



## KITTTAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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Building Partnerships – Building Communities

October 31, 2011

Doug Cole  
Plum Creek Timber Co., L.P.  
999 Third Avenue Suite 43000  
Seattle WA 98104-4096

Subject: SG-10-00003 Plum Creek 1  
SG-10-00004 Plum Creek 2  
SG-10-00005 Plum Creek 3  
SG-10-00006 Plum Creek 4  
SG-10-00007 Plum Creek 5  
SG-10-00008 Plum Creek 6

Dear Mr. Cole,

Based upon review of the above referenced segregation applications and the additional documentation mailed to our office on November 24, 2010 by David Hill, Kittitas County Community Development Services must **deny** the approval of all of the applications as submitted based on the following Kittitas County Code:

17.57.040 Lot - Minimum size.

The minimum lot size in the Commercial Forest Zone shall be eighty acres.

16.08.015 Administrative segregation.

"Administrative segregation" means the division of land within the boundaries of a legal description into fewer than ten lots or tracts where no lot or tract is less than twenty (20) acres.

In addition an analysis of the applications by Kittitas County Community Development Services and Kittitas County Prosecuting Attorney's Office staff finds that:

1. There is neither precedence nor process for the county to recognize the existence of government lots as lots of record; that in fact
2. The assessor and auditor are prohibited from recording or filing division that has not been subject to review; and that
3. "... land platted before enactment of the 1937 platting and subdivision act is still subject to the requirements of current law, at least to the extent that such land has not already been developed ... "; and that
4. Applications submitted from the same owner, in the same area, at or about the same time must be reviewed cumulatively; and that
5. These cumulative requested segregations exceed the nine lot threshold for SEPA exemption; and that
6. Washington State case law has demonstrated on several occasions that the proper action on a land use decision cannot be foreclosed because of a possible past error in another case involving different property.

Attached you will find a copy of Kittitas County Code Title 15A.07, which outlines the procedures and processes for an appeal of an administrative decision.

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

Sincerely,

Jeff Watson  
Staff Planner

CC via E-Mail to: David Sprinkle to [David.Sprinkle@plumcreek.com](mailto:David.Sprinkle@plumcreek.com)  
David Hill to [David@ConceptEng.com](mailto:David@ConceptEng.com)

## Chapter 15A.07 ADMINISTRATIVE DECISIONS APPEALS

### Sections

15A.07.010 Appeal of determination or decision.

15A.07.020 Procedures for closed record appeals.

15A.07.030 Repealed.

15A.07.040 Remand.

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

#### **15A.07.010 Appeal of determination or decision.**

1. An appeal of an administrative land use decision shall be filed with the board of county commissioners within 10 working days of the date of the decision.
2. Appeals shall contain a written, concise statement identifying:
  - a. The decision being appealed;
  - b. The name and address of the appellant and his interest(s) in the matter;
  - c. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong;
  - d. The desired outcome or changes to the decision;
  - e. The appeals fee.The appeal shall contain only the above listed material, and shall not contain or attempt to introduce new evidence, testimony, or declaration.
3. Upon the filing of a timely appeal, the administrator shall, in consultation with the appropriate hearing body chair pursuant to KCC 15A.01.040, set the time and place at which the matter will be considered and establish a briefing schedule for the parties. The appellant's brief shall be due 30 days prior to the hearing date. Briefing from the County and any other Respondents shall be due 10 working days prior to the hearing date. There shall be no response or rebuttal briefing by any party. The officer from whom the appeal is being taken shall forthwith transmit to the reviewing body and the parties all of the records pertaining to the decision being appealed. Briefing shall be limited to legal argument based upon the documents comprising the record that formed the basis for the administrative decision on appeal that have been transmitted to the parties by said officer. (Ord. 2010-008; Ord. 2000-07; Ord. 98-10, 1998)

#### **15A.07.020 Procedures for closed record appeals.**

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

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

#### **15A.07.040 Remand.**

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

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

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

concerned. (Ord. 2000-07; Ord. 98-10, 1998)