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Mike Elkins  
Community Development Services  
Kittitas County  
411 N. Ruby St., Suite 2  
Ellensburg, WA 98926

Via Electronic Mail  
[mike.elkins@co.kittitas.wa.us](mailto:mike.elkins@co.kittitas.wa.us)

RE: The Duke Short Plat (SP-07-167)

Dear Mr. Elkins:

We submitted a complete short plat application and requisite fee to the Kittitas County Community Development Services (CDS) on December 28, 2007. I called several times inquiring about the status of our application and received no response. We then received your letter dated January 28, 2008, indicating that CDS is requiring SEPA review of the Duke Short Plat, despite the fact that the short plat is categorically exempt under SEPA rules and the county code.

Our application has been sitting at CDS for too long and we are writing to request that CDS promptly issue a Notice of Application for this short plat in accordance with Kittitas County Code Chapter (KCC)15A.03.060. We also request that CDS retract its requirement for SEPA review and process our complete application accordingly.

Your January 28<sup>th</sup> letter was provided to us beyond the 28 day requirement specified in KCC 15A.03.040(1). At the time of submittal on December 27, 2007, our application met the procedural requirements of Kittitas County and the Notice of Application should have already been issued.

We have great concern about the county's request for SEPA review of our short plat and have not been provided legal justification for CDS' authority to impose this requirement on our project which is categorically exempt under SEPA and county code. The Duke Short Plat is a short subdivision to split a six acre parcel into two three acre parcels, one of which already contains our primary residence. The other 3 acre lot that we wish to create currently has a large horse barn on it with a second driveway off of Red Bridge Road. The property is zoned R-3.

This short subdivision is a statutory categorical exemption under SEPA (WAC 197-11-800 (6)(a)) and KCC 15.04.090(1)(a). The county's short plat application does not require SEPA review and SEPA fees and CDS' Long Plat Subdivision form specifically states that a SEPA environmental checklist is required only for subdivisions of nine or more lots.

The reasons for requiring us to do SEPA as set forth in your January 28<sup>th</sup> letter state that we have to do SEPA environmental review, "Due to the high rate of development in the immediate vicinity" of our property; and that environmental review is required, "in order to assess the potential impacts *to the shared infrastructure of the projects* as well as the potential cumulative environmental impact to the surrounding area." (emphasis added).

These reasons are misplaced and twisted as to our application. CDS is making a far reaching attempt to somehow link our short subdivision to other projects submitted by other entities, all of which are non contiguous to us and which we have nothing to do with and which in no way share any infrastructure with our property. In a phone conversation with you, I offered to work with CDS on whatever the major concern was in lieu of doing SEPA and paying additional fees. Interestingly, you indicated that transportation was a major concern because of the four cluster plats proposed across the street from our property. CDS issued an MDNS for those four cluster plats which would have resulted in over 500 average daily trips. It seems hard to believe that our 2-lot short plat would result in significant transportation impacts, cumulatively or individually. Nevertheless, the four cluster plats have since been denied by the county Planning Commission and Commissioners so this is a moot issue as far as speculative impacts are concerned.

You indicated to me that CDS is “focusing” on the Red Bridge Road area. I’m not sure exactly what this means or how it specifically applies to our short plat.

We have applied for this short subdivision based on the expectation that the county will comply with state laws and its own representation to the public of how short subdivisions will be processed. CDS is wrongly applying SEPA to categorical exemptions on a case by case basis. I reviewed the short plat applications that are posted on the CDS web page and none of the 30 or so short plat applications posted include a SEPA checklist. The imposition of SEPA review on our short plat certainly seems arbitrary.

The statutory language in SEPA and the legislative intent of the categorical exemptions under SEPA and the corresponding case law is clear that environmental review of categorical exemptions cannot be applied on a case-by-case or proposal-by-proposal basis as CDS seeks to do with the Duke Short Plat. This letter is not intended to be a legal treatise on SEPA but I have included a pertinent case (*Dioxin/Organochlorine Center, et al v. Pollution Control Hearings Board et al*) for your review that spells out the court’s consistent view on SEPA and categorical exemptions.

We simply want to short plat our six acres and it seems a bit ridiculous that it’s this difficult and is taking this long. Please promptly process our short subdivision without the SEPA checklist. If CDS continues to insist that SEPA is required for the short plat, please provide us your legal reasons in writing. In the meantime, please promptly issue a Notice of Application for the project in accordance with KCC 15A.03.040. We have been patient but fear that the process will linger on to our detriment unless we push to keep the process going so we can finalize our short plat.

  
Anne Watanabe

Sincerely,

  
Lynn Hatcher

Enclosures

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