Salesperson: KATHY ADAMS

Printed at 11/08/11 10:56 by cad18

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Status: N

KITTITAS COUNTY COMMUNITY
DEVELOPMENT SERVICES
411 N. RUBY ST, SUITE 2
ELLENSBURG WA 98926

Start: 11/10/2011 Stop: 11/17/2011
Times Ord: 2 Times Run: *****
STD6 1.00 X 11.32 Words: 358
Rate: LEG2 Cost: 195.20
Class: 0001 LEGAL NOTICES

Contact:

Descript: SEPA/ALLWEST LLC

Phone: (509)962-7506

Given by: *

Fax#:

Created: cad18 11/08/11 10:14

Email: dan.valoff@co.kittitas.wa.us

Last Changed: cad18 11/08/11 10:56

Agency:

PUB ZONE ED TP START INS STOP SMTWTFS
DR A 97 S 11/10,17
IN A 97 S 11/10,17

AUTHORIZATION

Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

Quote from Daily Record/Kittitas County Publishing (509) 925-1414
This ad will run as quoted unless cancellation is received. Please contact your sales rep 24 hours prior to first run date to cancel order.

Name (print or type)

Name (signature)

(CONTINUED ON NEXT PAGE)



KITTTAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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

CDS@CO.KITTTAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

Building Partnerships; Building Communities

DETERMINATION OF NONSIGNIFICANCE

- File:** Allwest LLC Cluster Plat (CL-11-00001)
- Description:** A 17 lot subdivision of a 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The potential lots will utilize 2 group B water systems and on-site septic systems..
- Proponent:** Chris Cruse, authorized agent for
Allwest LLC
1000 Harvest Loop #300
Ellensburg, WA 98926
- Location:** North of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019.
- Lead Agency:** Kittitas County Community Development Services

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request, or can be viewed at the Kittitas County Community Development Services website at: <http://www.co.kittitas.wa.us/cds/current/> under "Miscellaneous SEPA Applications"

This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS. Any action to set aside, enjoin, review, or otherwise challenge this administrative SEPA action on the grounds of noncompliance with the provisions of Chapter 43.21C RCW shall be commenced on or before November 29, 2011 by 5:00 PM,

**Responsible
Official:**


Dan Valoff, Staff Planner

Address: Kittitas County Community Development Services
411 North Ruby St., Suite 2
Ellensburg, WA 98926
(509) 962-7506 FAX (509) 962-7682

Date: November 10, 2011

Pursuant to Chapter 15A.07 KCC, this DNS may be appealed by submitting specific factual objections in writing with a fee of \$500.00 to the Kittitas County Board of Commissioners, Kittitas County Courthouse Room 110, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00 PM, November 29, 2011. Aggrieved parties are encouraged to contact the Board at (509) 962-7508 for more information on appeal process.

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926



RE: Hearing on Allwest LLC Cluster Plat (CL-11-00001)

Please enter this testimony into the record for the Kittitas County Hearing Examiner's review of the Allwest LLC Cluster Plat application. As owner of a home and property that lies within the area directly adjacent to the proposed Allwest LLC Cluster Plat, I urge you to recommend to the Kittitas County Board of Commissioners that the application to create a new subdivision of 16 one-acre lots in what is now an Agriculture-3 zone be denied. Such a denial is justified based on following significant issues with the application:

- 1) A significant procedural issue involves the timing of the application in relation to the recent State Supreme Court decision of July 28, 2011, that upheld the Eastern Washington Growth Management Hearings Board's finding that Kittitas County's comprehensive plan is not in compliance with the Growth Management Act. The Allwest application was received on August 15, 2011, after the Supreme Court ruling had been handed down. Moreover, the Allwest application was not vested (deemed complete) until August 23, 2011, the same date that the Supreme Court issued its mandate in the case. On the same date of August 23, 2011, lawyer Neil A. Caulkins wrote in a memo to the Board of Commissioners regarding the Supreme Court decision, "Now that the Supreme Court has issued its mandate, appellate review is terminated and the stays, by their own terms, would no longer be necessary.... This would bring back into effect the Hearing Board's Final Order, particularly in the development regulation appeal, which contained a finding of invalidity. That finding was for numerous zoning designations that created densities greater than one dwelling unit per five acres (R-3, Ag-3, performance based cluster plats, etc.) but also included the zoning map." Caulkins concludes that any application seeking to create densities greater than one dwelling unit per five acres that involves a change to the zoning map would be under the order of invalidity and the County could not process such application. The proposed Allwest LLC Cluster Plat seeks to create a subdivision with densities of one dwelling unit per one acre in what is now designated as an Agriculture-3 zone. Hence this application should come under the order of invalidity and should not be processed.
- 2) A significant legal issue arises from the fact that the State Supreme Court has upheld the Eastern Washington Growth Management Hearings Board's finding that Kittitas County's comprehensive plan is not in compliance with the Growth Management Act (GMA). In particular, the Court ruled in section IV that the Board properly found that the County violated the GMA by failing to protect rural character in rural areas. The Court cites the following GMA provisions:

The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;

- (ii) Assuring visual compatibility of rural development with the surrounding rural area;
- (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area. RCW 36.70A.070(5)(c)

The proposed Allwest subdivision seeks to create a low-density development of one-acre lots that is visually incompatible with the adjacent housing subdivisions (five-acre lots on Susan Road and three-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Approval of this application would thus violate the Hearings Board's finding and the Growth Management Act by failing to protect the rural character of this rural area.

- 3) Finally, based on the fact that Kittitas County's comprehensive plan is not in compliance with the Growth Management Act (GMA), there is no basis upon which to make a development planning decision on the Allwest application until the plan is brought into compliance and, in particular, until Kittitas County develops a written record justifying how allowing lots as small as three acres in rural and agriculture zoning districts harmonizes with the planning goals and requirements of the GMA. In its ruling, the State Supreme Court finds that "The County, however, fails to explain how three-acre rural designations, while responsive to identified community concerns, also protect rural areas. As a result, it is unclear how three-acre rural density designations are appropriate in the County's rural area, when there is substantial evidence that they are harmful to rural areas in other communities." If Kittitas County's comprehensive plan and development regulations lack the necessary supporting evidence for allowing lots as small as three acres in rural and agriculture zoning districts, there is even less justification for allowing one-acre lots within such an agriculture zone, as proposed in the Allwest application. Hence there is no written record within the County's comprehensive plan upon which to approve this application to by-pass the Agricultural-3 zoning designation and allow development of one-acre lots within this rural and agricultural zone.

Thank you for taking my testimony into the record in this case.

Christopher Schedler
361 Midfield Dr.
Ellensburg, WA 98926

CRUSE
& ASSOCIATES
PROFESSIONAL LAND SURVEYORS

November 28, 2011

Christina Wollman
Kittitas County Dept. of Public Works
411 N. Ruby, Suite 1
Ellensburg, WA 98926

RE: RV-11-08

Dear Christina,

This letter is to certify that the existing access road as described in variance RV-11-08 meets or exceeds 20 feet in width including gravel and pavement. The final road certification will be completed as required for the Allwest LLC Plat (CL-11-00001) application.

If you have any questions or need additional information, please don't hesitate to call.

Sincerely,



Christopher C. Cruse
Professional Land Surveyor



September 27, 2011

Dan Valoff
Staff Planner
Kittitas Community Development Department



RE: Allwest LLC Cluster Plat, LC-11-00001

Mr. Valoff,

Please note for the record that I have included a copy of the road easement agreement for the access in the Midfield LLC Plat and the Midfield Plat Division 2. I wish to bring to your attention on page 3 of 11 in 1.3 NO PROTEST CLAUSE: This agreement has been entered into and recorded on all parcels within these plats and obligates all owners to not protest or otherwise attempt to interfere with the use of this easement road for future development.

In the event that any individual should question or protest the use of this easement for the intended purpose of access the Allwest LLC cluster plat this information is relevant.

Sincerely,

Mitch Williams
Allwest LLC, Manager/Member

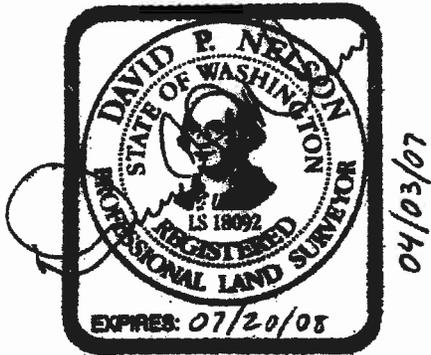
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KITITAS COUNTY
CIS

**LEGAL DESCRIPTION
ACCESS & UTILITY EASEMENT**

A 60 FOOT ACCESS & UTILITY EASEMENT WHICH IS BOUNDED BY A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 17 OF THAT CERTAIN SURVEY AS RECORDED IN BOOK 29 OF SURVEYS AT PAGE 174, UNDER AUDITOR'S FILE No. 200312040048, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, SAID CORNER BEING THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 82°05'04" EAST, ALONG THE NORTHERN BOUNDARY LINE OF SAID LOT 17, 60.84 FEET; THENCE SOUTH 01°35'19" WEST, 823.63 FEET, TO THE SOUTHERN BOUNDARY LINE OF SAID LOT 17, SAID SOUTHERN BOUNDARY LINE ALSO BEING THE NORTHERN RIGHT-OF-WAY BOUNDARY LINE OF MANASTASH COUNTY ROAD; THENCE NORTH 88°24'41" WEST, ALONG SAID SOUTHERN BOUNDARY LINE OF LOT 17, 60.00 FEET; THENCE NORTH 01°35'19" EAST, 813.59 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING AND TERMINUS OF SAID LINE.

CONTAINING 1.13 ACRES



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Page: 8 of 11
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Kittitas Co Auditor AMERITITLE ER6

legally subdivided portion thereof, elect to utilize, for residential purposes, this Easement H, any such legally created parcel shall automatically be subject to and bound by the Road maintenance provisions and obligations set forth in paragraph 2; provided, however that said obligation will not begin until a parcel within Lot 17 and 18 desiring to use Easement H for residential purposes applies for a building permit for the construction of any improvement upon the property.

1.1.4. **Restrictions on use:** The area of Easement H shall not be used for long term parking, storage, staging of construction (except construction required for Easement H) or any other use that would unreasonably interfere with its intended purpose.

1.2. **Easement I.** A non-exclusive easement thirty feet (30') in width, located 15 feet on either side of existing above ground irrigation water conveyance ditches and underground irrigation water conveyance pipes and related appurtances.

1.2.1. **Use:** Above ground irrigation Ditches and Underground irrigation pipeline(s), together with, but not limited to, the right to install, replace, repair, maintain and use said pipeline(s) and ditches.

1.2.2. **Lot Burdened:** Lot 18 of that certain Survey as recorded December 4, 2003, in Book 29 of Surveys, page 174, under Auditor's File No. 200312040048, records of Kittitas County, Washington; being a portion of the Southwest Quarter of Section 8, Township 17 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.

1.2.3. **Lot Benefited:** Lot 19 of that certain Survey as recorded December 4, 2003, in Book 29 of Surveys, page 174, under Auditor's File No. 200312040048, records of Kittitas County, Washington; being a portion of the Southwest Quarter of Section 8, Township 17 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.

1.2.4. **Termination and Restrictions:** The right to use the existing ground irrigation water conveyance ditches and existing underground irrigation water conveyance pipes and related appurtenances (the "Existing Irrigation System") terminates upon Amerivest L.L.C.'s sale, transfer or assignment of all or any portion of said Lot 19. Upon Amerivest L.L.C.'s sale, transfer or assignment of all or any portion of Lot 19 then, in that event, the location of Easement I shall be permanently fixed to a location which is described as a strip of property fifteen feet (15') wide running parallel with and adjacent to the western boundary of Lot 18 (the "Strip"). When the location of the Easement becomes fixed, the Existing Irrigation System within the Strip may then be used by both Lot 18 and Lot 19, but the use of any part of the Existing Irrigation System outside the Strip may only be used by the owner of Lot 18.

1.3. **No Protest Clause:** No owner of all or any part of Lots 17, 18, 19 or 20 may at any time in the future object to, protest or otherwise attempt to interfere with, prevent or block the use of any portion of Easement H or Easement I for residential purposes. This paragraph is intended to prevent the owners of Lots 17, 18, 19 and 20 and any part thereof from bringing any claim that the use of the Easement H and Easement I by any portion of the benefited property will overburden the

easement. This paragraph is intended to be construed as liberally as possible and is intended to ensure that all portions of Lots 17, 18, 19 and 20 have the ability to use any part of Easement H and Easement I for any purpose allowed herein including, but not limited to access and utilities for residential purposes regardless of the number of residential parcels created in the future.

2. Use and Maintenance. All decisions concerning the use, repair, replacement, maintenance or reconstruction of the easement improvements, including, but not limited to the roads, utilities and/or pipelines (hereinafter the "Improvements"), shall be made by the owners of the benefited property and in the case of Lots 17 and 18 by those Lot owners who are obligated to participate in the provisions of this paragraph 2 pursuant to paragraph 1.1.3.1. Each legally created parcel or Lot within Lots 19 and 20 and in the case of Lots 17 and 18, those Lots which are using the Easement and are subject to this paragraph 2 pursuant to paragraph 1.1.3.1, shall each have one vote per number of legal lots created at the time any such vote is taken. Only Lots having a beneficial use of the Easement or Improvement in question (hereinafter the "Affected Lot Owners") shall be entitled to vote on matters related thereto. For purposes of this paragraph, "beneficial use" of a roadway shall be deemed to begin upon commencement of construction of a residence, garage, shop or other approved outbuilding on the Lot and, as to Lots 17 through 18, upon election to use said roadway for residential purpose pursuant to paragraph 1.1.3.1 herein; provided, however, agricultural use of a roadway by Grantor, its successors and assigns, shall not be considered a "beneficial use" hereunder.

2.1. In the event the Affected Lot Owners shall determine by majority vote that an Improvement is in need of repair, replacement, maintenance or reconstruction (hereinafter collectively "Maintenance"), the Affected Lot Owners shall share equally in the cost of such Maintenance, based upon the number of votes as provided hereinabove. Each vote shall equate to a share in said cost; provided, however, Grantor, Midfield LLC, a Washington Limited Liability Company, Allwest, LLC, a Washington Limited Liability Company and Amerinvest, LLC, a Washington Limited Liability Company shall not be assessed any Maintenance Cost under the provisions of this Agreement. When a decision is made to provide Maintenance to an Improvement, the Affected Lot Owners shall establish an account for said purpose. The account shall be managed by a Lot Owner or a designated management company, as agreed upon by a majority of votes by the Affected Lot Owners. Each Affected Lot Owner shall pay its share of the estimated cost of the work into said account within thirty (30) days of written request. In the event the amount paid into the account is not enough to pay the actual cost of the approved Maintenance, each Affected Lot Owner shall pay its share of any shortage into the account. If any Affected Lot Owner fails to pay its share of the cost of Maintenance when due, the remaining Affected Lot Owners, individually or collectively, may pay the defaulting Lot Owner's share and may record a lien against the defaulting Lot Owner's real property in favor of the Lot Owner(s) who advanced the payment. Said lien may be enforced pursuant to the law of the State of Washington. The lien does not have to be foreclosed or otherwise enforced within any specific time period.

2.2. In the event any Lot Owner or Lot Owners desire to upgrade or provide Maintenance on the Improvements without majority approval by Affected Lot Owners, then the Lot Owner(s) desiring to make such upgrade or perform such Maintenance shall do so at their sole cost and

expense; provided, however, any such work shall not interfere with the use of the Improvements by the other Lot Owners.

2.3. In the event any Lot Owner or Lot Owners disturb the surface of any Easement area set forth herein during the installation of utilities, storm water drainage or other improvements for the benefit of their own Lot(s), or through excessive wear and tear, or for any reason damage the Improvements, the Lot Owner(s) responsible for such damage shall be responsible for repairing and restoring such damaged Improvement to its prior condition, at that Lot Owner(s)' sole cost and expense.

3. **Hold Harmless and Indemnification.**

3.1. Each Lot Owner shall defend, indemnify and hold the Grantor, and other Lot Owners harmless from any and all claims and causes of action which may accrue to or be suffered by any Lot Owner by reason of, arising out of, or resulting from the use by any of the Lot Owners of the Improvements or the Easement Area or the use by that Lot Owner's successors, assigns, employees, agents, lessees, licensees, invitees and guests, unless the claim or cause of action is caused by or results from the sole negligence of the owner of the burdened Lot or its agents, tenant, invitees or employees. In the event of concurrent negligence of the Lot Owners or their agents, tenants, invitees or employees, each such Lot Owners shall be responsible only to the extent of its own negligence and that of its agents, tenants, invitees and employees.

3.2. Grantee agrees defend, indemnify and hold the Grantor harmless from any and all claims and causes of action which may accrue to or be suffered by Grantee by reason of, arising out of, or resulting from the construction and/or installation of Improvements on the Property by Grantee, its successors, assigns, employees, agents, lessees, licensees, invitees and guests, unless the claim or cause of action is caused by or results from the sole negligence of the Grantor or its agents, tenant, invitees or employees. In the event of concurrent negligence of the Grantor and Grantee or their agents, tenants, invitees or employees, each shall be responsible only to the extent of its own negligence and that of its agents, tenants, invitees and employees.

4. **Eminent Domain.** If any Easement described herein, or any part thereof, is taken by any governmental agency in the exercise of its power of eminent domain, the award granted under such proceedings, or any settlement in lieu thereof, for the taking of such property shall be payable to the fee owner of the portion of the Easement area which is taken. If all or any part of the Easement area is taken, this Grant shall terminate with respect to the portion so taken and the obligations hereunder of the then owners of the Easement area shall automatically cease and terminate when possession is transferred to the condemning agency with respect to any portion of the Easement area so condemned; provided, however, that nothing herein prevents the owner(s) of the property benefited by the Easement from seeking compensation from the condemning agency, only, for loss of the Easement.

5. **Easements and License Runs with the Land.** The Easements and License granted and the restrictions and covenants established herein shall run with and shall bind and be obligatory upon the

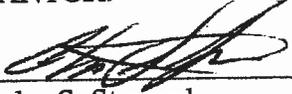
properties described herein; provided that, anything herein to the contrary notwithstanding, no rights in or to the general public are created hereby.

6. **Legal Expenses.** If any party is required to bring or maintain any action (including assertion of any counterclaim or cross-claim, or claim in any proceedings in bankruptcy, receivership, or any other proceeding instituted by a party hereto or by others), or otherwise refers this Grant to an attorney for the enforcement of any of the terms and conditions of this Grant, the prevailing party in such action shall, in addition to all other payments required, receive from the other all the costs incurred by the prevailing party, including reasonable attorney fees and such costs and reasonable attorney fees which the prevailing party may incur on any appeal.

7. **Binding Effect.** This Grant shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, assigns and legal representatives.

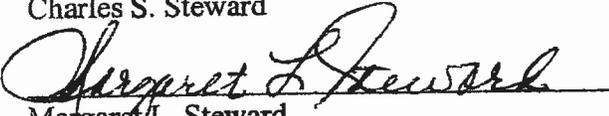
IN WITNESS WHEREOF, the parties have executed this Grant as of the day and year first above written.

GRANTOR:

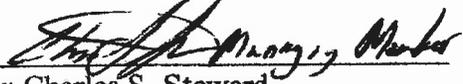


Charles S. Steward

Midfield, LLC, a Washington Limited Liability Company



Margaret L. Steward

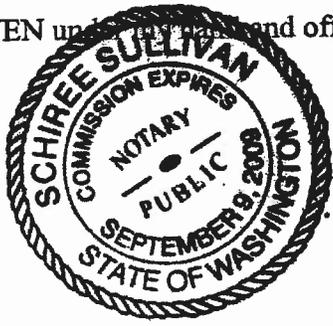


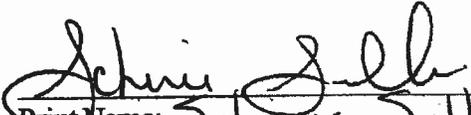
By: Charles S. Steward
Its: Manager

STATE OF WASHINGTON)
) ss.
County of Kittitas)

I certify that I know or have satisfactory evidence that Charles S. Steward and Margaret L. Steward, husband and wife are the individuals who appeared before me, and said individuals acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 16th day of May, 2007.





Print Name: Schirree Sullivan
Notary Public in and for the State of Washington
My commission expires: 9-9-09

STATE OF WASHINGTON)
) ss.
County of Kittitas)

I certify that I know or have satisfactory evidence that Charles S. Steward, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of Midfield, LLC, a Washington Limited Liability Company, the Company that executed this instrument as the free and voluntary act of corporation for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 16th day of May, 2007.



Schiree Sullivan
Printed Name: Schiree Sullivan
Notary Public in and for the State of Washington
My commission expires: 9-9-09

9/22/11

To Dan Valoff, Staff Planner,

The following are our comments on the Allwest LLC Cluster Plat (CL-11-00001):

KCC 15A.03.060 (2d) states that "The notice of application **shall** include the following: ...*The identification of existing environmental documents that evaluate the proposed project.*" The project application's SEPA Environmental Checklist Item A8 directs the applicant to "List any environmental information you know about that has been prepared, or will be prepared directly related to this proposal". The applicant responded with the following: "**SEPA for Rezone of this property**". This environmental document is not identified in the notice of application as required nor is its location provided to the public. It is not posted on the CDS website at the URL indicated in the notice that the public shall find material available for review. Comment about the SEPA checklist cannot be made without all of the pertinent documents being made available which identify issues, mitigation measures, etc. The rezone was approved contingent upon the stipulations of the environmental review which is now part of this proposal and according to county code shall be made available to the public during the comment period. The Notice of application fails to do this.

Also, KCC 15A.03.060(2g) states that "The notice of application **shall** include the following: ...*Statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights.*" The notice for this application states the following under written comments: "Appeal procedures can vary according to the type of decision being appealed, and are described in Kittitas County Code, Title 15A". The appeal rights concerning **this decision** being made concerning **this project application** must be identified in the Notice of Application. The appeal rights statement contained in this Notice of Application does not identify the appeal right for this application's future decision. What type of decision is this proposal and to whom is it to be appealed; this notice of application fails to do this.

Because the Notice of Application fails to provide required information to the public as required by KCC 15A.03.060, a new notice of application must be published and another comment period created in order to comply with county code.

On July 28, 2011 the Washington State Supreme Court ruled on Kittitas County v. E. Wash. Growth Mgmt. Hearings Bd (84187-0). The Supreme Court of Washington's opinion became final on August 17, 2011, terminating all appeals in these cases. So the three stays issued in these cases dissolved and were lifted on the same day. This application was deemed complete on August 23, 2011 well after the termination of appeals of the Supreme Court ruling thus this application is not vested and must not be processed. The lifting of the stay reinstates the invalidity of components of the Comprehensive Plan, Development Regulations, and Subdivision Code. This proposal requires the use of these invalidated elements of the Comp Plan, development code and subdivision code, including three acre zoning, performance based cluster platting, subdivision code etc. Please note that although this application does not propose any bonus density, the performance based cluster

plat code is the only cluster provision in Kittitas County Code and therefore is in question regardless of the density proposed.

Kittitas County v. E. Wash. Growth Mgmt. Hearings Bd (84187-0) also ruled on water issues which were not a part of any stay and effective on August 17, 2011. These concern the availability of water for a project and the county's mandate and requirement to protect water resources through their GMA processes. There is nothing in the record that addresses the county's responsibility to protect the water quantity and quality and there is nothing in the record which addresses the water rights required for this proposal. The Manastash area is a critical aquifer area with many documented problems with in-stream flows, the removal of water via exempt wells for new home development and re-drilling of long existing wells due to dropping water tables. The proposal states the two Class B wells will be used along with individual septic systems on one acre lots. The short and long term effects on water quality of failed septic drain fields on one acre lots with no space for reserve septic field areas is not addressed nor evaluated in the checklist. One acre lots are too small to provide the long term needs of septic systems in the rural environment and there are no options for hook up to a municipality's sewer system as a safety net. Health, safety and welfare of the public are not met by allowing these small lots in the rural environment.

There is no identification of the traffic and transportation impact of this proposal on internal roads and on proposed access to Susan, Strande and Manastash Roads. Manastash road is considered an arterial road. There has been no restructuring of the main road since the "60"'s when it was first built. This is farming area with large farm equipment trying to use the county road system amongst the ever increasing rural home traffic. It has reached a "critical mass" in terms of health safety and welfare. These impacts are not identified or addressed in the record. There is no traffic analysis presented to identify these impacts in the environmental documents.

Kittitas County has attempted to identify the ownership of the property through a published copy of the Secretary of State's corporation information obtainable on the internet. The failing of this information is that it shows only one principal of the Allwest LLC and to incorporate in the State of Washington, a minimum of three individuals is required. The Supreme Court decision addressed the issue of identification of principles of these corporations in an effort to do a better job in identifying common ownership (pages 37 and 38 of the decision). By disclosing only one principle, it makes evading the disclosure much easier. Take for instance three persons and three LLC's all showing a different individual as the principle while the others are not named but still owners. How can the county assess the ownership, much less the public, when all the information is not shown in the application?

This response to the Notice of Application for the Allwest Cluster Plat (CL-11-00001) has identified several areas of serious concern to us as nearby landowners and as citizens of Kittitas County. We request the application be withdrawn at this time and only be re-advertised when and if all of these areas can be addressed. If the invalidity status of several of the development code provisions on which

this application is based is determined to nullify this application at this time, we suggest a Notice of Withdrawal of this project be published in the county newspaper of record and on the county website.

Thank you for your attention to this matter.

Sincerely,

Larry and Harriet Bland

3440 Manastash Road

Ellensburg, WA

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926

RE: Allwest LLC Cluster Plat (CL-11-00001)

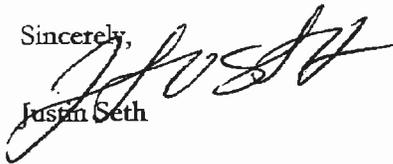
As an owner of a home and property that lies within the area directly connecting to the proposed Allwest LLC Cluster Plat, I urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (4+acre lots on Susan Road and 3+acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

I believe if the proposed plat is developed; it should remain with the same size lots as Susan Road and Midfield Drive developments. Having 1-acre lots in a rural area has a severe negative impact on the environment, wildlife and water resources. In addition it would have a negative impact on the home value in the surrounding areas.

Again, I strongly disagree with the proposed cluster plat. I believe the other property owners also disagree with it also. Thank you for your time with this matter, I look forward to the public hearing for this matter.

Sincerely,



Justin Seth

Kittitas County Community Development Services
411 N. Ruby Suite 2
Ellensburg, WA 98926



As residents of Kittitas County, living on Manastash Road, we have concerns about the Cluster Plat that has been approved on Midfield Road.

Of course there are concerns with keeping the "country" in our county but other issues also exist.

The property was initially AG, then changed to 3 acre minimum lots, and now there are 1 acre lots to be built on. I have learned there was a SEPA report that showed concerns with 3 acre plats and the effect there would be on wells. Where is that report? Will there be any protection for our wells, when there is already documentation of wells failing in our area already?

We sometimes go days without seeing any sheriff patrols. We don't fault the sheriff, they are already cut to the bare bones. Will additional patrols be added?

Our fire station was built years ago, to serve a handful of residents. Are there any provisions for more fire protection?

We have an abundance of farm vehicles all summer on Manastash Road. Many of them travel at a crawl, as they are trailing implements, and often take up almost both lanes.

We have many head of cattle and horses all along Manastash and there are always concerns with them getting out on the road.

Additional traffic is not what we need on this rural road.

The Manastash Creek flooding that occurred last spring is indicative of the overbuilding that has already taken place in our area. It is getting to the point where there is no place for water to go. Granted this is a situation where too many variables all added up at once, but it could happen again.

Thank you.

Robert & Sandra Ross
4131 Manastash Rd

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926



RE: Allwest LLC Cluster Plat (CL-11-00001)

As owner of a home and property that lives on Susan Road I am responding to the proposed Allwest LLC Cluster Plat, I urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (5-acre lots on Susan Road and 3-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

Approval of a subdivision with 1-acre lots within an Agriculture 3 zone would not only fail to protect the character of the surrounding rural and agricultural lands, it would also have a clear environmental impact. While the SEPA Environmental Checklist submitted by the applicant lists only a few birds (hawks and songbirds) as animals that have been observed on or near the site of the proposed subdivision, other raptors (owls, osprey, and kestrels) can be regularly observed hunting in the pastures, as well as waterfowl and blue herons in the ponds and wetlands within the proposed site. The increased noise and congestion caused by the higher-density subdivision, as well as the impact of construction on these sensitive wetlands areas, would clearly impact the habitat of these birds. Moreover, larger mammals (deer and coyote) have been observed traveling along the cover provided by the irrigation ditches that form the north and south boundaries of the proposed subdivision. The proposed subdivision would create a barrier of 1-acre lots running north to south that would effectively impede the passage of these mammals through this agricultural corridor that runs east to west.

Finally, the above referenced State Supreme Court ruling also noted that Kittitas County failed to protect groundwater resources while making land-use decisions on rural housing developments. While the proposed subdivision will make use of Group B water systems, rather than exempt wells, it behooves the County to clearly determine the legal availability of groundwater resources to serve the proposed housing development and determine how the use of those groundwater resources will impact nearby property owners and farmers.

In addition, all our neighbors agree that we do not want the additional traffic due to construction and additional houses set forth. It is our intention to also contact our congressman Doc Hastings regarding this matter.

Thank you for your consideration of my concerns.

Sincerely,

Andrew and Janice Cohen

550 Susan Road

Ellensburg, WA 98926



Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926

RE: Allwest LLC Cluster Plat (CL-11-00001)

As owner of a home and property that lies within the area directly adjacent to the proposed Allwest LLC Cluster Plat, I urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (5-acre lots on Susan Road and 3-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

Approval of a subdivision with 1-acre lots within an Agriculture 3 zone would not only fail to protect the character of the surrounding rural and agricultural lands, it would also have a clear environmental impact. While the SEPA Environmental Checklist submitted by the applicant lists only a few birds (hawks and songbirds) as animals that have been observed on or near the site of the proposed subdivision, other raptors (owls, osprey, and kestrels) can be regularly observed hunting in the pastures, as well as waterfowl and blue herons in the ponds and wetlands within the proposed site. The increased noise and congestion caused by the higher-density subdivision, as well as the impact of construction on these sensitive wetlands areas, would clearly impact the habitat of these birds. Moreover, larger mammals (deer and coyote) have been observed traveling along the cover provided by the irrigation ditches that form the north and south boundaries of the proposed subdivision. The proposed subdivision would create a barrier of 1-acre lots running north to south that would effectively impede the passage of these mammals through this agricultural corridor that runs east to west.

Finally, the above referenced State Supreme Court ruling also noted that Kittitas County failed to protect groundwater resources while making land-use decisions on rural housing developments. While the proposed subdivision will make use of Group B water systems, rather than exempt wells, it behooves the County to clearly determine the legal availability of groundwater resources to serve the proposed housing development and determine how the use of those groundwater resources will impact nearby property owners and farmers.

Thank you for your consideration of my concerns.

Sincerely,

Bill & Lynette Arnold 471 Susan Road, Ellensburg

Please see additional comments below:

RE: ALLWEST PLAT

Additional Comments from Bill & Lynette Arnold

We would like to personally express our displeasure over the developer's intention to do a 16 unit (1 acre lot) development out of the remaining 20 acre plat that we were aware of. Mr. Williams told us at the time we purchased our property and building contract with him, that there would be a potential of 2-4 more lots developed with Susan Road access in the future. Specifically we have issue with the access to Susan Road in this plat proposal. This 16 acre plat proposal would bring that total to 6 additional lots accessing from Susan Road. The Sagebrook extension to Susan Road was never built to county standards, with barely enough width for two cars to pass at the same time. Let alone withstand the wear and tear by all of the construction vehicles. We purchased our property and built our home with good faith that the developer would stick to his word regarding future development and would like to see Kittitas County deny this long plat.

September 21, 2011

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926



RE: Allwest LLC Cluster Plat (CL-11-00001)

As a resident and owner of a home and property that lies within the area directly adjacent to the proposed Allwest LLC Cluster Plat, I urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (5-acre lots on Susan Road and 3-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

Approval of a subdivision with 1-acre lots within an Agriculture 3 zone would not only fail to protect the character of the surrounding rural and agricultural lands, it would also have a clear negative environmental impact. While the SEPA Environmental Checklist submitted by the applicant lists only a few birds (hawks and songbirds) as animals that have been observed on or near the site of the proposed subdivision, I regularly observe other raptors including owls, osprey, and kestrels hunting in the pastures and nesting in surrounding trees, as well as waterfowl and blue herons in the ponds and wetlands within the proposed site. The increased noise and congestion caused by the higher-density subdivision, as well as the impact of construction on these sensitive wetlands areas, would clearly impact the habitat of these birds. In addition, I regularly observe large mammals, including deer and coyote, traveling along the cover provided by the irrigation ditches that form the north and south boundaries of the proposed subdivision. The proposed subdivision would create a barrier of 1-acre lots running north to south that would effectively impede the passage of these mammals through this agricultural corridor that runs east to west.

Finally, the above referenced State Supreme Court ruling also noted that Kittitas County failed to protect groundwater resources while making land-use decisions on rural housing developments. While the proposed subdivision will make use of Group B water systems, rather than exempt wells, it behooves the County to clearly determine the legal and environmental availability of groundwater resources to serve the proposed housing development and determine how the use of those groundwater resources will impact nearby farmers, residents, property owners and wildlife.

Thank you for your consideration of my concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jill Zilligen".

Jil Zilligen

Dan Valoff

From: Tom [autobody@elltel.net]
Sent: Wednesday, September 21, 2011 12:02 PM
To: Dan Valoff

Dan,

I own a home at 881 Susan Road in the Sagebrook development. I am writing this to inform you of my concerns about access for additional homes using Susan Road as an access to their property.

1) When I purchased my lot from MF Williams in 2004, I was informed that there was potential for two more 3-acre that could be sold toward the end of Susan Road which would have access off of Susan Road (which have now been sold and have access) and potentially one additional home on a 20 acre piece just to the west of those lots. I was assured that only these home would have access off of Susan Road, so a total of 3 homes in addition to those in the Sagebrook development.

2) The Sagebrook development is accessed by a private road that was not built per county standards and I do not believe it will withstand the extra traffic of these additional homes accessing it. I feel the road as it is currently constructed, is at capacity and further traffic will cause both harm to the roadway and create potential safety concerns. When two vehicles meet each other there is barely enough room to pass and with pedestrian traffic I feel added vehicle traffic to a road not designed for such could be very dangerous.

Thank you for taking the time to listen to my concerns.

Tom Morris
Owner, Manager
R&R Auto Body
641 W. University Way
Ellensburg, Wa 98926

Phone: 509-925-5680
Fax: 509-962-8741

Please visit www.rrautobody.com and www.facebook.com

September 20, 2011

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926



RE: Allwest LLC Cluster Plat (CL-11-00001)

As owner of a home and property that lies within the area directly adjacent to the proposed Allwest LLC Cluster Plat, I urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (5-acre lots on Susan Road and 3-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

Some of the adjacent properties like ours is zoned Ag 20 and was created by except segregation cuts. To now allow one acre zoning defeats the purpose of ag rules and logic.

Approval of a subdivision with 1-acre lots within an Agriculture 3 zone would not only fail to protect the character of the surrounding rural and agricultural lands, it would also have a clear environmental impact. While the SEPA Environmental Checklist submitted by the applicant lists only a few birds (hawks and songbirds) as animals that have been observed on or near the site of the proposed subdivision, other raptors (owls, osprey, and kestrels) can be regularly observed hunting in the pastures, as well as waterfowl and blue herons in the ponds and wetlands within the proposed site. The increased noise and congestion caused by the higher-density subdivision, as well as the impact of construction on these sensitive wetlands areas, would clearly impact the habitat of these birds. Moreover, larger mammals (deer and coyote) have been observed traveling along the cover provided by the irrigation ditches that form the north and south boundaries of the proposed subdivision. The proposed subdivision would create a barrier of 1-acre lots running north to south that would effectively impede the passage of these mammals through this agricultural corridor that runs east to west.

Finally, the above referenced State Supreme Court ruling also noted that Kittitas County failed to protect groundwater resources while making land-use decisions on rural housing developments. While the proposed subdivision will make use of Group B water systems, rather than exempt wells, it behooves the County to clearly determine the legal availability of groundwater resources to serve the proposed housing development and determine how the use of those groundwater resources will impact nearby property owners and farmers.

Thank you for your consideration of my concerns. **We again ask you to reject the application.**

Sincerely,

Joe and Mary O'Leary - 1271 Susan Road

Dan Valoff

From: Kendall Osborn [osborn@elltel.net]
Sent: Monday, September 19, 2011 7:21 PM
To: Dan Valoff
Subject: Allwest LLC Cluster Plat (CL-11-00001)

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926

Copy of Letter submitted by several concerned home owners in the Midfield and Sagebrook subdivision. Final paragraph added by Kendall Osborn as an additional concern.

RE: Allwest LLC Cluster Plat (CL-11-00001)

As owner of a home and property that lies (Osborn - 552 Susan Road) within the area directly adjacent to the proposed Allwest LLC Cluster Plat, I urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (5-acre lots on Susan Road and 3-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

Approval of a subdivision with 1-acre lots within an Agriculture 3 zone would not only fail to protect the character of the surrounding rural and agricultural lands, it would also have a clear environmental impact. While the SEPA Environmental Checklist submitted by the applicant lists only a few birds (hawks and songbirds) as animals that have been observed on or near the site of the proposed subdivision, other raptors (owls, osprey, and kestrels) can be regularly observed hunting in the pastures, as well as waterfowl and blue herons in the ponds and wetlands within the proposed site. The increased noise and congestion caused by the higher-density subdivision, as well as the impact of construction on these sensitive wetlands areas, would clearly impact the habitat of these birds. Moreover, larger mammals (deer and coyote) have been observed traveling along the cover provided by the irrigation ditches that form the north and south boundaries of the proposed subdivision. The proposed subdivision would create a barrier of 1-acre lots running north to south that would effectively impede the passage of these mammals through this agricultural corridor that runs east to west.

Furthermore, the above referenced State Supreme Court ruling also noted that Kittitas County failed to protect groundwater resources while making land-use decisions on rural housing developments. While the proposed subdivision will make use of Group B water systems, rather than exempt wells, it behooves the County to clearly determine the legal availability of groundwater resources to serve the proposed housing development and determine how the use of those groundwater resources will impact nearby property owners and farmers.

Finally the access to a few of the new platted subdivision runs through an already crowded private subdivision known as Sagebrook. There have been documented accidents on Susan Road within the Sagebrook subdivision

that could be attributed to the narrow road. While it might meet county code, this road in my opinion does not allow for the current home owners and their children to drive and ride bikes safely with the current road width.

The original development was stated to the current home owners as being a small private community with one road. While I am certain Mr. Williams and Mitch Williams Construction (now Allwest LLC) has proceeded with this new proposed plat legally, he has definitely deceived this home owner, 552 Susan Road, in regards to any additional parcels/homes added as well as the addition of new extensions off of Susan Road

Thank you for your consideration of my concerns.

Kendall & Lisa Osborn, 552 Susan Road, Ellensburg, WA 98926 – 509-929-2716

09/19/2011

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926



RE: Allwest LLC Cluster Plat (CL-11-00001)

As owner of a home and property that lies within the area directly adjacent to the proposed Allwest LLC Cluster Plat, I urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (5-acre lots on Susan Road and 3-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

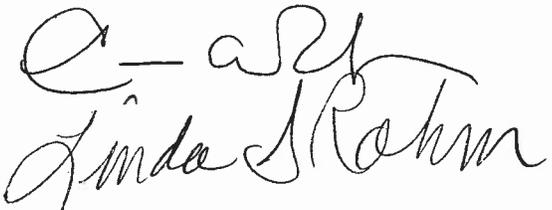
Approval of a subdivision with 1-acre lots within an Agriculture 3 zone would not only fail to protect the character of the surrounding rural and agricultural lands, it would also have a clear environmental impact. While the SEPA Environmental Checklist submitted by the applicant lists only a few birds (hawks and songbirds) as animals that have been observed on or near the site of the proposed subdivision, other raptors (owls, osprey, and kestrels) can be regularly observed hunting in the pastures, as well as waterfowl and blue herons in the ponds and wetlands within the proposed site. The increased noise and congestion caused by the higher-density subdivision, as well as the impact of construction on these sensitive wetlands areas, would clearly impact the habitat of these birds. Moreover, larger mammals (deer and coyote) have been observed traveling along the cover provided by the irrigation ditches that form the north and south boundaries of the proposed subdivision. The proposed subdivision would create a barrier of 1-acre lots running north to south that would effectively impede the passage of these mammals through this agricultural corridor that runs east to west.

Finally, the above referenced State Supreme Court ruling also noted that Kittitas County failed to protect groundwater resources while making land-use decisions on rural housing developments. While the proposed subdivision will make use of

Group B water systems, rather than exempt wells, it behooves the County to clearly determine the legal availability of groundwater resources to serve the proposed housing development and determine how the use of those groundwater resources will impact nearby property owners and farmers.

Thank you for your consideration of my concerns.

Sincerely,


Linda Rahm

We have personally witnessed the waterfowl, blue herons and other native wild life on the subject property. We encourage & request that this application (and similar applications for homes on less than 3-5 acres) be rejected.

Carmen & Linda Rahm
1041 Susan Road
Ellensburg, WA 98926

Ph: 509-962-1547

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926



RE: Allwest LLC Cluster Plat (CL-11-00001)

As owner of a home and property that lies within the area directly adjacent to the proposed Allwest LLC Cluster Plat, I urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (5-acre lots on Susan Road and 3-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

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Thank you for your consideration of my concerns.

Sincerely, 

Dr. Christopher Schedler
Department of English
Central Washington University
400 E. University Way
Ellensburg, WA 98926-7558

Dan Valoff, Staff Planner
Kittitas County Community Development Services
411 N. Ruby St., Ste. 2
Ellensburg, WA 98926

RE: Allwest LLC Cluster Plat (CL-11-00001)

As home owners at 1121 Susan Road directly adjacent to the proposed Allwest LLC Cluster Plat, we urge you to reject the application to create a new subdivision of 16 1-acre lots in what is now an Agriculture 3 zone.

The increased density of a subdivision with 1-acre lots is clearly incompatible with the adjacent housing subdivisions (5-acre lots on Susan Road and 3-acre lots on Midfield Drive and Greenvale Drive), as well as the rural and agricultural character of the surrounding area. Considering that the recent State Supreme Court decision of July 28, 2011, upheld the Eastern Washington Growth Management Hearings board's finding that Kittitas County's comprehensive plan and development regulations lacked the necessary supporting evidence for allowing lots as small as 3 acres in rural and agriculture zoning districts, there is even less justification for allowing 1-acre lots within such an agriculture zone.

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Approval of a subdivision with 1-acre lots within an Agriculture 3 zone would not only fail to protect the character of the surrounding rural and agricultural lands, it would also have a clear environmental impact. While the SEPA Environmental Checklist submitted by the applicant lists only a few birds (hawks and songbirds) as animals that have been observed on or near the site of the proposed subdivision, other raptors (owls, osprey, and kestrels) can be regularly observed hunting in the pastures, as well as waterfowl and blue herons in the ponds and wetlands within the proposed site. Moreover, larger mammals (deer and coyote) have been observed traveling along the cover provided by the irrigation ditches that form the north and south boundaries of the proposed subdivision.

We also strongly oppose the access for lots 1 through 4 of the Allwest Plat off of the west end of Susan Road. The current Susan Road design is not acceptable for additional lot development.

Thank you for your consideration of our concerns.
Sincerely,

Ted and Shelley Miller

Dan Valoff

From: Carmen & Linda Rahm [foreacres@fairpoint.net]
Sent: Friday, September 16, 2011 11:39 AM
To: Dan Valoff
Subject: Allwest Plat file (M. F Williams)

My husband Carmen and I have already sent a letter with our wildlife and nature concerns regarding the Allwest Plat.

I have some additional concerns that I have not seen in any other information regarding the plat.

1. Spring flooding: The city and county/KRD open the gates and use the current irrigation canals and tributary ditches to relieve flooding in Ellensburg. This causes river rock to block the dams in the ditches and we have a 20 to 40-foot wide creek/river running at the back of our property. We also get drainage from the neighboring property. So we personally have to redirect the water back to the ditch and then repair our property after the flooding. This all runs downhill, and our neighbors to the West are affected, etc, etc, trickle-down effect. Our property is 404 feet wide. We can never plan use of the back 40 feet because of the flooding. How many homes will be damaged in the new development when you open the flood gates to save Ellensburg?
2. Any new development adjacent that might be approved should have drainage ponds with every house in the development piping storm water into the ponds. This means proper water/sewage management on the 1-acre properties prior to construction. Otherwise the boundary properties to the development will get the flooding/sewage runoff.
3. Road usage. Our narrow, private road is left up to us to maintain. M. F. Williams does not contribute to the maintenance, nor do the boundary properties or current owners who haven't built yet. How do we assess the current Midfield and proposed Allwest properties for the repairs? The road gets collateral damage whenever construction of new homes occurs. As many as 4 to 6 additional homes continuing construction using this narrow, private road with no written agreement to repair after construction is unconscionable. When the debris from construction blows in the wind onto our properties, nobody cleans it up. We have to do the cleanup ourselves. We have to pay to leave it off at the dump. The additional traffic on this narrow, private road will also be too much. Since it is a private road, who do we call to report speeders on the construction crews?

In summary, the above are my personal concerns, opinions and statements.

Sincerely,
Linda Rahm
1041 Susan Road
Ellensburg, WA 98926

Dan Valoff

From: Chris Schedler [chris_schedler@yahoo.com]
Sent: Monday, September 12, 2011 6:28 AM
To: Dan Valoff
Subject: Allwest LLC (CL-11-00001) Notification

Dear Dan Valoff:

Although we own property and reside in the area outlined as adjacent properties to the proposed Allwest LLC Cluster Plat (CL-11-00001), we never received the CDS notice of application. We would like to receive notice of any future documentation and public hearings related to the development.

Thank you,

Dr. Christopher Schedler
361 Midfield Dr.
Ellensburg, WA 98926

Dan Valoff

From: elliottr [elliottr@kvfr.org]
Sent: Tuesday, September 20, 2011 5:05 PM
To: Dan Valoff
Cc: Bill Steele; Brenda Larsen; John Sinclair; seemillerj
Subject: Allwest Cluster LLC Cluster Plat (CL-11-00001)

Dan:

I have reviewed the Application for Allwest LLC Cluster Plat (CL-11-00001). I review of proposed development and construction for the unincorporated portion of Kittitas County Fire District 2. KCFD 2 has no code enforcement authority in this area so this information is to be considered as a recommendation from the fire department.

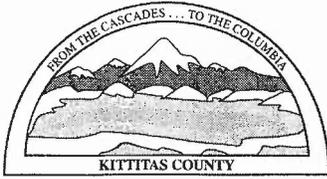
The following are potential fire code issues that may need to be addressed:

1. The access roadway should meet Appendix D of the 2009 IFC.
2. Water supply requirements at the time of development will need to be addressed.
3. It is recommended that any structures utilize fire resistant materials and incorporate "Firewise" management principles in landscaping.

Thank you for your time and consideration in these matters.

Respectfully,

Rich Elliott – Deputy Fire Chief
Kittitas Valley Fire and Rescue



KITTITAS COUNTY

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Dan Valoff, Community Development Services

FROM: Christina Wollman, Planner II *W*

DATE: October 3, 2011

SUBJECT: Allwest Cluster Plat CL-11-00001

The following shall be conditions of preliminary approval:

1. Timing of Improvements: This application is subject to the latest revision of the Kittitas County Road Standards, dated 9/6/05. The following conditions apply and must be completed prior to the issuance of a building permit for any of the structures within this plat. A Performance Bond or acceptable financial guarantee may be used, in lieu of the required improvements, per the conditions outlined in the current Kittitas County Road Standards.
2. 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.
3. Road Name: Midfield Drive shall be labeled on the final plat.
4. Private Road Improvements – Midfield Drive: Access from Manastash Road to the final cul-de-sac shall be constructed to meet or exceed the conditions of a High-Density Private Road that serves 15-40 tax parcels. See current 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 22', with 1' shoulders, for a total width of 24'.
 - b. Minimum centerline radius shall be 60'.
 - c. Surface requirement BST/ACP.
 - 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.
 - 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

Page 1 of 4

maintenance agreements, forest service road easements or state easements require higher road standards. The higher of the road standards shall apply.

- j. All easements shall provide for AASHTO radius at the intersection with a county road.
- k. A paved apron shall be constructed at the intersection of the proposed private intersection and the county road right-of-way.

5. Private Road Improvements – Susan Road:

- a. To serve lots 1 and 2, the road must be extended and a new cul-de-sac constructed in the vicinity of lot 2. No more than two lots can be served by a driveway off the end of a cul-de-sac.
- b. Per the findings of Road Variance 11-08, the private portion of Susan Road must be verified to be 20' wide, including gravel and pavement, through the road certification process. The road extension may be constructed to 20' wide.

6. Cul-de-Sac: A cul-de-sac turn-around having an outside right-of-way or easement diameter of at least 110 feet shall be constructed at the closed end of all dead-end roads serving 3 or more lots. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2009 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.

7. Plat Notes: Plat notes shall reflect the following:

- a. Entire private road shall be inspected and certified by a civil engineer licensed in the State of Washington specifying that the road meets Kittitas County Road Standards as adopted September 6, 2005, prior to the issuance of a building permit. Any future subdivision or land use action will be reviewed under the most current road standards.
- b. Kittitas County will not accept private roads for maintenance as public streets or roads until such streets or roads are brought into conformance with current County Road Standards. This requirement will include the hard surface paving of any street or road surfaced originally with gravel.
- c. Maintenance of the access is the responsibility of the property owners who benefit from its use.
- d. An approved access permit will 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.
- e. Any further subdivision or lots to be served by proposed access may result in further access requirements. See Kittitas County Road Standards.
- f. A public utility easement 10 feet in width is reserved along all lot lines. The 10 foot easement shall abut the exterior plat boundary and shall be divided 5 feet on each side of interior lot lines. Said easement shall also be used for irrigation.

8. Joint-Use Driveway: A joint-use access shall serve no more than two tax parcels. See Kittitas County Road Standards, 9/6/05 edition.

- a. Access easements shall be a minimum of 20' wide. The roadway width shall have a minimum width of 12'.
- b. The surface requirement is for a minimum gravel surface depth of 6".
- c. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
- d. Any further subdivision or lots to be served by proposed access may result in further access requirements.

Single-Use Driveway: A single-use access shall serve no more than one lot. See Kittitas County Road Standards, 9/6/05 edition.

- a. The roadway shall be a minimum of 8' wide with gravel surface.
- b. Maintenance of driveway approaches shall be the responsibility of the owner whose property they serve. The County will not maintain accesses.
- c. Any further subdivision or lots to be served by proposed access may result in further access requirements.

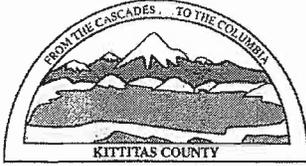
9. Plat Approvals: All plats must show the acceptance signature of the County Engineer. The acceptance block shall be as follows (per KCC 16.24.170):

EXAMINED AND APPROVED
This ____ day of ____, A.D., 20 ____.

Kittitas County Engineer

10. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
11. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
12. 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.
13. 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.
14. Fire Protection: Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.
15. Mailbox Placement: The U.S. Postal Service requires that private roads with 6 or more residences install USPS approved Cluster Box Units (CBUs) at a safe location at the mouth

of the private road. Contact your local Post Office for location and additional design requirements before beginning construction.



**KITTITAS COUNTY
DEPARTMENT OF PUBLIC WORKS**

Kirk Holmes, Director

**KITTITAS COUNTY
ROAD VARIANCE COMMITTEE**

IN THE MATTER OF

RV-11-08
Allwest LLC

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)
)
)
)

**FINDINGS OF FACTS,
CONCLUSIONS AT LAW, AND
DECISION**

FINDINGS

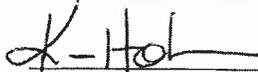
This matter having come before the Road Variance Committee upon the above referenced Road Variance Application submitted by Mitch Williams, agent for Allwest LLC, owner, the Road Variance Committee makes the following Findings of Facts, Conclusions of Law and Decision related to the above referenced matter:

1. The Road Variance Committee finds that Mitch Williams, agent for Allwest LLC, owner, submitted a road variance application on September 20, 2011.
2. The subject property is located at the end of Susan Road, north of Manastash Road. Address: None. Map number: 17-28-07040-0019.
3. The Committee finds that Kittitas County Road Standards require the road to be improved to meet current standards after parcel creation.
4. The Committee finds that the applicant has submitted a 16-lot cluster plat application (Allwest CL-11-00001) with four of the lots to be served by an existing 19' private road.
5. The Committee finds that Kittitas County Road Standards will require the road to be constructed as a High-Density Private Road with a 22' wide paved roadway surface and 1' shoulders.
6. The Committee finds that an open record hearing was held on September 27, 2011 and that testimony was taken from those persons present who wished to be heard.
7. The Committee finds that the proposal is in the public interest and that requirements for safety function, fire protection, appearance and maintainability based upon sound engineering judgment are fully met, as required by KCC 12.01.130.
8. The Committee finds that additional conditions are necessary to protect the public's interest.

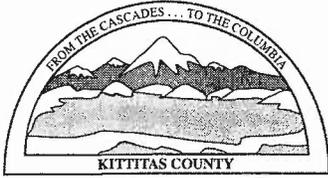
a. The road be verified to be 20' wide, including gravel and pavement, through the road certification process. The road extension may be constructed to be 20' wide.

Dated this 28th day of September, 2011.

KITTITAS COUNTY PUBLIC WORKS DIRECTOR



Kirk Holmes



KITTITAS COUNTY

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Dan Valoff, CDS
FROM: Christina Wollman, Planner II *cw*
DATE: September 12, 2011
SUBJECT: Allwest LLC Plat CP-11-00001

During the pre-application meeting for this cluster plat, the applicant stated that he does not intend to widen the private portion of Susan Road. Currently, the private portion of the road is 19' wide and serves 18 parcels. The applicant intends to add four additional parcels onto the road for a total of 22 parcels.

Current road standards require the road to be constructed to the high density road standard for 15-40 lots. This includes a 22' wide road with 1' shoulders, for a total width of 24'.

Any requested deviation from the County code requirements must be considered through the variance process. Deviations such as this cannot be processed administratively. If the applicant desires to pursue a variance to the road standards for roadway width, the applicant must apply for and receive approval for the variance prior to the project receiving preliminary approval.



KITTITAS COUNTY FIRE MARSHAL'S OFFICE

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

Office (509) 962-7657 Fax (509) 962-7682

September 20, 2011

Dan Valoff
Staff Planner II
Community Development Services
411 N. Ruby Street, Suite 2
Ellensburg, WA 98926

Re: Allwest Cluster Plat (CP-11-00001)

Dear Mr. Valoff:

Upon review of the above mentioned land use action, I have the following comments/requirements;

- Approved water storage of 30,000 gallons, with a private fire hydrant system shall be installed. This amount may be reduced by 50% when the plat note requires all residences to provide residential sprinkler systems, defensible space setbacks and non-combustible exterior building materials.
- Water storage and hydrant spacing shall comply with the International Fire Code.
- No fire apparatus access lane shall have a slope greater than 12%. A Variance Permit will be required for any slopes or grades greater than allowed by County Code.
- "No Parking-Fire Lane" signs must be posted per Fire Marshal requirements on all cul-de-sacs.
- All bridges and gates across any private road shall be required to be permitted and certified.
- All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2009 International Fire and Building Codes.
- A separate permit is required for any private water storage or hydrant system. The hydrant system shall be subject to plan review through the Fire Marshal's Office and shall be subject to an annual Operational Permit.

Any questions or concerns regarding fire service features may be directed to the Kittitas County Fire Marshal's Office at (509) 962-7000.

Sincerely,

Brenda Larsen
Fire Marshal

Dan Valoff

From: Cannon, Heather (DOH) [Heather.Cannon@DOH.WA.GOV]
Sent: Friday, September 09, 2011 10:57 AM
To: Dan Valoff
Cc: Zimmerman, Breean (ECY); Russell, Danielle (DOH); Cannon, Heather (DOH); Mau, Russell E (DOH)
Subject: FW: Allwest LLC Cluster Plat CL-11-00001 and Easton Ranchetts Plat LP-11-00001
Attachments: 0726_001.pdf

Hi Dan-

Please consider the following comment the same for each of the above listed proposals:

If this proposal plans for one or more public water system to supply some or all of the lots, then the applicant must gain Department of Health approval of these systems(s) before construction begins. Water systems proposed to serve 15 or more residential connections, or 25 or more residents, must comply with the planning and engineering requirements of Chapter 246-290 WAC before construction begins.

If the proposal involves one or more public water systems, Department of Health will coordinate with the Department of Ecology on water rights.

Heather Cannon

Regional Planner
Washington State Dept of Health - Office of Drinking Water
16201 E Indiana AVE, STE 1500
Spokane Valley, WA 99216

Ph (509) 329-2121
Fx (509) 329-2104

Public Health - Always Working for a Safer and Healthier Washington

Visit our web site at www.doh.wa.gov/ehp/dw

From: Spokane Canon iR C5185 [<mailto:canon.copier@doh.wa.gov>]
Sent: Friday, September 09, 2011 10:53 AM
To: Cannon, Heather (DOH)
Subject: Attached Image

<<0726_001.pdf>>



To Protect and Promote the Health and the Environment of the People of Kittitas County

October 10th 2011

Dan Valoff, Staff Planner
Community Development Services
411 N Ruby Street, Suite 2
Ellensburg, WA 98926

RE: Allwest LLC Cluster Plat CL-11-00001

Dear Mr. Valoff,

Thank you for the opportunity to comment on the Allwest LLC Cluster Plat, CL-11-00001.

Plat Note Statement:

The final plat notes shall include the following statement:

"The approval of this division of land includes no guarantee that there is a legal right to withdraw groundwater within the land division. The approval of this division of land provides no guarantee that use of water under the ground water exemption (RCW 90.44.050) for this plat or any portion thereof will not be subject to curtailment by the Department of Ecology or a court of law."

AND in Upper Kittitas County Only (as defined in 173-539A WAC):

"Metering will be required on all new residential well connections and metering results shall be recorded in a manner consistent with Kittitas County and Washington State Department of Ecology requirements."

Adequate Potable Water Supply Statement:

In addition to the requirements outlined below, if in Upper Kittitas County a water budget neutrality determination may be required from the Department of Ecology prior to Kittitas County Public Health being able to recommend final plat approval.

Regardless of the location of the plat within the county, the following requirements are applicable to both Upper and Lower Kittitas County:

The Public Health Department's recommendation shall state that final approval be conditioned upon the developer/owner of the plat providing proof of potable water. Proof of potable water can be provided through several different ways depending on the source of water proposed as described and outlined in the Board of County Commissioners Resolution 2010-082.

Kittitas County
Public Health Department
507 N. Nanum Street, Suite 102
Ellensburg, WA 98926
T: 509.962.7515
F:509.962.7581



www.co.kittitas.wa.us/health/

Environmental
Health Services
507 N. Nanum Street, Suite 102
Ellensburg, WA 98926
T: 509.962.7515
F:509.962.7581

6

For preliminary plat approval, applicants for subdivisions (short plats and long plats) in Kittitas Count shall include the type of water system proposed in order to acquire preliminary approval.

Final approval will be conditioned upon the type of water system proposed.

- **If application states that residences will utilize Individual Wells/2-party Shared Well:**

Applicants shall submit a well log(s) from a well located within the subdivision of land. If a well log does not exist, a four (4) hour well draw down test shall be provided prior to recommendation by KCPHD for final plat approval. If shared wells are proposed, a recorded shared well user's agreement is required for each proposed parcel. If the proposed subdivision does not have an existing well within the boundaries, a hydrogeological report with documentation/evidence to support a claim regarding adequate availability of groundwater for the proposed number of potable water wells must be submitted prior to recommendation for final plat approval. This report shall be submitted by a Professional Engineer who practices in the field of hydrology or by a licensed hydrogeologist.

- **If application states that residences will utilize a Group B Public Water System:**

Applicants shall have a well site inspection performed by KCPHD staff; complete and submit a Group B Public Water System Workbook to either KCPHD for water systems with 3-9 connections or Washington State Department of Health (DOH) for water systems with 10-14 connections or as amended by DOH; have the well(s) drilled; and submit a copy of an agreement with an approved Kittitas County Satellite Management Agency. All infrastructure for the Group B Water System including the well/pump house and storage tanks must be completed or the developer/owner can bond for completion. Final approval of the Group B Public Water System including issuance of the public water system ID number from DOH is required prior to recommendation by KCPHD for final approval. If a bond is in place, final approval will still be recommended but all infrastructure must be completed before issuance of the first building permit within the subdivision.

- **If application states that residences will utilize a Group A Public Water System:**

Applicants shall submit a signed letter of agreement between the public water system purveyor or official and the land developer/owner granting delivery of potable water for the entire development. If the public water system is being developed specifically for the subdivision/plat, the water system must be approved by Washington State Department of Health (DOH), including issuance of a public water system ID number, prior to recommendation by KCPHD for final plat approval.

Septic Availability Statement:

The Public Health Department's recommendation shall state that preliminary approval be conditioned upon the developer/owner of the plat providing satisfactory sewage disposal. Satisfactory sewage disposal can be provided through several different ways depending on the source of disposal proposed.

If application states that residences will be connected to public sewer system:

In order to recommend approval, The Public Health Department will need a signed letter from the sewer district stating that the proposed project's connection will be allowed.

If on-site sewage systems are proposed for the plat and minimum lot sizes are satisfied:

Soil logs must be preformed prior to the Public Health Department recommending preliminary approval of the plat application. Once the soil logs are conducted and approved by the Public Health Department, the requirement for septic availability will have been satisfied.

Review of the Application File:

At this point in time this application does not contain sufficient information to make a determination that there is an adequate potable water supply available and soil logs have not been conducted to verify soil conditions for on-site sewage systems. The above mentioned requirements needs to be satisfied and the appropriate documentation needs to be submitted to the Public Health Department for review and approval in order for the plat application to be recommended for final approval.

If you should have any questions or comments, please feel free to contact me at (509) 962-7515.

Sincerely,



James Rivard,
Environmental Health Supervisor
Kittitas County Public Health Department

Enc: KCPHD Soil Log Fact Sheet

CC: Allwest LLC, 1000 E Harvest Loop #300, Ellensburg, WA 98926

Cruse and Associates Engineering and Surveying via email @ cruseandassoc@kvalley.com

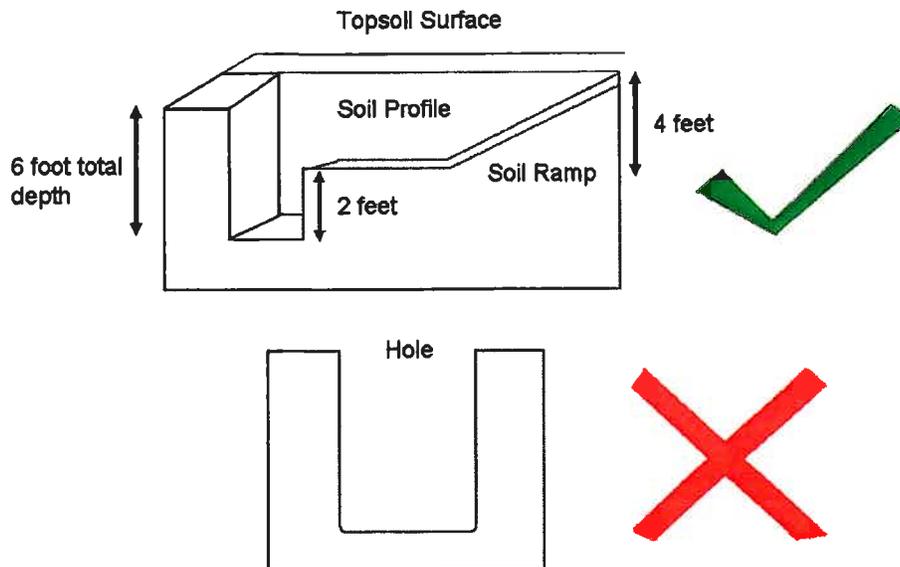
Soil Log Fact Sheet Directions for Land Division

Purpose: The purpose of a soil log is to ensure that future property owners can be assured that they will be able to install a septic system on the property. A soil log is performed to ensure that suitable depth and type of soil is present on the property prior to preliminary plat approval.

Since the type of soil and water source supplying the property can ultimately determine the minimum lot size, soil logs are required before a recommendation for preliminary plat approval can be made.

Requirements: In order for a soil log to be conducted, test holes must meet specific criteria according to Chapter 246-272A-0320 WAC, Kittitas County Code and Labor and Industries safety standards.

- 1) A minimum of one soil log per lot shall be dug to a depth of six feet, unless an impermeable layer such as bedrock, hardpan clay, or the existing water table prevents such a depth from being obtained. In some instances, additional holes may be required to determine if the minimum standards for septic support are present on the lot.
- 2) The design of a test hole shall be sloped to four feet beneath surface, leveled and then dug down an additional two feet for a total depth of six feet (see the diagram below for reference). Such a test hole is designed to prevent possible injury as a result of the surrounding soil bank collapsing into the test hole and to grant the local health officer ease of access to the soil profile.
- 3) In order to sub-divide property at least twelve inches of native, suitable soil must be present at the time the soil log is preformed.
- 4) A soil log does not constitute a site-evaluation. A site evaluation determines the type of septic system required. A soil log only determines whether soils present on the property can support a septic system.



Minimum Land Area Requirements: According to the WAC 246-272A-0320 Table X (provided below) the minimum land area requirement from a public health perspective for subdivision of property is determined by the source of the drinking water and the soil type present to support an on-site sewage system. These guidelines have been put in place to protect human health and the environment from the potential health hazards that an on-site sewage system imposes. The type of water source available and soil type present must be determined by the local health officer. However, other minimum land area requirements may be subject to local government zoning

regulations and restrictions, and it is advisable that property land owners seek advice from Community Development Services at (509) 962-7506 for assistance in this area.

TABLE X
Minimum Land Area Requirement
Single-Family Residence or Unit Volume of Sewage

Type of Water Supply	Soil Type (defined by WAC 246-272A-0220)					
	1	2	3	4	5	6
Public	0.5 acre	12,500 sq. ft.	15,000 sq. ft.	18,000 sq. ft.	20,000 sq. ft.	22,000 sq. ft.
	2.5 acre ¹					
Individual, on each lot	1.0 acre	1 acre	1 acre	1 acre	2 acres	2 acres
	2.5 acres ¹					

¹ See WAC 246-272A-0234(6).

Other Considerations: Since open holes present a potential danger to people, livestock, wild animals, and vehicles, it is advisable that such a hole be roped off or covered to prevent unwanted entry or marked to caution and facilitate finding. After the soil log has been performed the hole may be filled in by the property owner or contractor to eliminate the potential hazard.

Scheduling a soil log: Currently, soil logs are performed on a weekly basis by an Environmental Health Specialist. To schedule a soil log please contact the Kittitas County Public Health Department Office located at 507 N Nanum Street, Suite 102 or call (509) 933-8262 to arrange an appointment.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490



September 19, 2011

Dan Valoff
Kittitas County Community Development
411 N. Ruby St., Suite 2
Ellensburg, WA 98926

Re: CL-11-00001

Dear Mr. Valoff:

Thank you for the opportunity to comment during the optional determination of nonsignificance process for the 17-lot subdivision on 50.58 acres, proposed by Allwest, LLC. We have reviewed the documents and have the following comments.

Water Quality

This proposed subdivision is located near the mouth of Manastash canyon and near the top of the Manastash fan, a large depositional zone of outwash created by Manastash Creek. Significant flood damage occurred this year (2011) as well as in 1996 to homes, outbuildings, bridges and roads built in the Manastash Creek floodway. Permitting additional home sites and infrastructure in an active depositional fan is questionable at best. Manastash Creek's flood plain, and associated fan, must be protected to allow water a natural pathway to the Yakima River. Constricting the flood plain and blocking the depositional fan with structures will impair water quality and transport.

If you have any questions or would like to respond to the above Water Quality comments, please contact Lorraine Powell at (509) 457-7113.

Construction Stormwater

Project with Potential to Discharge Off-Site

The NPDES Construction Stormwater General Permit from the Washington State Department of



5

Mr. Valoff
September 19, 2011
Page 2

Ecology is required if there is a potential for stormwater discharge from a construction site with disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.

The permit requires that Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading or construction.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. Please submit an application or contact Lynda Jamison at the Dept. of Ecology, (509) 575-2434, with questions about this permit.

Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent soil from being carried into surface water by storm water runoff. Sand, silt, and soil will damage aquatic habitat and are considered pollutants.

Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

Best management practices must be used to prevent any sediment, oil, gas or other pollutants from entering surface or ground water.

If you have any questions or would like to respond to the above Water Quality/Construction Stormwater comments, please contact Lynda Jamison at (509) 575-2434.

Water Resources

This project requires water rights.

Any groundwater withdrawals in excess of 5,000 gallons per day or for the irrigation of more



Mr. Valoff
September 19, 2011
Page 3

than ½ acre of lawn or noncommercial garden will require a permit from the Department of Ecology.

Chapter 173-150 WAC provides for the protection of existing rights against impairment, i.e. interruption or interference in the availability of water. If water supply in your area becomes limited your use could be curtailed by those with senior water rights.

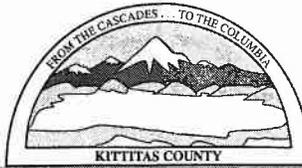
Ecology believes this proposal, Allwest LLC Cluster Plat (CL-11-00001) which proposes to provide water through two group B water systems, is one project and is entitled to one groundwater exemption. Ecology also believes this project will exceed the groundwater exemption of 5,000 gallons per day and, therefore, requires a water right.

If you have any questions or would like to respond to these Water Resources comments, please contact Breean Zimmerman at (509) 454-7647.

Sincerely,

A handwritten signature in blue ink that reads "Gwen Clear".

Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012



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"

NOTICE OF APPLICATION

Notice of Application: September 7, 2011
Application Received: August 15, 2011
Application Complete: August 23, 2011

Project Name (File Number): Allwest LLC Cluster Plat (CL-11-00001)
Applicant: Chris Cruse authorized agent for property owner Allwest LLC.

Location: One tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County.
Assessor's map number: 17-18-07040-0019

Proposal: The application submitted proposes a 17 lot subdivision of the 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The potential lots will utilize 2 group B water systems and on-site septic systems

Materials Available for Review: The submitted application and related filed documents may be examined by the public at the Kittitas County Community Development Services (CDS) office at 411 N. Ruby, Suite 2, Ellensburg, Washington, 98926, or on the CDS website at <http://www.co.kittitas.wa.us/cds/current/long-plats.asp>. Phone: (509) 962-7506.

Written Comments on this proposal can be submitted to CDS any time prior to 5:00 p.m. on September 22, 2011. Any person has the right to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made. Appeal procedures can vary according to the type of decision being appealed, and are described in Kittitas County Code, Title 15A.

Environmental Review (SEPA): The County expects to issue a Determination of Non-Significance (DNS) for this proposal, and will use the optional DNS process, meaning this may be the only opportunity for the public to comment on the environmental impacts of the proposal. Mitigation measures may be required under applicable codes, such as Title 17 Zoning, Title 16 Subdivisions, and the Fire Code, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared. A copy of the threshold determination may be obtained from the County.

Public Hearing: An open record hearing will be scheduled before the Kittitas County Hearing Examiner after the SEPA environmental threshold determination has been issued. A Public Hearing Notice will be issued establishing the date, time and location of this hearing.

Designated Permit Coordinator (staff contact): Dan Valoff, Staff Planner, (509) 962-7506

NOTICE OF APPLICATION

Project Name (File Number): Allwest LLC Cluster Plat (CL-11-00001)

Applicant: Chris Cruse authorized agent for property owner Allwest LLC.

Location: One tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, WM, in Kittitas County. Assessor's map number: 17-18-07040-0019.

Proposal: The application submitted proposes a 17 lot subdivision of the 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The potential lots will utilize 2 group B water systems and on-site septic systems.

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Public Hearing: An open record hearing will be scheduled before the Kittitas County Hearing Examiner after the SEPA environmental threshold determination has been issued. A Public Hearing Notice will be issued establishing the date, time and location of this hearing.

Designated Permit Coordinator (staff contact): Dan Valoff, Staff Planner, (509) 962-7506

Date of this Notice of Application:	September 7, 2011
Application Received:	August 15, 2011
Application Complete:	August 23, 2011
Publish Daily Record:	September 7, 2011

DAILY RECORD/KITTITAS PUB
ORDER CONFIRMATION

Salesperson: KATHY ADAMS

Printed at 09/01/11 17:57 by cad18

Acct #: 84066

Ad #: 525260

Status: N

KITTITAS CO PUBLIC WORKS
411 N. RUBY ST, SUITE 1
ELLENSBURG WA 98926

Start: 09/07/2011 Stop: 09/07/2011
Times Ord: 1 Times Run: *****
STD6 1.00 X 13.82 Words: 384
Rate: LEG2 Cost: 119.35
Class: 0001 LEGAL NOTICES

Contact:

Descript: ALLWEST LLC CL-11-00001

Phone: (509)962-7523

Given by: *

Fax#:

Created: cad18 09/01/11 17:46

Email: candie.leader@co.kittitas.wa.us Last Changed: cad18 09/01/11 17:57

Agency:

COMMENTS:

COPIED from AD 517154

PUB	ZONE	ED	TP	START	INS	STOP	SMTWTF
DR	A		97 S	09/07			
IN	A		97 S	09/07			

AUTHORIZATION

Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

Quote from Daily Record/Kittitas County Publishing (509) 925-1414
This ad will run as quoted unless cancellation is received. Please contact your sales rep 24 hours prior to first run date to cancel order.

Candie Leader
Name (print or type)

Candie Leader
Name (signature)

(CONTINUED ON NEXT PAGE)

DAILY RECORD/KITTITAS PUB
ORDER CONFIRMATION (CONTINUED)

Salesperson: KATHY ADAMS

Printed at 09/01/11 17:57 by cad18

Acct #: 84066

Ad #: 525260

Status: N

**NOTICE OF
APPLICATION**

Project Name (File Number):
Alwest LLC Cluster Plat
(CL-11-00001)

Applicant: Chris Cruse authorized agent for property owner Alwest LLC.

Location: One tax parcel in the Agriculture 3 zone, located north of Manastash Road, west of Midfield Drive and south of Susan Road, Ellensburg, WA in a portion of Section 7, T17N, R18E, W4W, in Kittitas County. Assessor's map number: 17-18-07040-0019.

Proposal: The application submitted proposes a 17 lot subdivision of the 50.58 acre parcel via a performance based cluster plat; sixteen one acre lots and one 34.51 acre lot. The potential lots will utilize 2 group B water systems and on-site septic systems.

Materials Available for Review: The submitted application and related filed documents may be examined by the public at the Kittitas County Community Development Services (CDS) office at 411 N. Ruby, Suite 2, Ellensburg, Washington, 98926, or on the CDS website at <http://www.co.kittitas.wa.us/ods/currentlong-plats.asp>.
Phone: (509) 962-7506.

Written Comments on this proposal can be submitted to CDS any time prior to 5:00 p.m. on September 22, 2011. Any person has the right to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made. Appeal procedures can vary according to the type of decision being appealed, and are described in Kittitas County Code, Title 15A.

Environmental Review (SEPA): The County expects to issue a Determination of Non-Significance (DNS) for this proposal, and will use the optional DNS process, meaning this may be the only opportunity for the public to comment on the environmental impacts of the proposal. Mitigation measures may be required under applicable codes, such as Title 17 Zoning, Title 16 Subdivisions, and the Fire Code, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared. A copy of the threshold determination may be obtained from the County.

Public Hearing: An open record hearing will be scheduled before the Kittitas County Hearing Examiner after the SEPA environmental threshold determination has been issued. A Public Hearing Notice will be issued establishing the date, time and location of this hearing.

Designated Permit Coordinator (staff contact): Dan Valoif, Staff Planner: 509-933-8274;

Notice of Application:
September 7, 2011
Application Received:
August 15, 2011
Application Complete:
August 23, 2011
Publish Daily Record:
September 7, 2011



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"

RECEIVED

AUG 25 2011

KITTITAS COUNTY
CDS

AFFIDAVIT OF POSTING

Effective July 19, 2007, Kittitas County Code requires all project actions that are not processed administratively to have a notice posted at the site of the project. Per KCC 15A.03.110 the following applies:

1. The applicant shall post the subject property with signs as required by Community Development Services.
2. Signs shall be posted on each road frontage on the subject property and shall be clearly visible and accessible.
3. Signs shall be posted and on-site prior to the issuance of a Notice of Application.
4. The sign shall be posted in a sturdy manner to remain on-site until fifteen days after the expiration of the Notice of Decision appeal period. It shall be the responsibility of the applicant to properly dispose of the sign.
5. At the time of development application, Community Development Services will identify the number of signs needed and the general location of each sign on the subject property.
6. It shall be the responsibility of the applicant to place the structure on which the sign will be posted on site. At such time the structure and sign is in place, the applicant shall contact Community Development Services.

DATE:	PLANNER: Dan Valoff

PROJECT NAME: Allwest Cluster Plat	FILE NUMBER: LP-10-00001
------------------------------------	--------------------------

PLEASE COMPLETE THE FOLLOWING:

I, Eric Panattoni, certify that I am the landowner and/or authorized agent responsible for the posting of this land use project site and further certify that the site has been posted as required by Kittitas County Code. I understand that the required posting period begins immediately and ends 15 days after the ending of the appeal period on the Notice of Decision and the sign(s) will be posted at the site until this time. **Failure to post the site and return this form to Community Development Services in a timely manner will result in a delay of the application review for the project.**

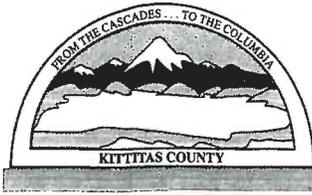
Eric Panattoni
Signature

8/24/2011
Date

Please return the above certification to CDS; Fax at 509-962-7682; or mail to; Community Development Services, 411 North Ruby Street, Suite 2, Ellensburg, WA 98926.

For Staff Use Only:
Received _____

3



KITTTAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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

CDS@CO.KITTTAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

"Building Partnerships – Building Communities"

August 23, 2011

Allwest LLC
1000 East Harvest Loop #300
Ellensburg WA 98926

FILE COPY

RE: Allwest LLC Cluster Plat, CL-11-00001

Dear Applicant,

The application for a 16 lot Cluster Plat on approximately 50.58 acres of land that is zoned Agriculture 3, located in a portion of Section 7, T17N, R18E, WM, in Kittitas County, Assessor's map numbers 17-19-07040-0019 was received on August 15, 2011. Your application has been determined complete as of August 23, 2011.

Your application meets the requirements of KCC 16.12.010 for a complete application. The County may request additional information during review of you application. Continued processing of your application will include, but not limited to the following actions:

1. According to KCC 15A.030.060 a Notice of Application will be sent to the public (adjacent landowners), Kittitas County departments, and non-County governmental agencies inviting written comments on this proposal.
2. Posting of the property by the applicant along each street frontage and publishing of a legal notice.
3. The consideration of written comments from adjacent property owners and public agencies will be incorporated in the staff report.
4. Notification of the SEPA Threshold Determination and a public hearing will be scheduled before the Kittitas County Hearing Examiner.

You may pick up the "Land Use Action" sign at any time to be posted visible from the road frontage and return the signed affidavit of posting to my attention. After this has been completed I will be able to issue the Notice of Application

If you have any questions regarding this matter, please contact me at (509) 962-7637, or by e-mail at dan.valoff@co.kittitas.wa.us

Sincerely,

Dan Valoff
Staff Planner

CC Chris Cruse via email to: cruseandassoc@kvalley.com



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"

CL-11-00001

PERFORMANCE BASED CLUSTER PLAT APPLICATION

(To subdivide property according to cluster platting provisions at KCC Chapter 17.14)

A pre-application meeting is required for this permit. To schedule a pre-application meeting, complete and submit a "Pre-Application Meeting Scheduling Form" to CDS. Notes or summaries from pre-application meetings should be included with this application.

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

- Eight large copies of plat with all preliminary drawing requirements complete (reference KCC Title 16 Subdivision Code for plat drawing requirements) and one small 8.5" x 11" copy
- SEPA Checklist (Only required if your subdivision consists of 9 lots or more.)
- Project Narrative responding to Questions 9-13 on the following pages.

OPTIONAL ATTACHMENTS

(Optional at preliminary submittal, but required at the time of final submittal)

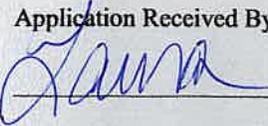
- Certificate of Title (Title Report)
- Computer lot closures
- TDR Sending Site Certificate



APPLICATION FEES:

3335.00	Kittitas County Community Development Services (KCCDS)
602.00	Kittitas County Department of Public Works
524.00	Kittitas County Fire Marshal
625.00	Kittitas County Public Health
\$5,086	Total fees due for this application (One check made payable to KCCDS)

FOR STAFF USE ONLY

Application Received By (CDS Staff Signature): 	DATE: 08-15-11	RECEIPT # 11924 11925	
---	-------------------	-----------------------------	---

1

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: ALLWEST LLC
Mailing Address: 1000 E HARVEST LOOP #300
City/State/ZIP: ELLENSBURG, WA 98926
Day Time Phone: _____
Email Address: _____

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: CHRIS CRUSE
Mailing Address: P.O. BOX 959
City/State/ZIP: ELLENSBURG, WA 98926
Day Time Phone: 9162-8242
Email Address: cruseandassoc@kvalley.com

3. **Name, mailing address and day phone of other contact person**
If different than land owner or authorized agent.

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

4. **Street address of property:**

Address: MANASTASH RD.
City/State/ZIP: ELLENSBURG, WA 98926

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

PORTION SEC. 7, T.17N., R.18E., W.M.

6. **Tax parcel number:** 17-18-07040-0019

7. **Property size:** 50.58 (acres)

8. **Land Use Information:**

Zoning: AG3 Comp Plan Land Use Designation: RURAL

PROJECT NARRATIVE

(INCLUDE RESPONSES AS AN ATTACHMENT TO THIS APPLICATION)

9. **Narrative project description:** Please include at minimum the following information in your description: describe project size, location, water supply, sewage disposal and all qualitative features of the proposal; include every element of the proposal in the description. *50.58AC*
16 LOT FLAT W/RESIDUAL, GROUP B WATER, ON-SITE SEPTIC SYSTEMS, PRIVATE ACCESS ESMT, DRAINAGE PER KIT CO STD.
10. Are Forest Service roads/easements involved with accessing your development? If yes, explain.
NO
11. What County maintained road(s) will the development be accessing from?
MANASTASH RD.
12. Have the required TDR Sending Site Certificates been obtained? If yes, attach copies of the proposed TDR Sending Site Certificates.
N/A
13. Description of how the proposed Performance Based Cluster Plat ("PBCP") meets the requirements of Public Benefit Rating System, see below. *50.58AC ÷ 3 = 16 NO DENSITY BONUS*
- a. A minimum of forty percent (40%) of the area within the project boundary must be set aside in open space prior to application of the Public Benefit Rating System and must also satisfy the following minimums for open space acreage by zone:

	Rural 3 and Ag 3 Zones.	Rural 5 and Ag 5 Zones.	Agriculture 20 and Forest and Range 20.
Minimum open space acreage.	9 acres	15 acres	30 acres

Open Space Proposed: 34.51 (acres)

- b. A minimum percentage of the density bonus must be achieved with a transfer of developments rights. The following percentage minimums by zone shall apply: *N/A*

	Rural 3 and Ag 3 Zones.	Rural 5 and Ag 5 Zones.	Agriculture 20 and Forest and Range 20.
Minimum % of density bonus with TDR credits.	50%	75%	100%

Minimum Density Bonus with TDR credits Proposed: 0 (%)

Public Benefit Ratings System Chart

Element	Urban Points	Rural Points or Units	Comments and Requirements
Transportation <i>N/A</i>			
Roadway Right of Way width exceeding County Road Standards by >20% to Accommodate Future Growth and Multi-Modal Transportation Needs.	25	0	Urban levels of activity will need to consider future needs as growth and population increase. There will be more opportunity for Multi-modal transportation options in the urban environment.

Element	Urban Points	Rural Points or Units	Comments and Requirements
Incorporate appropriate easements and rights of way to allow for connectivity between developments for motorized, non-motorized and pedestrian travel. Facilitates grid system transportation network.	0	N/A	5 Establishment and facilitation of connectivity between developments for all modes of transportation will allow for efficient and orderly road development.
Provide for new multi-modal access to publicly owned recreational lands.	25	N/A	25 Access to public recreation lands has diminished as a result of increased development. Incentives to provide access are vital to the public interest. Proposed new access points to public lands shall be in conformance with requirements as identified by federal, state, and local agencies having jurisdiction over said public lands. Documentation demonstrating such shall be submitted as part of the project application.
Open Space			
Place 41% to 75% of site in open space for perpetuity.	0	N/A	41-50% = 10 51-55% = 11 56-60% = 12 61-65% = 13 66-70% = 14 71 - 75% = 15 Significant long term benefit in rural areas. Minimizes options for redevelopment in urban areas.
Create urban redevelopment areas using open space.	35		0 Allows for redevelopment in urban areas not currently served by urban services.
In rural areas provide for open space connectivity with existing public lands, resource lands, or adjacent open space protected in perpetuity.	0		25 Open space provides the greatest public benefit when combined with adjacent open space to create larger tracts of contiguous resource land.
Wildlife Habitat			
Connectivity of Wildlife Corridors	0	N/A	15 Development of open space is most effective if done with adjacent open space lands in mind. Development of wildlife corridors provides maximum benefit from open space creation. Proposed wildlife corridors shall be consistent with the requirements of the Washington State Department of Fish and Wildlife. Documentation demonstrating such shall be submitted as part of the project application. New dedicated wildlife corridors shall be designated as open space for perpetuity in order to be awarded bonus density points.
Wetland and riparian areas, setbacks, wetland, riparian areas and habitat enhancement and creation beyond requirements of CAO.	10		5 Provides for replacement of historic loss of wetlands, habitat, riparian and aquifer recharge areas.

Element	Urban Points	Rural Points or Units	Comments and Requirements
Health and Safety			
Community septic system.	0	10	Minimizes individual drain fields and ensures maintenance of system.
Reclaimed water system. <i>N/A</i>	50	50	Reduces use of domestic water supplies for irrigation and stream flows.
Recreation: For specific uses see <u>KCC 17.14</u>			
Development of passive recreational facilities: ie: bird watching, picnic areas.	5. <i>N/A</i>	5	Provides limited recreational use. Passive recreational facilities shall be available for public use (not limited to private landowners within the development) to be awarded points.
Development of active recreational facilities ie: trails, ball fields, tennis courts, outdoor riding arenas.	10 An additional 10 points shall be awarded for active recreational facilities that connect with adjacent facilities.	10 An additional 10 points shall be awarded for active recreational facilities that connect with adjacent facilities.	Provides for increased opportunity for recreation. Active recreational facilities shall be available for public use (not limited to private landowners within the development) to be eligible for points
Development of formal recreation facilities available for general public use, ie: pool, clubhouse, golf course, indoor riding arenas.	15	15	Provides for increased opportunity for recreation
Development of community gardens for residents within the development.	10	10	Provides for increased opportunity for recreation and a local food source. The ground area, excluding any area used for community garden buildings or structures, shall be a minimum of .25 acre or 10,000 square feet. The community garden shall be served by a water supply sufficient to support the cultivation practices used on the site.
Conservation of Farm and Forest Land			
Purchase of residential development rights pursuant to <u>KCC 17.13</u> . <i>N/A</i>	0	Number of units is directly related to the number of residential development rights transferred pursuant to <u>KCC 17.13</u> .	Permanent conservation of rural farm and forest land through acquisition and extinguishment of the development rights on lands designated as "sending sites" pursuant to <u>KCC 17.13</u> .

AUTHORIZATION

14. 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:
(REQUIRED if indicated on application)

X Chris Cruise

Date:

8/15/2011

Signature of Land Owner of Record
(Required for application submittal):

X Marcin

Date:

8/15/2011



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"

SEPA ENVIRONMENTAL CHECKLIST

PURPOSE OF CHECKLIST:

The State Environmental Protection Act (SEPA), chapter 43.21C RCW. Requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

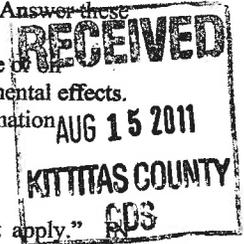
INSTRUCTIONS FOR APPLICANTS:

This environmental checklist asks you to describe some basic information about your proposals. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "don not know" or "does not apply" Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.



USE OF CHECKLIST FOR NONPROJECT PROPOSALS:

Complete this checklist for non-project proposals, even though questions may be answered "does not apply." **ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS.**

For non-project actions, the references in the checklist to the words "project," "applicant" and "property or site" should be read as "proposal," "proposer" and "affected geographic area" respectively.

APPLICATION FEES:

490.00 Kittitas County Community Development Services (KCCDS)

70.00 Kittitas County Department of Public Works

\$560.00 Total fees due for this application (One check made payable to KCCDS)

FOR STAFF USE ONLY

Application Received By (CDS Staff Signature):	DATE:	RECEIPT #	PAID AUG 15 2011 KITTTITAS CO. CDS DATE STAMP IN BOX
_____	_____	_____	

COMMUNITY PLANNING • BUILDING INSPECTION • PLAN REVIEW • ADMINISTRATION • PERMIT SERVICES • CODE ENFORCEMENT

FORM LAST REVISED: 4-21-11

Page 1 of 11

TO BE COMPLETED BY APPLICANT

FOR STAFF USE

A. BACKGROUND

1. Name of proposed project, if applicable:

Allwest LLC Cluster Plat

2. Name of applicant:

Chris Cruse

3. Address and phone number of applicant and contact person:

PO Box 959 - Ellensburg

962-8242

4. Date checklist prepared:

Aug 15, 2011

5. Agency requesting checklist:

Kittitas Co.

6. Proposed timing or schedule (including phasing, if applicable):

ASAP

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that had been prepared, or will be prepared, directly related to this proposal.

SEPA for Rezone of this property

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None known

10. List any government approvals or permits that will be needed for your proposal, if known.

Plat approval, Group B water & septic approvals, SEPA

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

17 lot plat with 2 group B systems and individual septic systems. See application map for additional info.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Manastash Rd. See Vicinity map on application.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): (flat) rolling, hilly, steep slopes, mountainous, other.

b. What is the steepest slope on the site (approximate percent slope)?

± 20%

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

sandy loam, gravel

d. Are there surface indications or history of unstable soils in the immediate vicinity?

No

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

Typical of Residential Homes and driveway construction

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not likely if appropriate an erosion plan will be filed with DOE

g. About what percentage of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

± 10%

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

None anticipated - See f. above

2. AIR

- a. What types of emissions to the air would result from the proposal (i.e. dust, automobiles, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known. *Temp. emissions typical for construction than emissions typical of residential neighborhood*
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.
None known

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:
None

3. WATER

- a. Surface
- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what streams or river it flows into.
Yes, open ditch & pond. Irrigation of field

- 2) Will the project require any work over, in or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. *yes. Road crossing of ditch*

- 3) Estimate the fill and dredge material that would be placed in or removed from surface water or wetlands, and indicate the area of the site that would be affected. Indicate the source of fill material.
Unknown

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.
Irrigation is approved and regulated by KRD

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.
No

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.
No

- b. Ground
- 1) Will ground water be withdrawn, or will water be discharged to surface waters? If so, give general description, purpose, and approximate quantities if known. *Yes, 2 Group B systems will provide water for all residential units.*

- 2) Describe waste materials that will be discharged into the ground from septic tanks or other sources, if any (for example: domestic

sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Discharge of domestic sewage to tanks and drainfields

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known).

Where will this water flow? Will this water flow into other waters?

If so, describe. On site retention will be constructed as required in accordance with applicable stormwater standards

2) Could waste materials enter ground or surface waters? If so, generally describe.

Not likely

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

None

4. PLANTS

a. Check or circle types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattails, buttercup, bulrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation: _____

b. What kind and amount of vegetation will be removed or altered?

Existing vegetation will be removed at building sites and driveways

c. List threatened or endangered species known to be on or near the site.

None known

d. Proposed landscaping use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

None

5. ANIMALS

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

- birds: hawk, heron, eagle, songbirds, other: _____
- mammals: deer, bear, elk, beavers, other: _____
- fish: bass, salmon, trout, herring, shellfish, other: _____

b. List any threatened or endangered species known to be on or near the site.

None known

c. Is the site part of a migration route? If so, explain.

None known

d. Proposed measures to preserve or enhance wildlife, if any.

None

6. ENERGY AND NATURAL RESOURCES

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

All as typical of a residential neighborhood

b. Would your project affect the potential use of solar energy by adjacent properties? If so, describe.

No

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.

None

7. ENVIRONMENTAL HEALTH

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

None known

1) Describe special emergency services that might be required.

None expected

2) Proposed measures to reduce or control environmental health hazards, if any. None

b. Noise

1) What types of noise exist in the area which may affect your project (for example, traffic, equipment, operation, other)?

None known

2) What types and levels of noise would be created by or associated with the project on a short-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Construction during normal working hours
Typical residential noise post construction

3) Proposed measures to reduce or control noise impacts, if any.

None,

8. LAND AND SHORELINE USE

- a. What is the current use of the site and adjacent properties?
Pasture with Barn
- b. Has the site been used for agriculture? If so, describe.
yes Pasture
- c. Describe any structures on the site. Barn
- d. Will any structures be demolished? If so, what?
Not planned
- e. What is the current zoning classification of the site? AG-3
- f. What is the current comprehensive plan designation of the site? Rural
- g. If applicable, what is the current shoreline master program designation of the site? N/A
- h. Has any part of the site been classified as an:
 environmentally sensitive area?
None known
- i. Approximately how many people would the completed project displace?
None
- j. Approximately how many people would reside or work in the completed project? Typical of 16 Residential Homes
- k. Proposed measures to avoid or reduce displacement impacts, if any.
None
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.
None

9. HOUSING

- a. Approximately how many units would be provided, if any? Indicate whether high, middle or low-income housing.
16 middle income housing
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle or low-income housing.
None
- c. Proposed measures to reduce or control housing impacts, if any.
None

10. AESTHETICS

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
All structures will conform to zoning
- b. What views in the immediate vicinity would be altered or obstructed?
None known

c. Proposed measures to reduce or control aesthetic impacts, if any.
none

11. LIGHT AND GLARE

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
possible window reflections from sunlight

b. Could light or glare from the finished project be a safety hazard or interfere with views?
unlikely

c. What existing off-site sources of light or glare may affect your proposal?
none known

d. Proposed measures to reduce or control light and glare impacts, if any.
none

12. RECREATION

a. What designated and informal recreational opportunities are in the immediate vicinity?
none

b. Would the proposed project displace any existing recreational uses? If so, describe.
no

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:
none

13. HISTORIC AND CULTURAL PRESERVATION

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
none known

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.
none known

c. Proposed measures to reduce or control impacts, if any.
none

14. TRANSPORTATION

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

see attached plat map.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

no

c. How many parking spaces would the completed project have? How many would the project eliminate?

N/A

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

construct private road for access.

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

no

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

approx. 64 ADT

g. Proposed measures to reduce or control transportation impacts, if any.

none

15. PUBLIC SERVICE

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

yes. services typical for 16 households

b. Proposed measures to reduce or control direct impacts on public services, if any.

none

16. UTILITIES

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse services, telephone, sanitary sewer, septic system, other.

b. Describe the utilities that are proposed for the project, the utility

providing the services, and the general construction activities on the site or in the immediate vicinity which might be needed. Power, gas, garbage, telephone, tv from local utilities individual septic systems, Sp B water systems

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Chris Cruse

Date: 8/15/2011

Print Name: Chris Cruse

THE REMAINING QUESTIONS ARE EXCLUSIVELY FOR REZONE APPLICANTS AND FOR AMENDMENTS TO COUNTY COMPREHENSIVE PLAN AND CODE. UNLESS THESE APPLY TO YOU, THIS IS THE END OF THE SEPA CHECKLIST.

SEPA ENVIRONMENTAL CHECKLIST QUESTIONS FOR NON-PROJECT ACTIONS ONLY. WHEN ANSWERING THESE QUESTIONS, BE AWARE THE EXTENT OF THE PROPOSAL, OR THE TYPE OF ACTIVITIES LIKELY TO RESULT FROM THE PROPOSAL, WOULD AFFECT AN ITEM AT A GREATER INTENSITY OR AT A FASTER RATE THAN IF THE PROPOSAL WERE NOT IMPLEMENTED. RESPOND BRIEFLY AND IN GENERAL TERMS (ATTACH ADDITIONAL SHEETS AS NECESSARY)

FOR STAFF USE

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? Proposed measures to avoid or reduce such increases.

2. How would the proposal be likely to affect plants, animals, fish or marine life: Proposed measures to protect or conserve plants, animals, fish or marine life.

3. How would the proposal be likely to deplete energy or natural resources? Proposed measures to protect or conserve energy and natural resources.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands? Proposed measures to protect such resources or to avoid or reduce impacts.

