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EMAIL: PHIL@TAL-FITZLAW.COM

July 24, 2008

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

Re: Durkan Short Plat, SP-08-0032

Dear Commissioners:

On behalf of Martin J. Durkan, Jr., this notice of appeal is filed from the decision of Kittitas County Community Development Services dated July 11, 2008 regarding Mr. Durkan's request for a short plat. Kittitas County Code 15A.07.010.

Martin J. Durkan, Jr., is the owner of the property at issue here. His mailing address is 330 SW 43rd Street, Suite K, Renton, WA 98055. He is represented by the undersigned in this matter. His appeal relates to the denial of his request for a short plat for parcel number 11941. His short plat request is referenced under number SP-08-0032.

Mr. Durkan applied for and received boundary line adjustments from the County for parcels numbers 11938, 11939, 11940, and 11941. He then filed a short plat subdivision application as to parcel 11941.

Mr. Durkan believes that the decision of Kittitas County Community Development Services on SP-08-0032 is erroneous for several reasons:

- The County is estopped to apply KCC 16.08.055 insofar as Mr. Durkan had extensive conversations with County staff regarding the boundary line adjustments and his intent to file a short plat application for parcel 11941 as reconfigured by the boundary line adjustment. In fact, Mr. Durkan had extensive conversations about the size of the cul-de-sac that would be required by the County once he applied for a short plat subdivision on parcel number 11941. No one from the County advised him that a short plat subdivision would be unavailable to him as a result of the boundary line adjustments.
- The subdivision of parcel number 11941 after the boundary line adjustments for parcels numbers 11938, 11939, and 11940

RECEIVED

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1st / 2nd / 3rd
KITTITAS COUNTY BOARD OF COMMISSIONERS
BOCC
CDS / PA

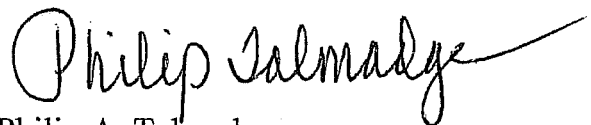
would not “result in increased development or density otherwise regulated by applicable land use codes,” as contemplated by KCC 16.08.055. Mr. Durkan has owned the four parcels at question here for 12 years, and paid taxes on such parcels on the basis of R-3 zoning, which permits one home for every three acres. The density that he proposes to create for the four lots is just what R-3 zoning would permit. Such density is consistent not only with the County’s comprehensive plan, but with its development regulations as well. Mr. Durkan owns 21 acres in the four parcels, which should permit him to have seven residences on such parcels, particularly since he has paid taxes on the parcels on the basis of R-3 zoning. Such development is entirely consistent with zoning in the neighborhood insofar as the neighboring lots are even smaller than three acres in size.

- KCC 16.08.055 may be inconsistent with Washington state law as interpreted by the Washington Supreme Court in *City of Seattle v. Crispin*, 149 Wn.2d 896, 71 P.3d 208 (2003).

Mr. Durkan respectfully requests that the Board of County Commissioners reverse the decision of Kittitas County Community Development Services as outlined in the attached July 11, 2008 letter of staff planner Trudie Pettit with respect to SP-08-0032. The Board should direct the Community Development Services Department to process SP-08-0032.

If you require further information from me or from Mr. Durkan in connection with this appeal, please do not hesitate to let us know.

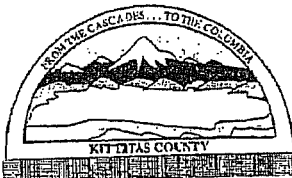
Very truly yours,



Philip A. Talmadge

cc: Martin J. Durkan, Jr.

enclosure



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

Fax (509) 962-7682

"Building Partnerships – Building Communities"

July 11, 2008

Martin Durkan
330 SW 43rd Street
Suite K
Renton, WA 98055

RE: Durkan Short Plat, SP-08-00032

Dear Mr. Durkan,

Community Development Services is in receipt of the referenced application and hereby **denies** the request for a Short Plat. The referenced application was submitted on June 18, 2008, as a follow up to the Durkan Boundary Line Adjustment, BLA-08-14 which was finalized on June 2, 2008. The approved boundary line adjustment adjusted the parcels as follows:

1. Parcel number 11938 was adjusted from 5.34 acres to 3.04 acres.
2. Parcel number 11939 was adjusted from 5.75 acres to 3.11 acres.
3. Parcel number 11940 was adjusted from 5.00 acres to 3.26 acres.
4. Parcel number 11941 was adjusted from 5.38 acres to 12.06 acres.

The referenced Short Plat is now proposing to subdivide the 12.06 acre parcel into 3 lots. This denial is based on Kittitas County Code 16.08.055, which states the following:

Boundary line adjustments are not intended to make changes that result in increased development or density otherwise regulated by applicable land use codes.

Per Kittitas County Code 16.08.055 Boundary Line Adjustments cannot be used to create increased density and therefore this Short Plat is not allowed.

Pursuant to Chapter 15A.07 KCC, this Administrative Decision may be appealed by submitted specific factual objections in writing with a fee of \$500.00 to the Kittitas County Board of County Commissioners, Kittitas County Courthouse Room 110, Ellensburg, WA 98926. **Timely appeals must be received no later than 5:00 PM, July 25, 2008.** Aggrieved parties are encouraged to contact the Kittitas County Board of County Commissioners at (509) 962-7508 for more information on the appeal process.

Sincerely,

Trudie Pettit
Staff Planner

cc: Encompass Engineering & Surveying

Attachments: KCC 16.08.055
Short Plat Application (SP-08-00032)
BLA Application (BLA-08-14)

DARRYL PIERCY, DIRECTOR

ALLISON KIMBALL, ASSISTANT DIRECTOR

COMMUNITY PLANNING • BUILDING INSPECTION • PLAN REVIEW • ADMINISTRATION • PERMIT SERVICES • CODE ENFORCEMENT • FIRE INVESTIGATION

3796

MARTIN J. DURKAN, JR.
222403 SWEENEY RD SE
MAPLE VALLEY, WA 98038

18-2/1250 WA
04608

Date 7-25-08

Pay to the Order of Kittitas County \$ 500⁰⁰ -

Five hundred Dollars



Valued Client Since 1990

Wilderness Village 084608
Washington

For Capital KL SP-08-00032 Martin J. Durkan, Jr.

⑆ 125000024⑆ 84999 358⑈ 3796

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Kittitas County Office Of The Treasurer
Amy J. Mills, Treasurer
205 W. Fifth Suite #102
Ellensburg, Wa 98926
Phone (509) 962-7535 Fax (509) 933-8212

Cash Receipts

Receipt Number: 2008-3564 Date: 07/25/2008

Received From: COMMISSIONER'S OFFICE-MANDY

Check Amount: \$500.00

Cash Amount: \$0.00

Eft Amount: \$0.00

Total Amount: \$500.00

Deputy: lindad Receipt Type: CHK

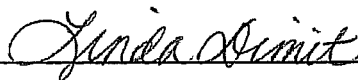
Template:

Comments:

Appeal Fee for Martin J. Durkan Re: Durkan Short Plat SP-08-0032. - CASH SUSPENSE RECEIPT 2008-2134

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

Treasurer of Kittitas County



Submitted By