

**KITTITAS COUNTY  
LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>RECOMMENDED FINDINGS OF</b>
	)	<b>FACT, CONCLUSIONS OF</b>
LP-08-00028	)	<b>LAW, DECISION AND</b>
White Water Performance Based Cluster	)	<b>CONDITIONS OF APPROVAL</b>
Plat	)	

THIS MATTER having come on for hearing in front of the Kittitas County Hearing Examiner on May 27, 2010, 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. Dave Blanchard of Misty Mountain LLC, the authorized agent for Lonny Peter White and Joanne White, Peter A. White and Michael Lee White, landowners, for a 67-lot Performance Based Cluster Plat on 112.04 acres of land zoned Ag-3. The applicant is proposing 44.82 acres of open space, with active recreation provided in the form of water and trails. (Staff report)
2. The applicants are Lonny & Joanne White, Peter White & Michael White, 280 Iron Mt. Road, 8080 Lower Peoh Point & 661 Godawa Ln, Cle Elum, WA. The contact party is Misty Mt., LLC, Authorized Agent, 206 W 1<sup>st</sup> Street, Cle Elum, WA 98922. (Application materials)
3. The proposed lot sizes range from 0.51 acres to 4.01 acres. The project is proposed to be served a Group ‘A’ water system and individual onsite septic systems. (Staff report)
4. The project is located south of Lower Peoh Point Road, east of Iron Mountain Road, west of Godawa Lane, Cle Elum, WA, and is located in a portion of Section 01,

T19N, R15E, WM, in Kittitas County. Map numbers 19-15-01053-0001, 0002, 0003, 0004, 19-15-01000-0003, 0035, and 0043. (Staff report)

5. Site Information:  
Total Project Size: 112.04 acres  
Number of Lots: 67  
Domestic Water: Group 'A' water system  
Sewage Disposal: Individual on-site septic system  
Power/Electricity: Puget Sound Energy  
Fire Protection: Fire District #7  
Irrigation District: Not applicable  
(Staff report)
6. Site Characteristics: The area is generally flat and has been in use as agricultural land. (Staff report)
7. Surrounding Properties:
  - a. North: Vacant
  - b. South: Residential
  - c. East: Residential
  - d. West: Residential(Staff report)
8. The Comprehensive Plan designation is "Rural." (Staff report)
9. The subject property is zoned Agriculture 3, which allows for one residential unit per 3 acres. (Staff report)
10. A long plat application was submitted to Community Development Services on October 21, 2008. The Notice of Application for the preliminary plat application was issued on November 24, 2008. 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 December 9, 2008. (Staff report)
11. 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 on November 4, 2008 by the applicant and returned to Community Development Services, and is included as part of the record. (Staff report)
12. Based on review of the submitted application materials, correspondence received during the comment period Kittitas County issued a Mitigated Determination of

Nonsignificance (MDNS) on May 6, 2010 in accordance with WAC 197-11-355 (Optional DNS process). The appeal period ended on May 20, 2010. No appeals were filed. (Staff report)

13. 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 'A' water system and individual onsite septic systems. (Staff report)
14. Staff has conducted and an administrative critical area review in accordance with KCC 17A and found no critical areas on the subject properties. (Staff report)
15. The Department of Public Works has reviewed this proposal for consistency with KCC Title 12 Roads and Bridges. Several conditions have been applied to the construction of onsite private roads, as outlined in the April 5, 2010 memorandum issued by the Department of Public Works, which will be required prior to issuance of a building permit. 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: Washington State Department of Ecology, Kittitas County Department of Public Works, Kittitas County Public Health Department and Kittitas County Fire Marshal. Where appropriate, these comments have been included as conditions of approval. (Staff report)
17. The applicant is entitled to density bonus points through the Public Benefit Rating System as follows:
  - Open space of 44.82 acres (40 bonus points)
  - Group A water system (50 bonus points)
  - Active recreation (water and trails) (10 bonus points)
  - Total bonus points: 100(Staff report)
18. 100 bonus points allows total bonus density percentage of an additional 100%. (Staff report)
19. Under current Ag-3 zoning, for the 112.04 acres, the applicant could achieve 37 lots. With the added bonus density, the applicant could qualify for 74 total lots for the cluster plat. (Staff report)
20. The applicant is requesting authorization for a total of 67 lots, within the amount allowed pursuant to the bonus density rating. (Staff report)

21. Written comments were received from the public submitted by several members of the public. (Staff report)
22. 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)
23. The entire Planning Staff file was admitted into the record at the public hearing. (Public hearing record)
24. The Kittitas County Community Development Services recommended approval of this permit, subject to the recommended conditions of approval. (Public hearing record)
25. Public hearing after due legal notice was held on May 27, 2010. Appearing and testifying on behalf of the applicant was Sean Northrup. Mr. Northrup is a principal of Misty Mountain, LLC. Mr. Northrup testified that he was an agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Northrup stated that the applicant agreed with all of the proposed Conditions of Approval. Mr. Northrup stated that regarding the concern of smoke from wood stoves, he agreed that in covenants and restrictions they would prohibit wood stoves as the primary means to heat the homes. (Open record public hearing testimony)
26. Further, Mr. Northrup indicated that they agreed with all of the requested conditions in the Kittitas Reclamation District comment letter from May 19, 2010. Further, they agreed with all of the additional conditions stated in the May 12, 2010, letter from Allison Kimball to Dan Valoff. (Open record public hearing testimony)
27. The following exhibits were admitted into the record:
  - 27.1 Exhibit 1 is a May 1, 2010, letter from Allison Kimball to Dan Valoff.
  - 27.2 Exhibit 2 is a May 7, 2010, letter from Clifford and Shirley Winfrey to Dan Valoff.
  - 27.3 Exhibit 3 is a May 25, 2010, letter from Larry Fuller to the Kittitas County Planning Staff file.
  - 27.4 Exhibit 4 is a May 19, 2010, letter from Jeff Slothower to the Hearing Examiner.
  - 27.5 Exhibit 5 is a May 27, 2010, letter from Jeff Slothower to the Hearing Examiner.

- 27.6 Exhibit 6 is copies of water rights submitted by the applicant demonstrating available water for the ponds.
- 27.7 Exhibit 7 is area well logs.
- 27.8 Exhibit 8 is Chapter 5 of the Transportation Plan.
- 27.9 Exhibit 9 is a Customs Soil Resources Report soil map.  
(Public hearing record)
28. Testifying in favor of the project was Noel Kurtz. Mr. Kurtz indicated that he was acquainted with the property owner and that they were not present. He stated that he knew them and that one of the applicants had health issues and the other had travel problems and that is why they were not present. (Public hearing testimony)
29. Testifying in opposition to the project were:
- 29.1 Melissa Bates: Ms. Bates testified regarding her concerns related to Kittitas Reclamation District issues. She also had concerns as to whether or not the United States Bureau of Reclamation would allow irrigation water to be used for recreation ponds. She had concerns regarding Department of Ecology comments regarding whether the water will be available year-round. She had concerns that the applicant was getting points for open space that will also be used for recreation and that points were also being awarded for recreation. She questioned whether a half-acre lot was sufficient to have a septic system when the soil types were unknown. Finally, she challenged the applicant's statement that this property does not contain prime farmland.
- 29.2 Diedre Link: Ms. Link testified as to her concerns related to the property being prime farmland. She had concerns about the economic viability of the project. She had concerns regarding how the ponds would be filled and potential contamination of the ponds from the septic systems. She asked that the matter be remanded back to the County for additional study.
- 29.3 Katherine Clerf: Ms. Clerf testified that she was a former member of the now defunct Land Use Advisory Committee. She stated that she believed this property is prime farmland and that the County has an obligation to protect prime farmland, especially if it has water availability. She does not believe that residential use of this property was its highest and best use. She also testified as to her concerns regarding water issues and the availability of water year-round. She also testified as to the potential impacts of either community or individual septic systems on water.

(Testimony at public hearing)

30. 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)
31. 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)
32. 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)
33. 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, this proposal is consistent with the Kittitas County Subdivision Code Chapter 16.09 for Performance Based Cluster Plats.
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Public use and interest will be served by approval of this proposal.
6. 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.
- 7.. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Kittitas County Code and Comprehensive Plan.
8. As conditioned, the proposal does conform to the standards specified in Kittitas County Code.

9. As conditioned, the use will comply with all required performance standards as specified in Kittitas County Code.
10. 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.
11. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
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 LP-08-00028, White Water Performance Based Cluster Plat, 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 on file dated October 21, 2008 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. All current and future landowners must comply with the International Fire Code.

#### **Platting Standards and Zoning Code:**

6. Certificate of Title: A certificate of title of the property proposed to be platted shall be submitted with the final plat.

7. Lot Closures: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
8. Performance Based Cluster Plat Open Space Requirement: According to KCC 19.06.030, a minimum of 40% of the area within the project boundary must be set aside in open space prior to application of the Public Benefit Rating System. Prior to final plat approval, the applicant must clearly show and quantify how open space requirements have been met, as set forth in Performance Based Cluster Platting KCC 19.06.030 and KCC 16.09.100.
9. Right to Farm Notification Requirement: According to KCC 16.09.040, all Performance Based Cluster Platting conveyance instruments shall contain the following notice: The subject property is within or near existing agricultural or other natural resource areas on which a variety of activities may occur that are not compatible with residential development for certain periods of varying duration. Agricultural or other natural resource activities performed in accordance with county, state and federal laws are not subject to legal action as public nuisances. Kittitas County has adopted right to farm provisions contained in Section 17.74 of the Kittitas County Zoning Code.
10. Bonding for Public Benefit Features: According to KCC 16.09.080(F), prior to final plat approval, any features of the project incurred as a result of bonus density shall be fully constructed or bonded for.
11. County Review of HOA Agreements, etc: Prior to final plat approval, the application shall submit to the County for review and approval consistent with KCC 16.09 of the following: a copy of all proposed restrictive covenants (CCRs), Homeowner's Association bylaws and applicable documents, maintenance agreements and operations plans related to roads, the Group A water system and recreation facilities and open spaces.
12. Irrigation Systems: Pursuant to KCC 16.18.080, a plat note regarding the irrigation systems is required for lots 3 acres or less in size. The following note shall be placed on the face of the final plat, "Lots shall be required to irrigate their individual lot or lots by the use of either a sprinkler irrigation system or a drip irrigation system."

**Transportation and Infrastructure:**

13. 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 residence 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.

14. 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.
15. Private Road Requirements: The entire internal road system shall be constructed as a High-Density Private Road that serves more than 40 lots. Access easements shall be a minimum of 60' wide. The roadway shall be constructed to AASHTO standards, have a maximum grade of 12%, and be designed by an engineer. See current Kittitas County Road Standards, 9/6/05 edition. Road plans shall be submitted as required in KCC 12.08 and be approved by the County Engineer prior to construction.
16. Pays Road Intersection: The intersection at Pays Road shall be constructed as approved by the County Engineer. A final design shall be presented to the County Engineer and approved prior to final approval.
17. Lot 24: Access shall be provided to Lot 24.
18. Godawa Lane Spelling: Godawa Lane shall be spelled correctly on all documents. It is currently spelled incorrectly on Sheet 2 of the plat.
19. Gates: If this is a gated community, approval for the gate and key box system is required from the Fire Marshal.
20. 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.

21. Private Road Maintenance Agreement: The applicant shall meet all applicable conditions of any pre-established or required Private Road Maintenance Agreements.
22. Lot Closure: It is the responsibility of the Professional Licensed Surveyor (PLS) to ensure the lot closures are correct and accurate.
23. 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.
24. 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.
25. Fire Protection: Contact the Kittitas County Fire Marshal regarding any additional access requirements for Emergency Response.

**Onsite Sewage and Wastewater Treatment:**

26. Soil Log or Site Evaluation: A soil log or site evaluation must be performed prior to the Public Health Department recommending final approval. WAC 246-272A governs on-site sewage systems in the State of Washington. Table 10, is the minimum land area requirement needed for on-site sewage systems, the minimum land area is determined by the soil type on site, and the type of water supply (individual wells or a public water system). It is strongly recommended that the applicant conduct soil logs as soon as possible to anticipate any difficulties citing the community drain fields.

**Water and Stormwater:**

27. Plat Notes: According to the Public Health Department, the following notes shall be placed on the final plat:
  - a. “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.”
  - b. “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.”

28. Water Neutrality: A determination of water neutrality will be required from the Department of Ecology before the Kittitas County Public Health Department can recommend final approval.
29. Water Availability: Final approval shall be conditioned upon:
  - a. Documentation from the State of Washington, Department of Ecology verifying the quantity of water required for the plat has been transferred, and
  - b. Completion of an affidavit of water availability, on a form available from the Public Health Department-- a well log from the State of Washington, Department of Ecology and a recent passing bacteriological test will meet the water availability requirement; and
  - c. Demonstration and evidence that the following activities have taken place: all planned wells have been drilled, flow capacity is known, water storage mitigations are resolved, bacteriological and nitrate tests must be performed and deemed satisfactory from all wells to be used for domestic.
30. NPDES Permit Requirement: An NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with more than one acre of 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.
31. NPDES Permit Timing: This NPDES Construction Stormwater General 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.

### Air Quality

32. A burn permit must be obtained from Ecology if the proponent plans to burn trees or debris from the property. Only natural, unprocessed vegetation may be burned in an outdoor fire.
33. The proponent should create a site-specific Fugitive Dust Control Plan (FDCCP) before starting this project, according to Department of Ecology standards, and then follow the plan for the construction of the project and the duration of activity on property.

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

### **Fire Safety**

35. Approved water storage with a private fire hydrant system shall be installed. The hydrant system shall be subject to plan review through the Fire Marshal's Office and shall be subject to an annual Operational Permit.
36. Water storage and hydrant spacing shall comply with the International Fire Code.
37. The minimum fire flow requirements for the residential structures shall be no less than 1,000 gpm for a duration of no less than 30 minutes. A reduction in fire flow of 50% is allowed when buildings are provided with an automatic sprinkler system.
38. 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.
39. "No Parking-Fire Lane" signs must be posted per Fire Marshal requirements on all cul-de-sacs. Secondary access is required.
40. All bridges shall be required to be certified (over KRD canals, etc)
41. All development, design and construction shall comply with Kittitas County Code, Kittitas County Zoning and the 2006 International Fire and Building Codes.
42. A separate permit is required for any private water storage or hydrant system.
43. Review of the final project submittals may include further requirements.
44. 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."
45. Final mylars shall be submitted in accordance to KCC 16.20: Final Plats. All applicable survey data and dedications shall be reflected pursuant to KCC 16.24: Survey Data-Dedications.

46. Both sheets shall reflect the Plat number: LP-08-00028.

**SEPA Mitigation**

47. Water and Septic

- a. Withdrawals of groundwater on the subject property will be subject to the rules and regulations adopted and administrated by the Washington State Department of Ecology. The applicant shall develop a Group A Water System for this project. The Group A Water System shall be designed by a licensed engineer and approved by the Washington State Department of Health. The Group A water system shall be completed prior to final plat approval. Demonstration of adequate water rights in relation to development of a Group A Water System shall be completed prior to final approval. Any deviations to the water system requirements shall undergo further environmental and plat review.
- b. All waters/waterways/ditches/springs located on the subject property shall be delineated and shown on the final mylars. Improvements to such water features shall not impact on-site and off-site use.
- c. Erosion control measure must be in place prior to any clearing, grading or construction. These control measures must prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. The applicant shall contact the Washington State Department of Ecology regarding requirements if there is a potential for discharge from a construction site larger than one acre.
- d. The applicant shall contact the Washington State Department of Ecology regarding the requirements from a Stormwater Prevention Plan (Erosion Sediment Control Plan) for all construction sites.
- e. Stormwater: On-site stormwater management that conforms to the specifications of the most current version of the Stormwater Management Manual for Eastern Washington is required of this development. Stormwater systems shall be designed to store stormwater generated by a 24-hour, 25-year storm event. Stormwater system designs shall be prepared and stamped by a civil engineer licensed in the State of Washington. The stormwater system design shall be presented to Public Works and approved by the County Engineer prior to final approval. The stormwater system construction shall be certified by a licensed engineer. The certification shall be included with the road certification and is required prior to the issuance of a building permit.

Stormwater plans shall be submitted in accordance with KCC 12.06 and 12.08.

- f. Seasonal drainage and/or stormwater runoff shall be addressed through an engineered stormwater detention design and installation.
  - g. Stormwater and surface runoff generated by this project shall be retained or detained and treated on-site in accordance with regulating agencies' standards.
  - h. Grading Plan: A grading plan prepared by an engineer licensed in the state of Washington shall be presented to Public Works prior to final approval. Depending on the amount of fill to be removed from the site, a haul route and road condition analysis may be required prior to approval of the grading plan. The grading plan shall be submitted in accordance with KCC 12.08, and shall be approved by the County Engineer.
  - i. Environmental Health shall review and approve the location of the On-site Septic Systems in relation to the lake in order to ensure that contamination of the lake and septic system will not occur.
  - j. A stormwater and pond management plat that is consistent with maintaining good water quality in the ponds shall be prepared and reviewed by Kittitas County and the Department of Ecology prior to final plat approval.
48. Transportation
- a. Provisions shall be included in the site development plan for appropriate snow storage and disposal per the stormwater requirements and approved by Kittitas County.
  - b. The applicant shall submit plans for maintenance of this facility (e.g. Snowplowing, road maintenance, vegetation, etc.). This shall be addressed via the development of a formal road maintenance agreement or similar means.
  - c. Trail: The proposed trail shall not travel through Tract A except for where any crossing structures are located. Crossing structures shall be designed wide enough to provide a separate pedestrian lane in addition to the full width of the required roadway. A trail easement or right-of-way should be provided for the portion of trail which passes through Lots 22, 23, 47-61, and any other location the trail may pass through private property.

- d. Tract A: Tract A is designated as right-of-way throughout the plat. Tract A shall be designed for the construction of a road with at least a 25 mph design speed. The tract will be privately owned, but may be dedicated in the future to Kittitas County for the construction of a new County road. This dedication will occur when requested by the County, or when the road is constructed to County public road standards and accepted onto the County road system by the Board of County Commissioners.
- e. Godawa Lane Improvements: Godawa Lane is currently classified as a Primitive Road and has an ADT of less than 100. Based on the results of the TIA, this project will increase the ADT to approximately 210 trips per day, which is above the 100 ADT threshold for primitive roads. Godawa Lane must be upgraded to a rural local access road, and the developer must follow all requirements of Kittitas County Road Standards, including:
  - i. Road Plans: The developer shall submit road plans for all public road improvements as follows: Plan and profile drawings for all roads shall be submitted to the County Engineer on mylar sheets twenty-two inches by thirty-six inches in size, and receive approval before proceeding with construction. The drawing standards used in preparing the drawings shall conform to the current drawing standards employed by the Department of Public Works. All plans for roads, drainage, and utility construction are to be designed and prepared by a licensed professional engineer. No work may be started until such plans are approved. See current Kittitas County Road Standards 12.08 for more detailed information.
  - ii. Public Road Construction: Testing and Inspection: Prior to construction the developer shall schedule a pre-construction meeting with the Department of Public Works. No work may be started prior to the meeting. Testing services shall be retained by the developer. County inspection details will be determined during the pre-construction meeting.
  - iii. Bonding: The developer shall submit a bond to the Department of Public Works following the requirements of Kittitas County Road Standards 12.01.150. Failure to comply with these Standards may result in denial of plan or development permit approval, revocation of prior approvals, or legal action for forfeiture of performance guarantee.
  - iv. Cul-de-Sac: A public use cul-de-sac shall be constructed on Godawa Lane at the plat entrance. The cul-de-sac may be located in right-of-

way or a temporary easement dedicated to the public. The easement may be relinquished at such time Godawa Lane is improved to the end of the road and a cul-de-sac constructed there, or Tract A becomes a through County maintained road. The cul-de-sac turn-around shall have an outside right-of-way or easement diameter of at least 110 feet. The driving surface shall be at least 96 feet in diameter. Cul-de-sacs must also conform to the requirements specified by the 2006 International Fire Code. Contact the Fire Marshal regarding any additional cul-de-sac requirements.

49. Land Use and Recreation

- a. Proposed Restrictive Covenants (CCRs), Homeowner's Association Bylaws and applicable documents, and proposals related to roads, Group A Water System, On Site Sewage, recreation and open space need to be reviewed, approved and recorded as appropriate for consistency with the applicant's proposal and KCC 16.09 for final approval. Any conditions of approval of the Group A Water System and On Site Sewage shall be a condition of the final plat approval and included as a plat note as appropriate.
- b. Pursuant to Kittitas County Code 17.74.060A, a Plat Note regarding the Right to Farm Ordinance is required. The note shall read as follows: "The subject property is within or near land used for agriculture on which a variety of commercial activities may occur that are not compatible with residential development for periods of varying duration. (RCW 36.70A.060(1)) Commercial natural resource activities performed in accordance with county, state and federal laws are not subject to legal action as public nuisances." (RCW 7.48.305).
- c. Pursuant to Kittitas County Code 16.18.080, a plat note regarding the irrigation systems is required for lots 3 acres or less in size. The note shall read as follows: "Lots shall be required to irrigate their individual lot or lots by the use of either a sprinkler irrigation system or a drip irrigation system."
- d. Prior to excavation, the applicant shall submit documentation for review and approval to CDS containing a timeline, haul routes, and location, placement, stockpiling and use of excavated material. All excavation and stockpiling shall comply with federal, state and local regulations. All stockpiling sites and use of excavated material shall be reviewed through a separate critical areas review process as sites are identified by the applicant. It shall be the responsibility of the applicant to pay any applicable review fees and submit appropriate documentation for review.



- e. Prior to final plat approval, any features of the project incurred as a result of bonus density shall be fully constructed or bonded for.
50. Air
- a. A Fugitive Dust Control Plan (FDCP) shall be developed and implemented during construction of the project and duration of activity on the property in order to control blowing dust and dirt.
51. Light and Glare and Aesthetics
- a. Any on-site lighting shall be downward shaded and directed on-site. No mercury vapor lights shall be allowed.
  - b. Metal roofs with a reflective glare shall not be allowed.
  - c. Trees and landscaping should be planted and maintained along all streetscapes and the perimeter of the residential cluster in order to reduce impacts of lighting or glare on existing and future residential areas.
52. Noise
- a. Construction activities shall comply with KCC 9.45 (noise). Construction activities shall comply with KCC 9.45 (noise). Construction hours shall be from 7:00am to 7:00 pm.
  - b. It is the developer's responsibility to dampen or deflect any traffic noise for this development. It shall not be the responsibility of WSDOT to create noise dampening facilities or structures within this development.
  - c. Noise: the project shall adhere to regulations in Kittitas County Code 9.45, RCW 70, and WAC 173.60.040. Regulations regarding noise shall be addressed in CC&R's. Signage including noise regulations shall be posted on-site, and at a minimum shall be in the area in the proximity of the lake.
53. Cultural
- a. If any items of possible cultural or historic significance are encountered during construction activities, work shall be immediately halted with the area and a large enough perimeter established in order to maintain the integrity of the site. Kittitas County Community Development Services, the State Historic Preservation Office and the Yakama Nation, as relevant, shall be immediately consulted.

54. Utilities and Services

- a. All lots must be provided with adequate fire flow.
- b. All development must comply with International Fire Code (IFC) and Appendices.
- c. Adequate fire protection systems shall be provided subject to requirements of the Kittitas County Fire Marshal and Fire District 7. The requirements for private water systems for fire suppression are subject to review and approval by the Fire Marshal and Fire District 7.
- d. The Group A Water System will abide by the requirements of the Kittitas County Fire Marshal and the local fire district for fire flow and placement of fire hydrants.
- e. The minimum road width shall not be less than 20' in width.
- f. "No Parking- Fire Lane" signs must be posted at all cul-de-sacs per International Fire Code requirements.
- g. All cul-de-sacs must have a minimum turning radius of 50 feet.
- h. Construction documents for the proposed systems for fire suppression shall be submitted to Fire District #7 and the Fire Marshal's Office for review and approval prior to construction.
- i. Mail routes shall be approved by the postmaster. 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. The postmaster shall also approve mailbox locations. Mailbox locations shall not create sight obstructions.
- j. The applicant shall work with the local school district to provide for a safe location and passageway for a school bus stop. This location shall be delineated on the final mylar.

55. Kittitas Reclamation District Conditions

- 55.1 The face of the plat must state: "The KRD is only responsible for delivery of water to the highest feasible point in each 160 acre unit or designated turnout.

The KRD is not responsible for water delivery loss (seepage, evaporation, etc.) below the designated turnout.”

- 55.2 The face of the plat must state: “Full payment of annual KRD assessment is required regardless of the use or non-use of water by the owner of the property.”
- 55.3 The landowner shall provide for irrigation easements, in a form acceptable to the KRD, from the KRD turnout to each portion of the plat and provide a written description of the water distribution system, including covenants, if any.
- 55.4 The plat drawing must show the amount of irrigable acreage within each parcel within the subdivision and contain a statement that KRD water may only be applied to the irrigable acreage.
- 55.5 At the time of the first transfer of ownership (other than by inheritance) an approved existing or new turnout shall be installed at the landowner’s expense. Turnout structure design must be approved by KRD. Turnout structures, after construction, shall become the property of the KRD. KRD will be responsible for the normal maintenance of the turnout structure after installation.
- 55.6 Installation and maintenance of the conveyance facilities attached to the turnout are the responsibility of the landowners. Construction and attachment of the conveyance facilities to the turnout cannot impact the functionality of the turnout.
- 55.7 There will be a per lot parcel fee of \$120 per lot payable to the KRD at the time of plat approval, i.e., a plat into two lots is \$240 fee; into 3 lots is \$360, etc. The fee for this plat is \$9,360 (67 home sites and 11 open space parcels).
- 55.8 This plat will have to have a water master. The landowners must provide for the appointment of a water master who shall be the only one responsible for or able to order water for the entire plat. The water master will be responsible for keeping water use records for each lot in a form and in a manner approved by KRD. KRD will only be responsible for keeping records on the total water ordered at the KRD turnout. The requirement for establishment of a water master shall be stated on the face of the plat.
- 55.9 The face of the plat must state: “KRD operations and maintenance roads are for District use only. Residential and recreational use is prohibited.”

- 55.10 All plats/subdivisions/divisions/boundary line adjustments or segregations of any irrigable property within KRD boundaries may be subject to piping or fencing of KRD right-of-ways for public safety.
- 55.11 All divisions are presented to the Board of Directors for approval. Each division will be reviewed by the Board on a case by case basis. The landowner must provide a map and written description of your water distribution plan that includes parcel covenants, if any. Allow enough time to meet all of the General Guidelines requirements prior to the Board meeting. The Board meets on the First (1<sup>st</sup>) Tuesday of the month.
56. The applicant will put in their homeowners' covenants that wood stoves shall not be the primary means to heat the individual homes.
57. The Phasing Plan will be as follows:
- Phase I: Lots 23 through 30, 42 through 53 and Lot 57 will be developed. The lake adjacent to these lots and the Class A water system will be constructed.
- Phase II: Lots 31 through 41 and Lots 54 through 60 will be developed. This will result in a total of 35 lots in Phases I and II.
- Phase III: Lots 1 through 22 and Lots 62 through 66 will be developed. This will mean the road will serve over 40 lots, necessitating the construction of a second access and improvements to Godawa Lane in this Phase. The second Phase and the active recreation elements will be constructed to fulfill the bonus density points necessary to meet the plat conditions. In addition, the open space tracts will be created in this Phase.
58. The applicant must secure legal water rights in order to fill the proposed ponds that constitute a portion of the active recreation bonus density. In the event legal water for these ponds is not obtained, the applicant shall provide for active recreation in the areas designated for the ponds of a nature consistent with the Kittitas County Code and as approved by the Kittitas County Community Development Services director.

Dated this 10<sup>th</sup> day of June, 2010.

KITTITAS COUNTY HEARING EXAMINER

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Andrew L. Kottkamp

LP-08-00028  
White Water Performance Based Cluster Plat  
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