

RECEIVED

AUG 29 2017

Tel. \_\_\_\_\_ Fax \_\_\_\_\_  
Lathrop, Winbauer, Harrel, Slothower & Denison L.L.P.

**KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS**

MARCIE AND CHAD STEVENS,

Appellant,

v.

KITTITAS COUNTY COMMUNITY  
DEVELOPMENT SERVICES,

Respondent.

NOTICE OF ADMINISTRATIVE  
APPEAL

COMES NOW MARCIE AND CHAD STEVENS (“Appellants”), by and through their attorneys, Jeff Slothower and Lathrop, Winbauer, Harrel, Slothower & Denison, L.L.P., and submit the following Notice of Appeal.

**I. DECISION BEING APPEALED  
(KCC 15A.07.010(2)(a))**

This is an appeal pursuant to Chapter 15A.07 of the Kittitas County Code (“KCC”).<sup>1</sup> The specific administrative decision being appealed is the August 16, 2017 letter from Dan Carlson, AICP, Community Development Services Director, in which Mr. Carlson found that the

<sup>1</sup> KCC 15A.07.010 authorizes this appeal. KCC 15A.01.040 (Table A) specifies that this appeal, which involves an administrative decision, is to be appealed by filing the appeal with the Board of County Commissioners (“BOCC”) within ten (10) working days of the administrative decision being appealed. The administrative decision is dated August 16, 2017. This appeal is filed within ten (10) working days of the decision.

1 “Thunder Ridge preliminary plat expired on May 7, 2016.” A true and correct copy of the letter  
2 containing the administrative decision is attached hereto as Exhibit A and incorporated herein by  
3 this reference.

4 **II. NAMES AND ADDRESSES OF THE APPEALING PARTIES**  
5 **AND THEIR INTEREST IN THE MATTER**  
6 **(KCC 15A.07.010(2)(b))**

7 The parties appealing the agency action are as follows:

8 Marcie Stevens and Chad Stevens  
9 71 Carbide Ct.  
10 Cle Elum, WA 98926

11 Appellants’ legal representative is as follows:

12 Jeff Slothower  
13 Lathrop, Winbauer, Harrel, Slothower & Denison, L.L.P.  
14 201 West 7<sup>th</sup> Avenue  
15 P.O. Box 1088  
16 Ellensburg, WA 98926  
17 Telephone: (509) 925-6916  
18 Facsimile: (509) 343-3206  
19 [jslothower@lwhsd.com](mailto:jslothower@lwhsd.com)

20 Appellant, Marcie Stevens, is the owner of the land subject to the land use decision.

21 **III. SPECIFIC REASONS WHY THE APPELLANT**  
22 **BELIEVES THE DECISION TO BE WRONG**  
23 **(KCC 15A.07.010(2)(c))**

24 **3.1 Background Facts**

25 The Thunder Ridge Plat was given preliminary plat approval as a result of a Stipulation  
26 and Order of Approval entered in Kittitas County Superior Court Cause No. 08-2-00714-9 on  
May 7, 2009. Marcie Stevens acquired the property on December 16, 2013. Marcie Stevens and  
her husband, Chad Stevens, then began working towards preparation of and submittal of the final  
plat mylars to obtain final plat approval. These efforts included purchasing domestic water and  
expending over \$70,000.00 in improvements. During the course of working to complete the  
final plat approval, the Appellants asked the Kittitas County Community Development

1 department and were told that their deadline for submittal of their final plat was May 6, 2016.  
2 They were specifically told that they did not have to have the final plat approval from the Board  
3 of County Commissioners before that date and the Commissioners could approve the final plat  
4 some time after that.

5 The final plat mylars were submitted on February 12, 2016. Kittitas County confirmed  
6 receipt of those final mylars. After receipt of the final mylars, Kittitas County Community  
7 Development Department never scheduled a hearing before the Board of County Commissioners  
8 seeking final plat approval. Instead, over the next year, from May 6, 2016 through August of  
9 2017, the Stevens worked with various departments of Kittitas County, including Community  
10 Development Services and the Health Department, to get the mylars signed.

### 11 **3.2 Administrative Decision**

12 Mr. and Mrs. Stevens received a letter from Dan Carlson dated August 16, 2017, a true  
13 and correct copy of which is attached hereto as Exhibit A. The letter is captioned "Expired Plat  
14 Notice." In Mr. Carlson's letter, he indicates in the first paragraph that pursuant to "RCW  
15 58.17.140(3)(a), a final plat meeting all requirements must be submitted to the county within  
16 seven years of the preliminary approval." Mr. Carlson then states that "[a] final plat meeting all  
17 platting requirements was not submitted within seven years. Therefore, the Thunder Ridge  
18 preliminary plat expired on May 7, 2016." He does not acknowledge that the final plat was  
19 submitted before the deadline. He provides no explanation as to why Kittitas County continued  
20 to work with the Stevens, implying if not outright stating, that final plat approval could still be  
21 obtained after May 7, 2016. Mr. Carlson also states in his letter that pursuant to KCC 16.12.250  
22 "a plat must meet all conditions imposed and be finalized by the time set forth in RCW  
23 58.17.140 (seven years) otherwise it expires automatically." He then cites to KCC 16.20.010  
24 and reiterates that "the final plat submission must satisfy all preliminary plat and relevant legal  
25 conditions." At no point does he indicate which conditions of the preliminary plat were not  
26 satisfied.

1 At no time prior to the administrative decision that is at issue here were the Appellants  
2 told that they had to have the Board of County Commissioners approve the plat by May 6, 2016,  
3 nor were they told that there was a deadline by which they had to complete certain matters  
4 related to obtaining final plat approval. Lastly, at no point were they told that the option existed  
5 to provide a bond to deal with portions of the final plat that were not complete.

### 6 **3.3 Grounds for the Appeal**

7 The administrative decision by the Kittitas County Planning Official set forth above in  
8 Section I and as confirmed in the attached letter (Exhibit A) is wrong, contrary to law and  
9 inconsistent with the Kittitas County and State of Washington subdivision code. The final plat  
10 mylars were submitted within the seven (7) year time prescribed by applicable County Code and  
11 State laws. RCW 58.17.140(3)(a) and KCC 16.12.250. Kittitas County Community  
12 Development department should have circulated the final plat mylars to various County  
13 departments for review, approval and signature before bringing the final mylars to the Board of  
14 County Commissioners. For reasons that are unknown, Kittitas County did not follow that  
15 procedure. Instead, it appears the mylars were never circulated to all County departments and to  
16 the Board of County Commissioners.

17 The final plat mylars were “complete” and all the requirements of the preliminary  
18 approval were met within the meaning of Chapter 16.12 and 16.20 KCC and Chapter 58.17  
19 RCW when they were submitted and there was no reason for the County to not act on the final  
20 mylars. There has been no indication from the County and, the Appellants were not told, in what  
21 respect the plat conditions were not met.

22 Because the Appellants have not seen the County’s Administrative Record, the Appellant  
23 reserves the right to raise additional issues upon review of the Record.

24 //

25 //

26 //

1 **IV. DESIRED OUTCOME OR CHANGES TO THE DECISION**  
2 **(KCC 15A.07.010(2)(d))**

3 The Appellants desire that the decision of the Community Development Services  
4 Director be reversed and it be determined that the Thunder Ridge preliminary plat has not  
5 expired.

6 RESPECTFULLY SUBMITTED this 29 day of August, 2017.

7  
8   
9 \_\_\_\_\_  
10 Jeff Slothower, WSBA #14526  
11 Attorney for Appellants  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**CERTIFICATE OF SERVICE**

I certify that I have this day caused a copy of the document to which this is attached to be served on the individual(s) listed below and in the manner noted below:

Kittitas County  
Board of Commissioners  
205 W 5th AVE STE 108  
Ellensburg WA 98926-2887

- BY U.S. MAIL
- BY HAND DELIVERY
- BY OVERNIGHT DELIVERY
- BY EMAIL: [bocc@co.kittitas.wa.us](mailto:bocc@co.kittitas.wa.us)

Dan Carlson, AICP  
Community Development Services Director  
Kittitas County Community Development Services  
411 N. Ruby Street, Suite 2  
Ellensburg, WA 98926

- BY U.S. MAIL
- BY HAND DELIVERY [2 copies]
- BY OVERNIGHT DELIVERY
- BY EMAIL: [cgs@co.kittitas.wa.us](mailto:cds@co.kittitas.wa.us)

Neil Caulkins  
Kittitas County Prosecuting Attorney's Office  
205 W 5th Ave, Ste 213  
Ellensburg WA 98926  
Attorney for Kittitas County

- BY U.S. MAIL
- BY HAND DELIVERY
- BY OVERNIGHT DELIVERY
- BY EMAIL: [neil.caulkins@co.kittitas.wa.us](mailto:neil.caulkins@co.kittitas.wa.us)

I certify, or declare, under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Ellensburg, Washington this 29<sup>th</sup> day of August, 2017.



Heather L. Hazlett  
Legal Assistant to Jeff Slothower

F:\Slothower\Stevens, Marcie\Notice of Administrative Appeal 8-28-17.doc

EXHIBIT A



KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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

"Building Partnerships - Building Communities"

August 16, 2017

EXPIRED PLAT NOTICE

File #LP-07-00023 Thunder Ridge  
Parcel#20-15-25056-0002

Chad Stevens  
71 Carbide Ct.  
Cle Elum, WA 98922

Dear Mr. Stevens,

A review of our records has verified that the above-referenced preliminary plat has expired. Preliminary plat approval was granted on May 7, 2009 via The Superior Court of the State of Washington. According to RCW 58.17.140(3)(a), a final plat meeting all requirements must be submitted to the county within seven years of the preliminary approval. A final plat meeting all platting requirements was not submitted within seven years. Therefore, the Thunder Ridge preliminary plat expired on May 7, 2016.

Kittitas County Code (KCC) reads as follows:

**16.12.250 Expiration.**

A final plat meeting all requirements of this chapter shall be submitted to the board for approval within the timeframe specified by RCW 58.17.140. Failure to do so will result in the preliminary plat being expired and no longer valid. No further action is necessary regarding an application once the preliminary plat has expired pursuant to this chapter. Any applicant who files a written request with the administrator within 30 days before the expiration date, showing that the applicant has attempted in good faith to submit the final plat within the time period and that the associated fees are paid, shall be granted a one-year extension. Such an extension can be requested and granted five times. (Ord. 2010-014, 2010; Ord. 2010-02, 2010; Ord. 2005-31, 2005)

**16.20.010 Requirements.**

The final plat shall conform substantially to the preliminary plat, as approved by the board of county commissioners, and shall meet the requirements in Sections 16.20.020 through 16.20.050 of this chapter. (Ord. 2005-31, 2005)

We have been advised by our legal counsel that KCC 16.12.250 provides that a plat must meet all conditions imposed and be finalized by the time set forth in RCW 58.17.140 (seven years) otherwise it expires automatically. KCC 16.20.010 reiterates that the final plat submission must satisfy all preliminary plat and relevant legal conditions. Therefore, if the deadline for submission has passed, as it has in this case, and the conditions for preliminary approval have not been satisfied, as in this case, then the preliminary plat automatically has expired and no additional step is needed.

Please be aware that Kittitas County has updated its code and there may be new requirements if you choose to submit a new plat application. Please contact Community Development Services if you have any further questions.

Sincerely,

  
Dan Carlson, AICP  
Community Development Services Director

cc: Cruse & Associates (authorized agent)

COMMUNITY PLANNING • BUILDING INSPECTION • PLAN REVIEW • ADMINISTRATION • PERMIT SERVICES • CODE ENFORCEMENT