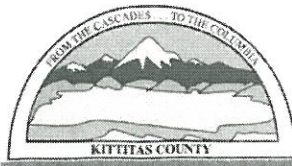


ATTACHMENT 1



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"

Plat Alteration
Long Plat application
(To divide lot into 5 or more lots)

LP-09-00007

KITTTITAS COUNTY ENCOURAGES THE USE OF PRE-APPLICATION MEETINGS. PLEASE CONTACT COMMUNITY DEVELOPMENT SERVICES TO SET UP A PRE-APPLICATION MEETING TO DISCUSS A PROPOSED PROJECT.

PLEASE TYPE OR PRINT CLEARLY IN INK. ATTACH ADDITIONAL SHEETS AS NECESSARY. PURSUANT TO KCC 15A.03.030, 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

- N/A* Ten 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
- Address list of all landowners within 500 feet of the subject parcel(s). If adjoining parcels are owned by the applicant, then the 500 foot area shall extend from the farthest parcel. If the parcel is within a subdivision with a Homeowners' or Road Association, then please include the mailing address of the association.
- N/A* SEPA Checklist (Only required if your subdivision consists of 9 lots or more.
Please pick up a copy of the Checklist if required)

OPTIONAL ATTACHMENTS

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

- Certificate of Title (Title Report)
- Computer lot closures

To Be Provided Upon Approval Per RCW 58.17.215

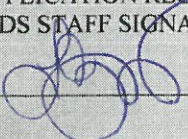
FEES:

\$200 plus \$10 per lot for Public Works Department;
 \$625 plus \$75 per hour over 12.5 hours for Environmental Health Department;
 \$3305 for Community Development Services Department, PLUS \$470 if SEPA Checklist is required
 \$195 for Fire Marshal
 *One check made payable to KCCDS

50% = \$ 1652.50

FOR STAFF USE ONLY

APPLICATION RECEIVED BY:
(CDS STAFF SIGNATURE)

X 

DATE:

7.17.09

RECEIPT #

5282

PAID

JUL 17 2009



NOTES:

1. **Name, mailing address and day phone of land owner(s) of record:**
Landowner(s) signature(s) required on application form.

Name: Dave Dickson & Terry Dawn/Renee Shepherd
Mailing Address: 128 Prairie Lane and 130 Prairie Lane
City/State/ZIP: Cle Elum, WA 98922
Day Time Phone: (509) 674-0288
Email Address: ddickson@bellevuewa.gov

2. **Name, mailing address and day phone of authorized agent** (if different from land owner of record):
If an authorized agent is indicated, then the authorized agent's signature is required for application submittal.

Agent Name: Traci Shallbetter, Shallbetter Law
Mailing Address: 3201 Airport Road
City/State/ZIP: Cle Elum, WA 98922
Day Time Phone: (509) 674-3836
Email Address: traci@shallbetterlaw.com

3. **Street address of property:**

Address: Forest Way between 128 Prairie Lane and 130 Prairie Lane
City/State/ZIP: Cle Elum, WA 98922

4. **Legal description of property:**

Forest Way between Lot 1, Block 3, and Lot 3, Block 4, Pine Valley Ranch, as per plat thereof recorded in Book 3 of Plats, pages 62, 63, 64, records of Kittitas County

5. **Tax parcel number(s):** Between 090834 and 330934

6. **Property size:** 200 feet long x 60' wide (acres)

7. **Narrative project description:** Please include 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 (be specific, attach additional sheets as necessary):

The applicants are seeking to vacate the roughly 200 ft long x 60' wide private stub road known as "Forest Way," given that such way is unimproved, unutilized, and serves no practical purpose. The north 30' of Forest Way would be added to Lot 1, Block 3 and the south 30' of Forest Way would be added to Lot 3, Block 4. The signatures of interested property owners, along with further explanation as to the rationale for vacation of the road is attached.

8. Are Forest Service roads/easements involved with accessing your development? Yes No (Circle)
If yes, explain: N/A

9. What County maintained road(s) will the development be accessing from? N/A see attached

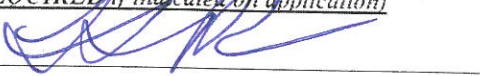
10. Application is hereby made for permit(s) to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess 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 mailed to the Land Owner of Record and copies sent to the authorized agent.

Signature of Authorized Agent:
(REQUIRED if indicated on application)

Date:

X



7/7/09

Signature of Land Owner of Record
(Required for application submittal):

Date:

X



6-29-09

Renee Shepherd Dawn

SHALLBETTER LAW

3201 Airport Rd.
Cle Elum, WA 98922
Dir: (509) 674-3836

www.shallbetterlaw.com
traci@shallbetterlaw.com

PUGET SOUND NORTHERN CASCADES KITTITAS COUNTY CENTRAL WASHINGTON EASTERN WASHINGTON

July 7, 2009

Mr. Kirk Holmes, Director
Community Development Services
411 N. Ruby, Ste. 2
Ellensburg, WA 98926

RE: Application to Vacate Forest Way, a Private Road within the Plat of Pine Valley Ranch, and Alter the Plat of Pine Valley Ranch Pursuant to RCW 58.17.215.

Dear Mr. Holmes:

Enclosed please find an application for a Plat Alteration, filed pursuant to RCW 58.17.215 on behalf of the fee title owners for Forest Way. Forest Way is an unimproved stub street that was platted as part of the Plat of Pine Valley Ranch, recorded in Book 3 of Plats, pages 62, 63, and 64, records of Kittitas County in 1963. The roughly 200 foot segment or road does not provide a means of access to *any* private or public property. All adjacent and surrounding properties are accessed via roads *other than* Forest Way, and as evidenced from the enclosed documents supporting the application, all person with an ownership interest in Forest Way (other than the County) have quit claimed their interest in Forest Way to the applicants and taken formal action, through the Pine Valley Ranch Maintenance Association, to approve vacation of Forest Way. Forest Way serves no public purpose and vacation of the unimproved dead end street is warranted at this time.

I have spoken with Jan Ollivier, Christina Wollman, and Dan Valoff about the objectives of the applicant and the process that the County requires. They have collectively agreed that an application for Plat Alteration pursuant to RCW 58.17.215 is the appropriate process. It does not appear that the County has codified procedures for plat alterations or the requirements for a complete application for the same. Hence, we must rely upon the State law of RCW 58.17.215. To facilitate review, we have completed the Long Plat Application form, at the request of Dan Valoff. This form, together with enclosed supporting documents, should fulfill the mandates of RCW 58.17.215 and be adequate for County processing of the application:

Attachment 1-Long Plat Application (modified) with Check in the amount of \$1652.50¹
Attachment 2-Annotated excerpt from Pine Valley Ranch Plat
Attachment 3-Property Owners w/in 500 Feet of Forest Way
Attachment 4-Narrative Supporting Vacation of Forest Way/Explaining Public Interest
Attachment 5-Articles and Bylaws for Pine Valley Ranch Maintenance Association

¹ This represents 50% of the standard long plat application fee of \$3305 in effect as of the date of this application (per May 1, 2009 Fee Schedule provided by Dan Valoff).

Attachment 6-Minutes Approving Vacation of Forest Way
Attachment 7-Quit Claim Deed from Pine Valley Maintenance Association
Attachment 8-Photos showing existing condition of "Forest Way"

If the proposed alteration/vacation of Forest Way is approved by the County Commissioners, then, consistent with the provisions of RCW 58.17.215, the applicants will promptly have Encompass Engineering prepare revised plat drawings for circulation and approval by the County.²

In the event the County considers Forest Way to be a "public road" that must be vacated in accordance with the procedures of RCW 36.87 and KCC 12.22, then the applicants request authority to amend this application as an application to vacate a public road, in accordance with the specific provisions of RCW 36.87 and KCC 12.22.

Finally, I understand that an application to vacate Forest Way was filed with the County by one of my clients, Terry Dawn, in approximately 2001. That prior submittal and rejection should in no way preclude consideration of this submittal. As Mr. Dawn can explain in greater detail at the public hearing on this application, such application was apparently met with opposition by one of the owners within Pine Valley Ranch, and such owner represented that he was speaking for the Pine Valley Maintenance Association. The minutes and Quit Claim Deed enclosed with the new application for a Plat Alteration that would vacate Forest Way clearly indicate that the Pine Valley Maintenance Association, as a duly authorized representative of the owners within the Pine Valley Ranch plat, supports the vacation and has quitclaimed any and all ownership interests of the Association and its members to the applicants.

If you have questions, please contact me directly, as the authorized agent for Applicants Dave Dickson and Terry Dawn/Renee Shephard.

Sincerely,



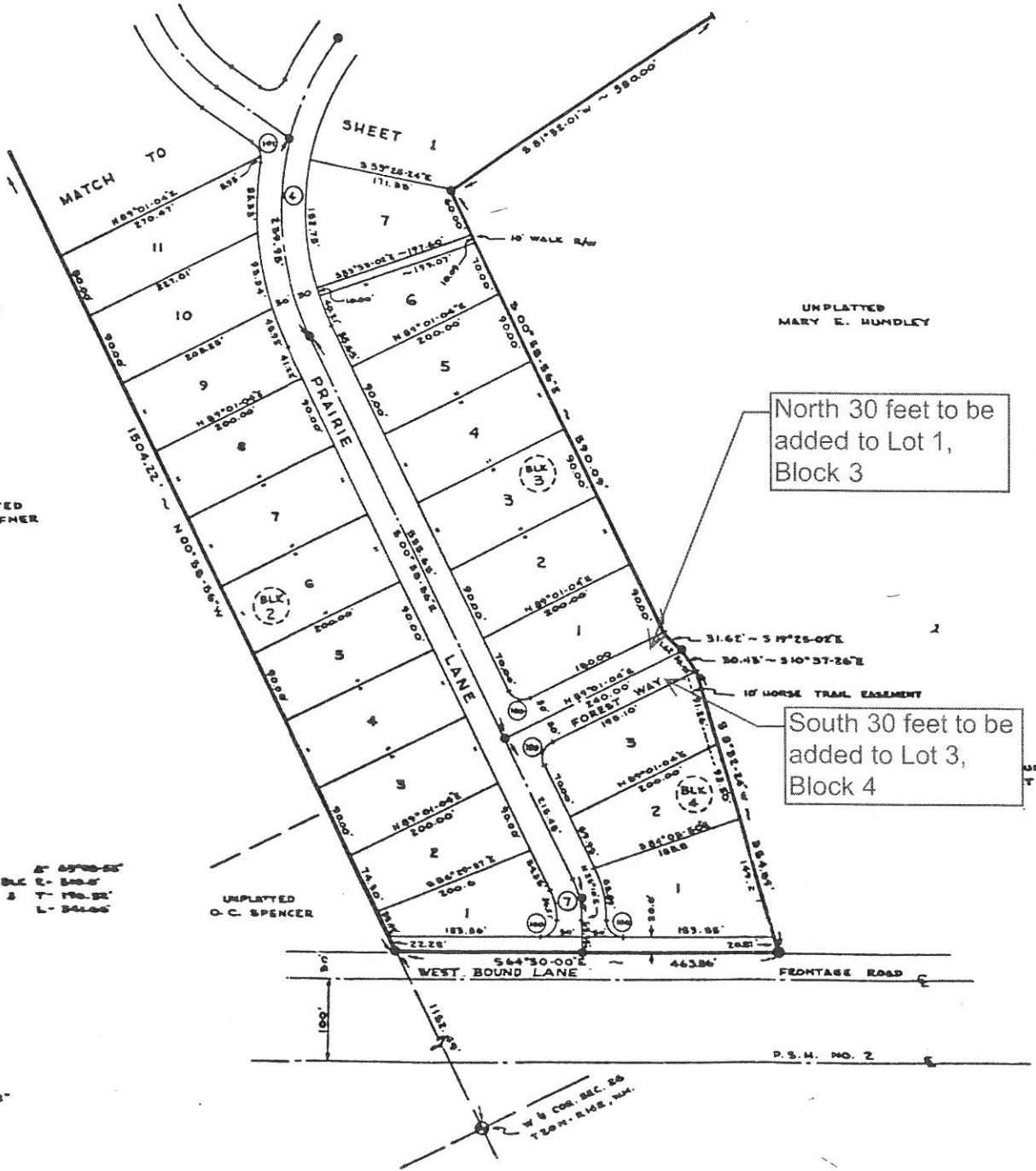
Traci Shallbetter

Encl.

² RCW 58.17.215 provides: "*After approval of the alteration*, the legislative body shall order the applicant to produce a revised drawing of the approved alteration of the final plat or short plat, which after signature of the legislative authority, shall be filed with the county auditor to become the lawful plat of the property." (Emphasis added).

PINE VALLEY RANCH

A PORTION OF SECTION 26 - T 20N - R 14E, W. M.
 KITTITAS COUNTY, WASHINGTON
 SCALE: 1"=100'



North 30 feet to be added to Lot 1, Block 3

South 30 feet to be added to Lot 3, Block 4

DATA

75'-00"	A - 75°22'-20"		
100'-00"	BLK E - 1000'-00"		
8'-00"	B - 79°59'		
17'-00"	L - 141'-00"		
111'-17"	A - 54°14'-17"		
9'-00"	BLK E - 140'-00"		
8'-72"	B - 74°33'		
7'-00"	L - 137'-25'		
72'-00"	A - 27°34'-00"		
2'-00"	BLK E - 300'-00"		
20'-00"	B - 71°-00'		
1'-00"	L - 150'-00"		
10'-00"	A - 67°00'-00"	A - 67°00'-00"	
10'-00"	E - 300'-00"	BLK E - 300'-00"	
10'-00"	T - 200'-00"	B - 71°-00'	
10'-00"	L - 374'-75"	L - 344'-00"	
10'-00"	A - 27°00'-00"		
10'-00"	E - 200'-00"		
10'-00"	T - 67'-00"		
10'-00"	L - 122'-00"		
10'-00"	A - 26°00'-00"		
10'-00"	BLK E - 100'-00"		
10'-00"	T - 32'-00"		
10'-00"	L - 63'-00"		
10'-00"	A - 100°10'-22"		
10'-00"	B - 20'-00"		
10'-00"	T - 23'-91"		
10'-00"	L - 34'-91"		

P.S.N. NO. 2

W 1/4 COR. SEC. 26
 T20N - R14E, W.M.

ATTACHMENT 4

BACKGROUND REGARDING FOREST WAY, AND NARRATIVE OF PUBLIC USE AND INTEREST

The applicants, Dave Dickson and Terry Dawn/Renee Shepherd, as the owners of Lot 1, Block 3, and Lot 3, Block 4 of the Plat of Pine Valley Ranch, are requesting the vacation of the 200' long private stub street known as Forest Way, which stub street is situated between Lot 1 of Block 3 (owned by applicant Dave Dickson) and Lot 3 of Block 4 (owned by Terry Dawn and Renee Shepherd). The north 30' of Forest Way would be added to the Dickson lot, and the south 30' of Forest Way would be added to the Dawn/Shepherd Lot.

A. Fee Title to Forest Way Is Vested In the Applicants.

All owners of Lots within the Plat of Pine Valley Ranch Maintenance are members of the Pine Valley Ranch Maintenance Association ("Association"). The Association is a duly formed Washington nonprofit corporation, as contemplated in the notes for the Plat of Pine Valley Ranch. Among other things, the Pine Valley Ranch Maintenance Association is vested with the authority and responsibility to manage and maintain all common areas, including private roads, within the Plat. *See* Articles of Incorporation and Bylaws, Attachment 5.

The members of the Pine Valley Ranch Maintenance Association are the beneficiaries of easement rights in Forest Way, which rights, pursuant to RCW 64.04.175, cannot be extinguished without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method to extinguish or alter the easement. By formal action of the Board, the Pine Valley Ranch Maintenance Association voted to allow the Applicants (Dickson and Dawn/Shepherd, as the owners of the Lots adjacent to, and exclusively served by, Forest Way) to vacate Forest Way and take unencumbered fee title to Forest Way. *See* Attachment 6.

Pursuant to such formal authorization, the Pine Valley Ranch Maintenance Association, on behalf of the owners of Lots in the Plat of Pine Valley Ranch, has duly executed a Quit Claim Deed conveying to the Applicants any and all of such Association's interests in Forest Way. *See* Attachment 7. Attachments 5 and 6 fulfill the requirements of RCW 64.04.175, evidencing approval of the vacation by all owners with easement rights over Forest Way.

B. Forest Way, Although Dedicated to Public Use on the Face of the Plat, Has Never Been Accepted by the County for Use as a Public Road.

By dedication made November 14, 1962, on the face of the Plat of Pine Valley Ranch, the developers purported to "dedicate to the use of the public forever as highways, all roads, streets, and alleys [shown on the Plat].¹ Such language of dedication, however,

¹ A deed that expresses its purpose as granting a right of way for a road is presumed to convey only an easement, not a fee. *Puget Sound Alumni of Kappa Sigma, Inc. v. City of*

does not result in an actual dedication of the roads, even upon approval of the final plat by the governmental unit. *McConiga v. Riches*, 40 Wn.App. 532, 538, 700 P.2d 331 (1985). Washington caselaw is clear that a dedication of land or an easement to a public use does not result in a dedication absent an acceptance of the offer by the public. *Id.* at 538. The person to whom the land is dedicated must formally accept the dedication. *Id.* Approval and filing of a final plat is evidence of acceptance by the public, but, language indicating that the county is in no way obligated until the roads are brought up to the standard and formally accepted by the county negates any acceptance. *Id.* Indeed, the face of the Pine Valley Ranch Plat is similarly to the plat at issue in *McConiga*, where the Court held that the language of public dedication and filing of the final plat did not result in an actual dedication of the road to public use. *Id.*

The Pine Valley Ranch Plat states: "All roads will be built up to County standards at the time of dedication of such roads to the County." Hence, Forest Way remains a private road, albeit with the County have what amount to easement rights in the road. Dickson and Dawn/Shepard, as the owners of the lots adjacent to Forest Way, hold title to the center of Forest Way. *McConiga*, 40 Wn.App. at 539-540 (conveyance of land bounded by a private road carries title to the center of the road, and easement dedicated to public use was for the exclusive benefit of the owners of lots within the plat). *Accord Miller v. King County*, 59 Wn.2d 601, 369 P.2d 304 (1962) (dedication of land to county for street purposes did not constitute conveyance in nature of quitclaim deed notwithstanding use of words "donate, grant and dedicate" despite language on face of plat); *Knudsen v. Patton*, 26 Wn.App. 124, 611 P.2d 1354 (1980) (dedication was for owners of lots in development, not the public, despite language on face of plat and language of RCW 58.08.015). *Cf* RCW 58.17.165 (dedication on face of plat is considered as a quitclaim deed "for the purpose intended by the donors or grantors").

C. Forest Way Serves No Public Purpose and Vacation Is Consistent with the Public Interest.

Forest Way is a platted, but unimproved, dead-end stub street within Pine Valley that extends a total distance of about 200 feet. It has never been used for purposes of ingress and egress (primary, secondary, or otherwise) to *any* lot—either within the Pine Valley Ranch plat or outside of the Pine Valley Ranch Plat. It is believed that when Pine Valley Ranch was platted in the 1960s, the developer anticipated a potential subsequent plat of the Hundley property to the east (Parcel 11418, which is currently 30 acres). Such property was never platted by the developer, and all of the lots within Pine Valley have been sold several times over, with the developer of Pine Valley no longer having control

Seattle, 70 Wn.2d 222, 226~ 422 P.2d 799 (1967). *Accord, Roeder Co. v. Burlington Northern*, 105 Wn.2d 567, 571, 716 P.2d 855 (1986). "In Washington, the public has only an easement of use in a public street or highway, and the underlying fee rests in the owners of abutting property." *Christian v. Purdy*, 60 Wn.App. 798, 801, 808 P.2d 164 (1991). Such rule generally applies to roads dedicated to public use in a plat, unless the intent clearly evidences the contrary. *Richardson v. Cox*, 108 Wn.App. 881, 891, 26 P.3d 970 (2001). *Cf* *Christian*, 60 Wn.App. 802, fn5 (noting in dicta that under RCW 58.17.212, where a road to be vacated is contained wholly within a subdivision *and is part of the boundary of the subdivision*, title vests with those property owners within the subdivision).

over or rights within Pine Valley Ranch; hence, even if the property to the east were platted at some time in the future, the developer of that plat would have no right to utilize Forest Way.

The parcels property immediately to the east of Forest Way (outside of the Pine Valley Ranch Plat) have no legal right to use Forest Way and indeed have never been accessed via Forest Way. Such parcels immediately east of Forest Way have existing means of access via the I-90 Frontage Road to the south and via Prairie Lane to the north.

Since Forest Way was platted by the developer in the 1960s, the owners of the adjacent lots (now owned by the applicants for the plat alteration) have maintained the property as vacant land, for all intents and purposes being an extension of their lots. It has never been used for access, utilities, or otherwise by anyone.

Vacation of Forest Way would prevent confusion and add efficiency, as for all practical purposes Forest Way exists as an extension of the Dickson and Dawn/Shepherd Lots and it neither appears nor is used as an actual road or right-of-way. Vacating Forest Way, and with half of the right of way being added to Dickson's Lot 1 and the other half being added to Dawn/Shepherd's Lot 3 (as is the standard practice when vacating a road) would add certainty in terms of responsibility for maintaining the property and would relieve members of Pine Valley Ranch from potential liability to which the owners may otherwise be subject if the way is not vacated.

D. Title to Forest Way Shall Vest with the Owners of the Adjacent Lots.

Consistent with the general rule that the owners on either side of the road, hold fee title to the center of the road, upon vacation of Forest Way, the north half of Forest Way will become Part of Lot 1, Block 3 of the Plat of Pine Valley Ranch and the south half of Forest Way will become Part of Lot 3 of Block 4 of the Plat of Pine Valley Ranch, all as shown on Attachment 2. A new survey and engineered drawings will be provided to the County for circulation and approval upon direction of the County Board of Commissioners (per RCW 58.17.215).