



Kittitas County, Washington
BOARD OF COUNTY COMMISSIONERS

District One
Paul Jewell

District Two
Gary Berndt

District Three
Obie O'Brien

June 27, 2013

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

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

Dear Ms. Bainbridge Rogers,

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

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

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

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

Sincerely,

Julie Kjorsvik
Clerk of the Board

Enclosures-as noted

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

Doc Hansen – CDS
Neil Caulkins – Prosecutors office

CAIRNCROSS&HEMPELMANN
524 2nd Ave, Suite 500
Seattle, WA 98104
www.cairncross.com

ATTORNEYS AT LAW
office 206 587 0700
fax 206 587 2308

CH&

June 25, 2013

VIA FEDERAL EXPRESS

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

RECEIVED

JUN 26 2013

1st _____ 2nd _____ 3rd _____
KITTITAS COUNTY BOARD OF COMMISSIONERS

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

To The Board of Commissioners:

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

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

a. The decision being appealed is the Administrative Decision, signed by Jeff Watson, Staff Planner, Kittitas County Community Development Services, stating that the Application is “null and void.” A copy of the Administrative Decision is enclosed.

b. The name and address of the appellant is Neversweat Land Company, LLC, c/o David Sprinkle, 999 Third Avenue, Suite 4300, Seattle, WA 98104. The appellant is interested in this matter because the appellant is the owner of the affected lands, seeking approval of the Application.

c. The specific reasons that the appellant believes the Administrative Decision was wrong include:

i. The Application, including necessary fees, was filed on June 21, 2012. However, the Administrative Decision purports to deem the Application “null and void” under the terms of an Ordinance that was adopted in September 2012 (“Ord. 2012-006”). Ord. 2012-006 does not apply to the Application, and the Application should have been approved under the codes in effect on June 21, 2012.

nrogers@cairncross.com
direct: (206) 254-4417

{02304805.DOCX;2 }

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

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

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

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

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

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

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

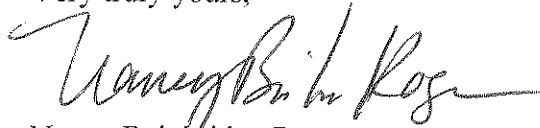
Nancy Bainbridge Rogers
Cairncross & Hempelmann
524 Second Ave., Suite 500
Seattle, WA 98104-2323
Tel: (206) 254-4417
Email: nrogers@cairncross.com

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

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

Thank you for your attention to this matter.

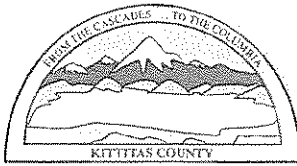
Very truly yours,



Nancy Bainbridge Rogers

Enclosures

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



KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

Building Partnerships – Building Communities

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

CDS@CO.KITTTITAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

June 12, 2013

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

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

Map Number: 20-15-15000-0001

Dear Applicant,

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

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

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

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

Sincerely,

Jeff Watson
Staff Planner

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

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

Attachments: Ordinance 2012-006



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

Cash Suspense

Receipt Number: 2013-3350

Date: 06/26/2013

Received From: PLUM CREEK

Check Amount: \$500.00

Cash Amount: \$0.00

Eft Amount: \$0.00

Total Amount: \$500.00

Deputy: DEBBIEM Receipt Type: CHK

Template: COMMISSIONER: COMMISSIONERS

Comments:

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

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

Kittitas County Treasurer's Office

Submitted By: DEBBIE MYERS