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KITTITAS COUNTY HEARING EXAMINER

Nunnally Holdings, LLC)
Administrative Interpretation Appeal) NO. SE-21-00006
)
) COUNTY'S BRIEF
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OVERVIEW

COMES NOW RESPONDENT KITTITAS COUNTY, by and through its attorney of record, Neil A. Caulkins, and files its brief in the above captioned appeal of a determination that a plat amendment is required in this matter. Twelve of the thirteen lots involved in this matter were created in 2002 under the county's administrative segregation process that was finally repealed in 2014. The current owner, now desiring to move forward with development, has added a thirteenth lot to the development or subdivision and is proposing redoing the interior road system such that all traffic will come and go from Strande Road, rather than Hanson Road as depicted on the 2002 record of survey.

Kittitas County code (KCC 16.08.200) and RCW 58.17.020(1) define "subdivision" as any division of land into five or more lots. Hence, the subject property of this action is a "subdivision" under both state law and county code. RCW 58.17.030 requires all "subdivisions" to comply with that chapter and RCW 58.17.215 requires that any alteration of a "subdivision", or "any portion thereof", requires a plat amendment. By adding another lot to the project and completely rerouting the internal road system, the appellant is seeking to alter a "subdivision", or some portion thereof, and so is required to first obtain an approved plat amendment.

1 **FACTS**

2 In 2002 the then-owner of the majority of the subject property filed a record of survey which
3 created twelve lots under the county’s then-existing administrative segregation process. (A true and
4 correct copy is attached hereto as Exhibit 1.) This record of survey depicts twelve lots and an
5 internal road system that connects to the county road system at Hanson Road. *Id.* Nothing seems
6 to have occurred on this property until the current owner purchased an additional adjacent lot
7 (denominated as lot 13) and proposed redoing the internal road system to feed off of Strande Road,
8 rather than Hanson Road, due to the expense of a bridge. (Declaration of Jansen). (A true and
9 correct copy of the proposal by the Appellant is attached hereto as Exhibit 2.)

10 The Appellant sought a fill and grade permit, which triggered SEPA review. *Id.* At that
11 point the county realized there was the need for a plat alteration. The Appellant was notified of that,
12 and processing of the fill and grade permit and the associated SEPA review were paused awaiting
13 the outcome of the needed plat amendment.

14 In an effort to resolve the conflict between the county’s position that a plat amendment was
15 needed and the Appellant’s position that what they were seeking was exempt from review, the
16 Director of Community Development Services issued a code interpretation such that the Appellant
17 could appeal it to the Hearings Examiner and a resolution of the conflict could be obtained. That
18 code interpretation (attached hereto as Exhibit 3) essentially states that (1) the subject property
19 meets the definition of a “subdivision”, (2) adding another parcel and rerouting the internal road
20 system to feed from a different county road is an alteration of a “subdivision”, and (3) any alteration
21 of a “subdivision”, under RCW 58.17.215, requires a plat amendment. This appeal followed.

17 **ADMINISTRATIVE SEGREGATION HISTORY**

18 In this matter, it will probably be useful to have an overview and history of the county’s old
19 administrative segregation process. County code in the 1990s (at then section KCC 16.04.020(1))
20 provided an exemption from subdivision code compliance for those subdivisions that were a
21 “Division of land into fewer than five lots or tracts where no parcel is less than twenty acres,
22 provided that the parent parcel was not created by prior division within a ten-year period.” (A true
23 and correct copy is attached hereto as Exhibit 4.)

24 In the 2005 and 2007 versions of county code, “Administrative Segregation” appeared
merely as a definition (at then section KCC 16.08.015) with no associated process. That definition

1 provided “ Administrative Segregation” means the division of land within the boundaries of a
2 legal description into fewer than ten lots or tracts where no lot or tract is less than twenty (20) acres;
3 provided that the parent parcel was not created by a division within a five-year period. Land divided
4 by administrative segregation shall not be reduced in size below 20 acres or further subdivided
5 without review under the provisions for short plat, large lot subdivision or plat. The appropriate
6 method of division will be determined based on the size and number of lots being proposed.
7 Administrative Segregations must comply with KCC 16.18 and KCC Title 12 Road Standards.”
(Ch. 16.18 KCC has to do with not impeding irrigation delivery.) (A true and correct copy is
attached hereto as Exhibit 5.)¹

8 In 2010 the definition was amended to remove the requirement that the parent parcel could
9 not have been created in the five years prior to the Administrative Segregation. Also, provisions
10 were added that Administrative Segregations had to comport with regulations of on-site sewage
11 systems (KCC 13.04.080) and wellhead protection areas (KCC 17A.08.025). (A true and correct
copy is attached hereto as Exhibit 6.)

12 In 2011, in an effort to establish a process and criteria for this sort of subdivision, the county
13 created Chapter 16.06 KCC. (A true and correct copy of which is attached hereto as Exhibit 7.)
14 What exactly the provisions were in sections .050 and .060 is not currently clear. It ultimately
makes no difference because, as we will see, they were all repealed in 2012.

15 In 2012, the Yakama Nation filed a Growth Management Act (GMA) challenge to the
16 county’s Administrative Segregation provisions. A true and correct copy of the Prehearing Order
17 in that matter which summarizes the issues is attached hereto as Exhibit 8. Generally speaking, the
18 lawsuit alleged that the county’s Administrative Segregation provisions violated numerous
provisions of the GMA as well as RCW 19.27.097 and RCW 58.17.110 (which are also portions

19 ¹ The ultimately legally indefensible practice at the time, as shown by the two applications attached to the
20 declaration of Cruse, was to submit *one* application that was a layered series of administrative segregations and
21 boundary line adjustments (BLAs) that would (1) divide black acre into 4 lots, (2) BLA those lots such that three
22 were small (well below the required minimum as per zoning-notice the first example in the Cruse declaration was
23 creating 3-acre lots in 20-acre zoning and this one obviously created lots around 10-acres when the administrative
segregation process was not to have created anything smaller than 20-acres in size) and one residual parcel was
much larger, (3) divide the residual parcel into 4 lots via another administrative segregation, (4) BLA those such
that 3 are small and one is a large residual parcel, (5) repeat ad infinitum. This was a means of skirting the
requirements that the parcel could not have been previously divided and that it only create X number of lots when
the landowner wanted more-because it was all done in one application, there was no “previous” one that would
preclude it being done again. How this skirted minimum lot sizes, I do not know. This is probably why, in this
matter, we have more lots created than the code allowed and in smaller lot sizes.

1 of the GMA). The lack of review related to the county's Administrative Segregation program was
2 alleged to have failed to protect resource lands, failed to protect rural lands, failed to satisfy water
3 protection requirements, and to violate the Critical Areas Ordinance and Shoreline Master Plan. *Id.*

4 In response to the Yakama Nation's GMA challenge, the Kittitas County Board of
5 Commissioners passed Ordinance 2012-006. (A true and correct copy of which is attached hereto
6 as Exhibit 9.) Given the inability to defend Administrative Segregations, the county essentially
7 entered into a phased repeal. Ordinance 2012-006 was the first portion of it. That ordinance
8 provides, amongst other things, that "Kittitas County's administrative segregation process does not
9 provide for the level of review required legally and fails to protect rural character and the
10 environment...Kittitas County's administrative segregation process does not qualify for vested
11 rights under Washington State Law..." *Id.* Ordinance 2012-006 repealed all sections of Ch. 16.06
12 KCC except for section .040 which it significantly amended to provide for processing of
13 applications that had already been submitted. *Id.*

14 In 2014, as part of Ordinance 2014-015, the county repealed the rest of Ch. 16.06 KCC,
15 thereby ending Administrative Segregation. (A true and correct copy of the relevant portions
16 thereof are attached hereto as Exhibit 10.) Upon that final repeal, the Yakama Nation and County
17 filed a Stipulated Joint Motion For Dismissal with the GMA Hearings Board who then issued an
18 Order Of Dismissal. (True and correct copies of each are attached hereto as, respectively, Exhibits
19 11 and 12.)

20 STANDARD OF REVIEW

21 Considerable deference given to interpretation by agency charged with enforcing statute. In
22 addition, a court accords deference to an interpretation of law in matters involving the agency's
23 special knowledge and expertise. *Cashmere Valley Bank v. Dep't of Revenue*, 181 Wn.2d 622,
24 635-6, 334 P.3d 1100 (2014).

25 ARGUMENT

26 This case asks this question: "now that this thing exists, after having been created under a
27 process that no longer exists, and alterations to it are sought, how should it be regulated to review,
28 approve, or deny the proposed alteration?"²

29 ² It should be pointed out that the Appellant could execute what was depicted on the 2002 record of survey right
30 away, though they would need a fill and grade permit and whatever permit is required to upgrade the bridge.

1 **1. The Subject Property is a “Subdivision.”**

2 Both Kittitas County Code section 16.08.200 and RCW 58.17.020(1) define a “subdivision”
3 as the division of land into five or more lots. This administrative segregation that was completed
4 in 2002 created twelve lots, and so is a “subdivision” under both county and state law. (A fine and
5 thorough explanation of the interplay and interconnectedness of county code and state law is found
6 in the code interpretation on appeal here and attached hereto as Exhibit 3, and so will not be
7 repeated here.)

8 RCW 58.17.215 requires a plat amendment for alteration of “any subdivision” or “any
9 portion thereof.” The intentional use by the legislature of the phrase “any subdivision” indicates
10 an inclusiveness of whatever division of land into five or more lots, whatever the process or means
11 employed to do so. The phrase “any subdivision” would include property such as that at issue in
12 this case where the division of land was created by something other than the platting process.

13 Similarly, the phrase “any portion thereof” indicates an inclusiveness of any alteration from
14 what was originally indicated. In this matter, what was originally indicated was a set of twelve lots
15 with an internal road system feeding off of Hanson Road. Now what is being proposed is thirteen
16 lots (another lot, not a part of the 2002 record of survey has been added) with an internal road
17 system that feeds off of Strande Road. Lots 3 and 8 will no longer have a road over them and lots
18 7 and 12, as well as the new lot 13, will. Additionally, while the 2002 record of survey showed a
19 cul de sac amongst lots 1, 2, 5, and 6, now there will be a hammer head there. RCW 58.17.215
20 requires a plat amendment for an alteration to a “subdivision” such as this or “any portion thereof.”
21 These proposed changes certainly constitute alterations to some or many portions of this
22 “subdivision” and so, as a matter of state law, require a plat amendment.

23 **2. There are No Vested Rights Here.**

24 Appellants argue at length that this was created under the administrative segregation process
that involved no review, so their proposed alteration cannot be reviewed either. Said another way,
appellant is arguing that their project is vested from review. As we will see, there are no vested
rights involved here and appellant’s argument would result in them, not only receiving vested rights

1 the legislature did not grant, but, would result in them receiving vested rights in excess of those the
2 legislature did grant.³

3 The vested rights doctrine has most recently, and most clearly, been articulated in *RMG*
4 *Worldwide LLC v. Pierce County*, 2 Wn.App. 257, 279-280, 409 P.3d 1126 (2017). There the court
5 stated that the vested rights doctrine is statutory and applies only to building permits, subdivisions,
6 and development agreements. While this is a “subdivision”, vested rights only apply to the review
7 of the initial application-that application, once complete, must be reviewed for purposes of
8 determining whether to approve or deny it, under the regulations on the books at the time of
9 submittal of that complete application. RCW 58.17.033. As to the further life of that “subdivision”,
10 RCW 58.17.170(3) provides that “a subdivision shall be governed by the terms of approval of the
11 final plat, and the statutes, ordinances, and regulations in effect at the time of approval” for various
12 lengths of time depending upon when it was approved-the longest being ten years for certain plats
13 approved prior to 2007. It is important to note that this statutory vesting for created lots only
14 applies to those which had a “final plat approval”. *Id.* Lots created by means other than platting
15 are not statutorily entitled to this benefit.

16 Said another way, the initial review, approval, or denial of a “subdivision” must be under
17 the laws on the books as of the day the complete application was filed. RCW 58.17.033. This
18 vesting only applies to the initial review, approval, or denial. “Any subdivisions” that seek
19 alteration of “any portion thereof”, must file for a plat amendment. RCW 58.17.215. Those
20 “subdivisions” that had a “final plat approval” remain vested to the laws on the books at the time
21 of plat approval for a period of years depending upon when they were approved, and no such
22 vesting is provided for “subdivisions” that did not have a “final plat approval”. RCW 58.17.170(3).
23 *RMG Worldwide* rearticulated the law that vested rights are purely statutory-if the Legislature did
24 not expressly grant them, they do not exist. The Legislature provided for a continuing limited
vesting for “subdivisions” that had received a “final plat approval” in RCW 58.17.170(3) and made
no such provision for “subdivisions” that received any other type of approval. Hence, those other
types do not have vested rights and are forever subject to current regulation.

³ It is remarkable that Appellant argues both that an administrative segregation is/was not a plat and that a record
of survey (the filing of which was the last stage of administrative segregation approval [Exhibit 5 pg. 1 at KCC
16.04.020(5)]) is not a plat document, yet assert that their project remains vested (as though it were a plat) to
regulations in effect back in the day.

1 In other words, all subdivisions must be reviewed for approval or denial under the
2 regulations on the books as of the date of submittal of a complete application. RCW 58.17.033.
3 Vested rights after subdivision approval are limited to those that received a “final plat approval.”
4 RCW 58.17.170(3). “Any subdivision” seeking an alteration to “any portion thereof” must apply
5 for a plat amendment. RCW 58.17.215.

6 In this case the initial review is not at issue. The matter was reviewed and approved under
7 the regulations on the books at the time. It is clear from the statutory language that “any
8 subdivision” that seeks an alteration needs a plat amendment, and so this change of road system
9 requires a plat amendment. Appellant argues that, because they were initially exempt from review
10 they must remain so, but that is contrary to the statute. The statute (RCW 58.17.170(3)) only
11 provides for any level of vesting to subdivisions that received a “final plat approval”, which this
12 property did not. The Legislature only granted vested rights to those subdivisions that receive a
13 “final plat approval”, and since vested rights are purely statutory, if the legislature did not grant the
14 right, the right does not exist. Similarly, given that the legislature only granted vested rights to
15 completed plats for 5 or 7 years (the 10-year grant in .170(3)(b) was only to those platted prior to
16 2007, and so has long expired), and the appellant is claiming they still have the right to be review-
17 free after nineteen years, they are arguing that they require significantly more vesting than the
18 legislature gave anyone. There is no legal authority for the vesting that appellant argues they
19 deserve.

20 Appellant’s argument essentially boils down to the bare assertion that, because these lots
21 were created without any review, they cannot be reviewed now when they desire to do something
22 different. There is no authority for that. They are arguing that because they were subject to no
23 review initially, they can be subjected to no review ever after. There is no authority for that. This
24 is contrary to any shade of legal non-conforming use—a legal non-conforming use can exist as it is,
but is subject to current regulation once it seeks to make a change. Here, appellant could go forth
with what is depicted on the 2002 record of survey, but do not want to because of the expense of
the bridge involved. That is fine, but that change triggers application of current regulation which
requires a plat amendment.

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1 **3. Appellants Make Irrelevant Arguments.**

2 Appellants argue that the lots created in 2002 are valid or make arguments that go to that
3 point. The validity of these lots is not at issue in this case. Yes, they are valid lots.

4 Appellants seem to argue that the 2002 record of survey did not create an easement, and so
5 doing it differently is not an alteration. RCW 58.17.215 requires a plat amendment for an alteration
6 of a “subdivision” or “any portion thereof.” What was depicted on the 2002 record of survey did
7 not include lot 13, did not include a road feeding off of Strande Road (but rather off of Hanson
8 Road), it depicted roadway crossing lots 3 and 8 (not lots 7, 12, and 13), and it depicted a cul de
9 sac amongst lots 1, 2, 5, and 6 rather than a hammer head. These are alterations of a “subdivision”
10 or “any portion thereof”. Whether or not an easement was created by the 2002 record of survey is
11 irrelevant. What is relevant is that the appellant desires to do something different than what is
12 depicted on that record of survey, and that triggers the need for a plat amendment under RCW
13 58.17.215.

14 Appellant tries to liken private easements to the instant road system unsuccessfully. One lot
15 owner granting an easement to another lot owner such that they can drive periodically over their
16 back yard to park a boat more easily, is completely different than redoing the entire road system of
17 a subdivision. The former has no bearing upon traffic planning, while the latter does and is a proper
18 inquiry as part of a plat amendment. Said another way, the former does not amend a “subdivision”
19 while the latter does.

20 The county is not arguing that subsequent versions of the administrative segregation
21 regulations affect this. The county is arguing that, now that the administrative segregation process
22 no longer exists, and someone wants to amend one, under state law it meets the definition of a
23 “subdivision” (RCW 58.17.020(1), it must be treated as such (RCW 58.17.030), and so requires a
24 plat amendment (RCW 58.17.215) to do what the current owner is proposing.

19 **4. Equitable Estoppel Does Not Run Against The Government.**

20 Appellants argue that requiring a plat amendment is contrary to decades of county practice.
21 In the first place it should be pointed out that this makes sense given that the county only repealed
22 the administrative segregation regulations in 2014, and so its newness is expected. Given the
23 county’s arguments here (as well as the treatment of other such situations, some perhaps recent),
24 could it be argued that the county should have been doing this before? The answer is possibly yes,

1 and that is irrelevant to the position the county is taking now. It is well established law that prior
2 mistakes in interpretation or enforcement (questions of statutory interpretation or instances of
3 possible prior ultra vires acts) will not bind the government to continue the error because that would
4 be impinging governmental function. The government has a duty to correctly apply the law
5 regardless of prior errors. Said another way, in this sort of situation, equitable estoppel does not run
against the government.

6 In *Campbell & Gwinn v. Dept. of Ecology*, 146 Wn.2d 1, 19, 43 P.3d 4 (2002) appellant
7 argued that equitable estoppel should bar Ecology from enforcing the exempt well statute against
8 them because they “claimed that (1) Ecology did not appeal a 1986 county short plat determination
9 which indicated that the lots in C&G's development would be served by individual wells; (2) an
10 Ecology employee told Mr. Campbell that C&G would be able to place a well on every one to two
11 lots without a permit provided the 5,000 gpd limit was met; and (3) Ecology did not take
12 enforcement action until four months after it received from C&G notices to construct exempt water
13 wells on the lots in Rambling Brooks Estates.” The court held that “equitable estoppel against the
14 government is not favored. Accordingly, when the doctrine is asserted against the government, it
15 must be necessary to prevent a manifest injustice and applying estoppel must not impair the
16 exercise of government functions. Proof of the elements of estoppel must be by clear, cogent and
convincing evidence.”⁴ Because the matter involved a statutory interpretation rather than a
question of fact, appellant’s equitable estoppel claim failed. In other words, correctly interpreting
and enforcing a statute is a government function and requiring that prior errors continue to be
followed would impair that function.

17 Here there is no admission or statement contrary to the county’s position that a plat
18 amendment is required, there is no showing of reliance upon such contrary position, and there is
19 no showing of prejudice if appellant should be required to get a plat amendment. Instead, this is a
20 question of statutory interpretation-does RCW 58.17.215 require a plat alteration for modification
21 of a “subdivision” or any part thereof, regardless of how that “subdivision” was created? Because
22 this is a question of statutory interpretation, equitable estoppel does not run against the government.
Additional to there being no showing of detrimental reliance, there is no showing of manifest

23 ⁴ *In re estate of Haviland*, 162 Wn.App. 548, 558, 257 P.3d 854 (2011)(The clear, cogent, and convincing
standard requires evidence that convinces the trier of fact that the fact in issue is “highly probable.”)

1 injustice in requiring a plat amendment, and application of the doctrine would impair the
2 governmental powers of correctly enforcing the subdivision regulations that effect health, safety,
3 and welfare. See 146 Wn.2d at 19; *Fitzgerald v. Neves, Inc.*, 15 Wn.App. 421, 127-8, 550 P. 2d 52
4 (1976). Said another way, government has a right and a duty to correctly enforce the law, and so
5 prior misinterpretations cannot impede the exercise of that duty, it cannot impede government
6 function by binding the government to continue an error. *State v. Adams*, 107 Wn2d 611, 614-5,
7 732 P.2d 149 (1987).

8 In other words, whether or not the county misinterpreted or mis-enforced the need for a plat
9 amendment in this sort of instance previously is irrelevant. What is relevant is that the county now
10 sees the correct interpretation/enforcement of the law (statutory interpretation), is not following
11 prior course (ultra vires acts), and is dispatching its responsibility and duty to rightly enforce the
12 law (governmental function). Appellants arguments to the contrary would undermine
13 governmental function and bind the county to continuing an error. The Department of Ecology was
14 able to enforce against the developer in *Campbell & Gwinn* despite its prior statements and actions
15 and Kittitas County can require a plat amendment in this instance because that is what the law
16 requires, despite any possible prior contrary conduct.

17 CONCLUSION

18 The subject property is a “subdivision” under county code and state law and it must be
19 treated as such. RCW 58.17.215 requires that “any subdivision” that is seeking alteration to “any
20 portion thereof” first get a plat amendment. Vested rights law gives limited vesting (for periods of
21 5 or 7 years) to only those “subdivisions” that received a “final plat approval”, which this property
22 did not. We are also long beyond the time when such vesting would have existed had it attached
23 in the first place, which it did not. Whether or not an easement was created is irrelevant because
24 what is being proposed is markedly different than what appeared in the 2002 record of survey. The
validity of the lots here is not at issue. The county’s history of actions related to administrative
segregations and plat amendment is irrelevant and not barred by the doctrine of equitable estoppel
because the doctrine does not run against the government if doing so would impede government

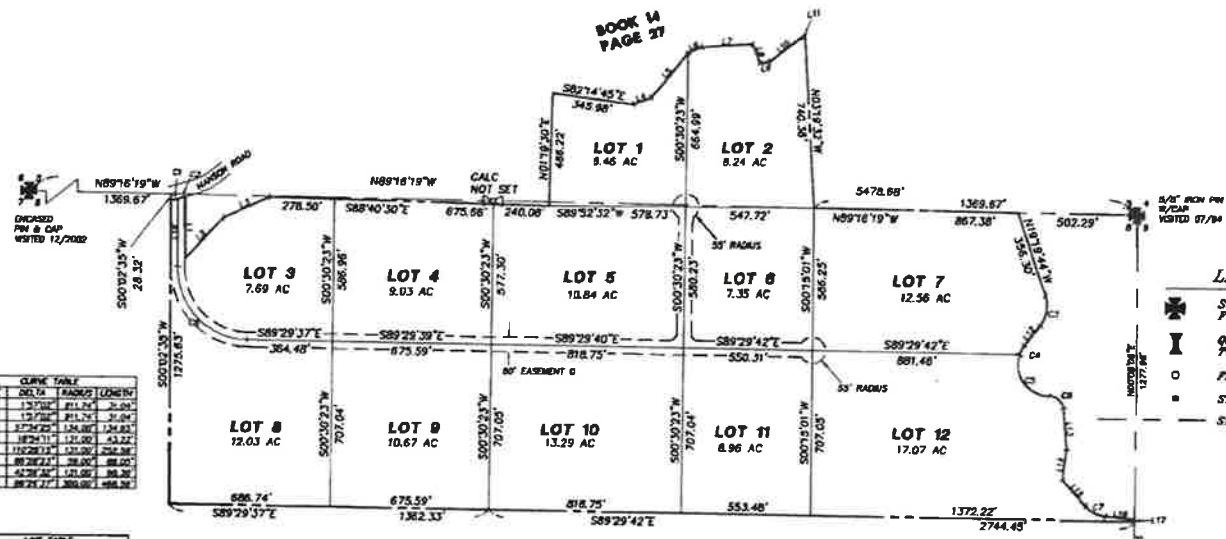
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1 function, and forcing the county to erroneously enforce land use regulations would certainly
2 impede government function. Therefore, Kittitas County's code interpretation must be upheld, and
3 the appellant must be required to seek a plat amendment.

4 DATED this 20th day of August 2021.

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6 By 
7 Neil A. Caulkins
8 WSBA # 31759
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RECORD OF SURVEY A PORTION OF SECTIONS 5 & 8, T.17N., R.18E., W.M. KITTITAS COUNTY, WASHINGTON.



CHAIN	DATE	BEARING	LENGTH
C1	12/20/02	S89°16'19"W	1368.67
C2	12/20/02	S50°02'35"W	28.32
C3	12/20/02	S89°29'37"E	354.48
C4	12/20/02	S89°29'37"E	1275.83
C5	12/20/02	S50°02'35"W	1275.83
C6	12/20/02	S89°16'19"W	1368.67
C7	12/20/02	S89°29'37"E	354.48
C8	12/20/02	S50°02'35"W	28.32
C9	12/20/02	S89°29'37"E	354.48
C10	12/20/02	S89°29'37"E	1275.83
C11	12/20/02	S50°02'35"W	1275.83
C12	12/20/02	S89°16'19"W	1368.67

LINE	BEARING	LENGTH
L1	S89°16'19"W	1368.67
L2	S50°02'35"W	28.32
L3	S89°29'37"E	354.48
L4	S89°29'37"E	1275.83
L5	S50°02'35"W	1275.83
L6	S89°16'19"W	1368.67
L7	S89°29'37"E	354.48
L8	S89°29'37"E	1275.83
L9	S50°02'35"W	1275.83
L10	S89°16'19"W	1368.67
L11	S89°29'37"E	354.48
L12	S89°29'37"E	1275.83
L13	S50°02'35"W	1275.83
L14	S89°16'19"W	1368.67
L15	S89°29'37"E	354.48
L16	S89°29'37"E	1275.83
L17	S50°02'35"W	1275.83
L18	S89°16'19"W	1368.67

- LEGEND**
- ⊕ SECTION CORNER COMMON TO FOUR SECTIONS.
 - ⊕ QUARTER CORNER COMMON TO TWO SECTIONS
 - FND REBAR L5#10@2
 - SET 1/2" REBAR L5 #10@2
 - - - SECTION LINE

- LEGEND**
- ⊕ SECTION CORNER COMMON TO FOUR SECTIONS.
 - ⊕ QUARTER CORNER COMMON TO TWO SECTIONS
 - ⊕ CALCULATED QUARTER CORNER
 - FND REBAR L5#10@2
 - SET 1/2" REBAR L5 #10@2
 - - - SECTION LINE

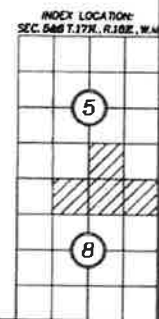


EXHIBIT 1

RECORDER'S CERTIFICATE 200212310066
 Filed for record this 31 day of December 2002 at 8:57 AM in
 book 52 of RECORDS at page 147 at the request of
DAVID P. NELSON
 Surveyor's Name
DAVID B. BOWEN County Auditor
S. J. Anderson Deputy County Auditor

SURVEYOR'S CERTIFICATE
 This map correctly represents a survey made by
 me or under my direction in conformance with the
 requirements of the Survey Recording Act of the
 request of LARRY ANDERSON
 in Oct., 2002.
DAVID P. NELSON
 Certificate No. 18992

EASTSIDE CONSULTANTS, INC.
 CONSULTING SURVEYORS
 610 EAST PINE
 OLYMPIA, WASHINGTON 98502
 PHONE: 360-774-7200
 FAX: 360-774-7100

RECORD OF SURVEY
 PREPARED FOR
LARRY ANDERSON
ELLINGWOOD
 WASHINGTON
 METTLER COUNTY
 DWN BY T. ROLETTO DATE 12/2002 JOB NO. 01550
 DCD BY D. NELSON SCALE 1"=300' SHEET 1 of 2

RECORD OF SURVEY

A PORTION OF SECTIONS 5 & 8, T.17N., R.18E., W.M. KITITAS COUNTY, WASHINGTON.

NOTES:

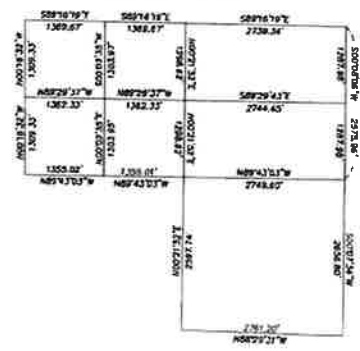
1. THIS SURVEY WAS PERFORMED USING A TOPCON GTS-3C TOTAL STATION. THE CONTROLLING MONUMENTS AND PROPERTY CORNERS SHOWN HEREON WERE LOCATED, STAKED AND CHECKED FROM A CLOSED FIELD TRAVERSE IN EXCESS OF 1:10,000 LINEAR CLOSURE AFTER ADJUSTMENT.
2. FOR SECTION SUBDIVISION, CORNER DOCUMENTATION AND ADDITIONAL SURVEY INFORMATION, SEE BOOK 14 OF SURVEYS, PAGE 27, AND BOOK 15 OF SURVEYS, PAGE 57, AND THE SURVEYS REFERENCED THEREIN. THE BASIS OF BEARINGS SHOWN HEREON IS THE SAME AS THE SURVEY OF RECORD IN BOOK 15, PAGE 57.
3. ANY FURTHER SUBDIVISION OR LOTS TO BE SERVED BY PROPOSED ACCESS MAY RESULT IN FURTHER ACCESS REQUIREMENTS. SEE KITITAS COUNTY ROAD STANDARDS (SEC. 12.30.010).
4. THE COSTS OF CONSTRUCTING, MAINTAINING AND SNOW REMOVAL FOR ALL ROADS, STREETS, ACCESSES AND ALLEYS WITHIN THIS PLAT SHALL BE THE OBLIGATION OF ALL OF THE OWNERS OF THE LOTS OF THE PLAT AND OF ANY ADDITIONAL LOTS THAT MAY BE SERVED BY THESE ROADS, STREETS AND ALLEYS.
5. THIS SURVEY MAY NOT SHOW ALL EASEMENTS WHICH MAY PERTAIN TO THIS PROPERTY.
6. MAINTENANCE OF THE ACCESS IS THE RESPONSIBILITY OF THOSE WHO BENEFIT FROM ITS USE.
7. THE PURPOSE OF THIS SURVEY IS FOR TAX LOT SEGREGATION AND BOUNDARY LINE ADJUSTMENT. IT WAS NOT WITHIN THE SCOPE OF THIS PROJECT TO SET LOT CORNERS OR IDENTIFY PROPERTY BOUNDARIES.

LEGAL DESCRIPTION

ORIGINAL PARCEL: 2001-0202-0005

- LOT 1
 LOT 1 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5 AND THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 2
 LOT 2 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5 AND THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 3
 LOT 3 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 4
 LOT 4 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 5
 LOT 5 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 6
 LOT 6 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 7
 LOT 7 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 8
 LOT 8 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 9
 LOT 9 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 10
 LOT 10 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 11
 LOT 11 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- LOT 12
 LOT 12 OF THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, BEING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., COUNTY OF KITITAS, STATE OF WASHINGTON.
- EASEMENT G AS DELINEATED ON THAT CERTAIN SURVEY AS RECORDED DECEMBER 21, 2002, IN BOOK 28 OF SURVEYS AT PAGE 111-112 UNDER AUDITOR'S FILE NO. 200212310006, RECORDS OF KITITAS COUNTY, STATE OF WASHINGTON, AFFECTING A PORTION OF THE NORTH HALF OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., KITITAS COUNTY, WASHINGTON.

SECTION CLOSURE



RECORDER'S CERTIFICATE 200212310006
 Filed for record this 31st day of December 2002, at 7:57AM in book 28 of SURVEYS, at page 111 of the request of DAVID P. NELSON
David P. Nelson
 Deputy County Auditor

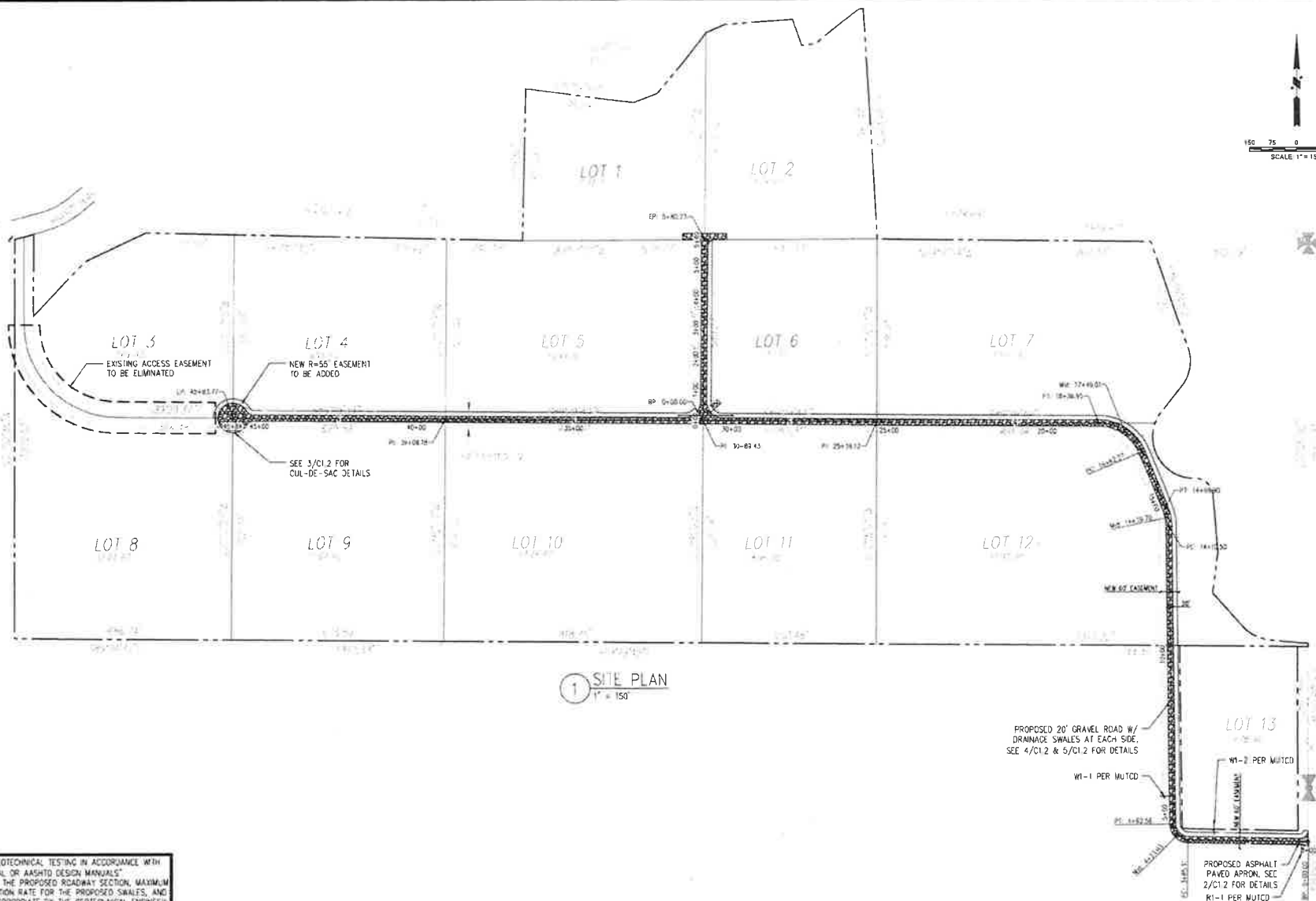
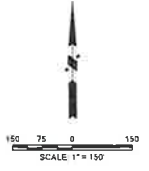
SURVEYOR'S CERTIFICATE
 This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of LARRY ANDERSON in DEC. 2002.
DAVID P. NELSON
 Certificate No. 18092



EASTSIDE CONSULTANTS, INC.
 ENGINEERS-SURVEYORS
 1001 EAST FIRST
 CLE ELIUM, WASHINGTON 98822
 PHONE: (206)974-7668
 FAX: (206)974-7419

RECORD OF SURVEY		
PREPARED FOR LARRY ANDERSON ELIUM, WASHINGTON		
KITITAS COUNTY	DATE	WASHINGTON
DWN BY <u>T. ROLETT</u>	12/2002	JOB NO. <u>01550</u>
CHKD BY <u>D. NELSON</u>	SCALE <u>1"=300'</u>	SHEET <u>2 of 2</u>

EXHIBIT 2



1 SITE PLAN
1" = 150'

LOTS AREAS TABLE	
LOT #	LOT AREA, Ac
1	6.46
2	9.24
3	7.85
4	9.03
5	12.84
6	7.56
7	12.56
8	12.03
9	10.47
10	13.29
11	8.96
12	17.07
13	4.38
AVERAGE	9.92

THE CONTRACTOR SHALL PROVIDE GEOTECHNICAL TESTING IN ACCORDANCE WITH "50001 GEOTECHNICAL DESIGN MANUAL OR AASHTO DESIGN MANUALS". GEOTECHNICAL REPORT MUST VERIFY THE PROPOSED ROADWAY SECTION, MAXIMUM SLOPE REQUIREMENTS, SOIL INFILTRATION RATE FOR THE PROPOSED SWALES, AND ANY OTHER INFORMATION DEEMED APPROPRIATE BY THE GEOTECHNICAL ENGINEER.

MARK	REVISION DESCRIPTION	BY	APP.	DATE



DRAWN BY	DP
DESIGN BY	TS
CHECK BY	TS
PROJECT MGR	TS

HANSEN ROAD DEVELOPMENT
ROADWAY PLANS
SITE PLAN

DRAWING NO.	C1.1
PROJECT NO.	20.010
DATE	11/23/20
SHEET NO.	2 OF 10



EXHIBIT 3

KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

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

CDS@CO.KITTITAS.WA.US

Office (509) 962-7506

"Building Partnerships - Building Communities"

June 4, 2021

Trav Story
PO Box 745
Moses Lake, WA 98837

RE: SE-21-00006 Nunnally, Administrative Determination that Plat Alteration is Required

Mr. Story:

I have reviewed the record for the above-referenced SEPA application and determined that it is necessary to issue a written administrative interpretation in accordance with KCC 15A.01.040(2)(b) regarding the need for a plat alteration for the proposed project.

KCC 15A.01.040(2)(a) authorizes the Community Development Services (CDS) Director to administer several Titles of Kittitas County Code, including Title 16, Subdivisions. Title 16 was enacted under the authority of RCW 58.17. RCW 58.17 contemplates local subdivision regulations and, indeed, relies upon them. RCW 58.17 and KCC Title 16 supplement each other to such a degree that they are inextricably intertwined. One cannot talk about subdivision in Kittitas County without discussing both RCW 58.17 and KCC Title 16.

The current subdivision code was adopted by ordinance 2005-31 which was expressly adopted to reflect new changes in RCW 58.17. RCW 58.17.030 provides that every subdivision shall comply with it and that short subdivisions comply with local regulations adopted pursuant to RCW 58.17.060. RCW 58.17.033 provides that proposed subdivisions are to be reviewed under the local regulation in effect at the time of application submittal and that a complete application is to be locally defined. RCW 58.17.040(2) contemplates local subdivision regulation and exempts certain division from the applicability of RCW 58.17 unless local regulation requires platting of such divisions, in which case the entire RCW 58.17 would then apply to such divisions. RCW 58.17.060 requires adoption of local regulation for short platting. RCW 58.17.095 allows the municipality to set what is to be a short or long plat (by number of lots created). RCW 58.17.100 provides that the sole authority to adopt and amend platting ordinances shall reside with the local legislative body. RCW 58.17.275 requires Kittitas County to give notice if we are contemplating amending ordinances adopted pursuant to Ch.58.17 RCW. RCW 58.17.320 intertwines enforcement of RCW 58.17 with that of local subdivision regulations. 15A.01.030 Applicability, provides that "The provisions of this title shall apply to all land use permits under KCC Titles 15, 15A, 16, 17, and 17A, county shoreline master program, and to any related regulation or any other ordinance or law implementing these provisions. This would sweep in Ch. 58.17 RCW.

KCC 15A.01.040(2)(b) gives the CDS Director the authority to issue written opinions upon, among other things, "Title 16, Subdivisions" and the application of such regulations upon specific parcels. Such written opinions are appealable to the Kittitas County Hearing Examiner pursuant to KCC 15A.01.040(4)(i). As described above, talking about subdivision regulation in Kittitas County is not possible to do without discussing RCW 58.17 because the two are necessarily intertwined. The state statute itself creates and requires this inextricable link.

The above-referenced SEPA application proposes to develop a new road to access 13 existing lots, including 12 lots that were created via exempt segregation and are shown on the attached record of survey. This new

road would provide access to the 12 lots via Strande Road. The attached record of survey that created the lots through exempt segregation, however, shows a proposed road providing access via Hanson Road. Therefore, the proposed change would alter the proposed access to these 12 lots.

RCW 58.17.020 defines "subdivision" as the division of land into five or more lots. Therefore, even though the exempt segregation process no longer exists, the twelve lots shown on the attached record of survey are considered a subdivision according to RCW 58.17. RCW 58.17.040(2) provides that the entire chapter shall apply to divisions of land creating lots larger than five (5) acres in size if the governing authority adopted a subdivision ordinance requiring plat approval of such divisions. KCC 16.04.010 (adopted in 2005) provides that "*Every division ... within the unincorporated area of Kittitas County shall proceed in compliance with this title and Kittitas County Code.*" That title is denominated as "16, Subdivisions". Therefore, all of Ch. 58.17 applies to this subject property. RCW 58.17.215 states that anyone interested in altering a subdivision *or any portion thereof* shall submit an application for alteration to the county and that the application shall be processed in accordance with the procedures contained therein. The proposed access change would be an alteration to a subdivision as defined by RCW 58.17, because altering the access is altering *any portion of a subdivision*, and therefore a plat alteration application is required.

KCC 15A.01.040(4)(i) allows for administrative determinations such as code interpretations to be appealed to the Kittitas County Hearing Examiner. Appeals of an administrative decision shall be filed with Community Development Services within 10 working days of the decision in accordance with KCC 15A.07.010.

Please let me know if you have questions.

Sincerely,



Dan Carlson, AICP
Community Development Services Director

Enclosure: Record of Survey Creating 12 Lots

CC: James Carmody, Attorney at Law (*via email*)
Neil Caulkins, Deputy Prosecuting Attorney (*via email*)
Mark Cook, Public Works Director (*via email*)
Jeremy Johnston, Planning Official (*via email*)
Kelly Bacon, Planner (*via email*)

Chapter 16.04

GENERAL PROVISIONS

Sections:

- 16.04.010 Applicability.
- 16.04.020 Exemptions.
- 16.04.030 Administration.
- 16.04.040 Procedure – Application and fees.

16.04.010 Applicability. (a) Every subdivision of land within the area of Kittitas County shall proceed in compliance with this title. Lots or parcels created by the final platting of a subdivision and which are less than ten acres in size may not be further divided within a five-year period or without planning review.

(b) Specifically, this code applies to the following kinds of subdivision:

(1) Division or redivision of land into five or more lots, tracts, or sites for the purpose of sale, lease or transfer of ownership.

(2) Division of land into fewer than five lots or tracts where the smallest lot is less than twenty acres.

(3) Division of land into two or more lots or parcels regardless of size whenever the subject parcel was part of a previous division occurring within a ten-year period. (Ord. 92-11 (part), 1992; Ord. 92-3 (part), 1992; Ord. 90-5 (part), 1990; Ord. 87-5 §1, 1987; Ord. 84-6 (part), 1973).

16.04.020 Exemptions. The provisions of this title shall not apply to:

(1) Division of land into fewer than five lots or tracts where no parcel is less than twenty acres, provided that the parent parcel was not created by prior division within a ten-year period;

(2) Division of land into two lots or tracts when the total acreage is thirty acres or more, and provided that the parent parcel was not created by a division within a ten-year period;

(3) (Deleted by Ord. 92-3);

(4) The division of a farm/ranch among members of a resident family into fewer than five parcels;

(5) A division made for the purpose of adjusting boundary lines which does not create any additional lots or tracts nor create any lot or tract which contains insufficient area and/or dimensions to meet minimum requirements for a building site;

(6) Divisions made by testamentary provisions or the laws of descent;

(7) Cemeteries and other burial plots while used for that purpose;

(8) Other exemptions available under RCW 58.17.040;

(9) Exempt parcels shall be created by survey and shall comply with all requirements of RCW 58.09.010 and chapter 332-130 WAC. A specific statement of purpose of survey and the specific exemption claimed shall be shown on the face of the title and record of survey. (Ord. 92-11 (part), 1992; Ord. 92-3 (part), 1992; Ord. 89-3, 1989; Ord. 87-5 §2, 1987; Ord. 84-6 (part), 1984).

16.04.030 Administration. The county planning director, hereafter referred to as the administrator, is vested with the duty of administering subdivision and platting regulations within the unincorporated areas of the county, and may prepare and require the use of such forms as are essential to their administration. (Ord. 84-6 (part), 1984).

16.04.040 Procedure – Application and fees. Any person desiring to subdivide the land in an unincorporated area of the county shall submit a preliminary plat (see Chapter 16.12) to the administrator which shall be accompanied by filing fees established annually by the board of commissioners under separate ordinance. (Ord. 84-6 (part), 1984).

EXHIBIT 5

Chapter 16.04

GENERAL PROVISIONS

KCC 16.04.010 Applicability.

- (a) Every division and boundary line adjustment within the unincorporated area of Kittitas County shall proceed in compliance with this title.
- (b) Every division and boundary line adjustment within the unincorporated area of Kittitas County shall proceed in compliance with KCC Title 12 Road Standards.

KCC 16.04.020 Exemptions

The provisions of this title shall not apply to:

- (1) (Deleted by Ord. 92-3);
- (2) An alteration made for the purpose of adjusting boundary lines as defined in KCC 16.08.055.
- (3) Divisions made by testamentary provisions or the laws of descent;
- (4) Cemeteries and other burial plots while used for that purpose;
- (5) Parcels created by administrative segregation as defined in KCC 16.08.015, shall be created by survey and that comply with all requirements of RCW 58.09 and chapter 332-130 WAC. A specific statement of purpose of survey and the specific exemption claimed shall be shown on the face of the title and record of survey.
- (6) Any division of land for the purposes of installing or maintaining publicly owned facilities, utilities, emergency services, structures and uses, including but not limited to utility substations, pump stations, wells, watershed intake facilities, fire stations, or other utility and emergency services facilities of the same or similar nature, provided that such parcel shall not be required to meet the minimum lot size of the subject zoning district (K.C.C. Title 17),.. The remaining parcel may be less in total area than the minimum lot size for the zone but if used for a building site must comply with all other county regulations (e.g. on site sewage systems, setbacks, etc.).

rescinded shall be considered to be one lot unless divided by an approved subdivision or short subdivision.

3. Signatures of owners of portions of a binding site plan which are not altered by an amendment or rescission plan, which are not altered by an amendment or rescission, are not required on the amended binding site plan or application for rescission.

Chapter 16.08

DEFINITIONS

KCC 16.08.010 Word construction.

Whenever the words and phrases appear in this title they shall be given the meaning attributed to them by this chapter. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates a use of discretion in making a decision. (Ord. 84-6 (part), 1984).

KCC 16.08.015 Administrative segregation

"Administrative segregation" means the division of land within the boundaries of a legal description into fewer than ten lots or tracts where no lot or tract is less than twenty (20) acres; provided that the parent parcel was not created by a division within a five-year period. Land divided by administrative segregation shall not be reduced in size below 20 acres or further subdivided without review under the provisions for short plat, large lot subdivision or plat. The appropriate method of division will be determined based on the size and number of lots being proposed. Administrative segregations must comply with KCC 16.18 and KCC Title 12 Road Standards.

KCC 16.08.020 Alley.

"Alley" means a strip of land dedicated to public use providing vehicular and pedestrian access to the rear side of properties which abut and are served by a public road.

KCC 16.08.040 Block.

EXHIBIT 6

10-10

County Staff

Development Regulation Amendment

Project Description: Development Regulation Amendments for Consistency and Clarity

Kittitas County Community Development Services prepared proposed development regulations amendments for consistency and clarity. The development regulations amend KCC 15A Project Permit Application Process; KCC 15B Amendments to County Plans, Codes, and Standards; KCC 16 Subdivision; and KCC 17 Zoning and are shown in Exhibit E. These amendments were docketed with CDS prior to June 30, 2010 docketing deadline.

The Board of County Commissioners held a public hearing on November 2, 2010 and **approved the request with the corrections suggested by staff during deliberations, with the strikeout of "for a period of five years" in KCC 16.08.015, and take no action on revising KCC 17.08.475** during the continued public hearing on December 7, 2010, with a 3-0 vote finding that:

- I. Testimony for and against this proposal was received.
- II. The proposed amendments to the development regulations will provide clarity and consistency to processing development applications in Kittitas County.
- III. The impacts of subdividing land after it has been divided through the administrative segregation process are more appropriately assessed under the provisions for short plats, large lot subdivisions, or plats.
- IV. The impacts of KCC 17.08.475 require further analysis and review by staff and stakeholders before this language can be revised.
- V. The Planning Commission recommended approval to the Board of County Commissioners.

10-11

County Staff

Development Regulation Amendment

Project Description: KCC 16.09 – Performance Based Cluster Plat

Kittitas County Community Development Services prepared proposed amendments to KCC Chapter 16.09 Performance Based Cluster Platting. These amendments were docketed with CDS prior to the June 30th docketing deadline. The development regulation amends KCC 16.09 Performance Based Cluster Platting and is shown in Exhibit F.

The Board of County Commissioners held a public hearing on November 2, 2010 and **approved the request with the corrections suggested by staff during deliberations, with the correction to the scrivener's error referencing Section 16.09.025, and allowing for a minimum open space acreage of 30 acres in Agriculture 20 and Forest and Range 20** during the continued public hearing on December 7, 2010, with a 3-0 vote finding that:

- I. Testimony for and against this proposal was received.
- II. The proposed amendments to KCC 16.09 will provide clarity regarding the processing of Performance Based Cluster Plat applications in Kittitas County.
- III. The Planning Commission forwarded this docket item without recommendation to the Board of County Commissioners.

Development regulation amendments - showing changes from 2009 to 2010 to KCC 16.08.015:

16.08.015 Administrative segregation.

"Administrative segregation" means the division of land within the boundaries of a legal description into fewer than ten lots or tracts where no lot or tract is less than twenty (20) acres, ~~provided that the parent parcel was not created by a division within a five-year period. Land divided by administrative segregation shall not be reduced in size below 20 acres. Land reconfigured within, and parcels created by an administrative segregation shall not be or further subdivided without review under the provisions for short plat, large lot subdivision, or plat as appropriate. The appropriate method of division will be determined based on the size and number of lots being proposed. Land reconfigured within, and parcels created by an administrative segregation shall not be reduced in size below 20 acres through a boundary line adjustment. Land reconfigured within, and parcels created by an administrative segregation~~Administrative segregations must comply with KCC 16.18.030 Parcel creation - Irrigation water delivery system requirements, KCC 13.04.080 OSDS Location, KCC 17A.08.025 Wellhead protection areas, and KCC Title 12 Road Standards. (Ord. 2005-31, 2005)

Clean version of approved text amendments:

16.08.015 Administrative segregation.

"Administrative segregation" means the division of land within the boundaries of a legal description into fewer than ten lots or tracts where no lot or tract is less than twenty (20) acres. Land reconfigured within, and parcels created by an administrative segregation shall not be further subdivided without review under the provisions for short plat, large lot subdivision, or plat as appropriate. Land reconfigured within, and parcels created by an administrative segregation shall not be reduced in size below 20 acres through a boundary line adjustment. Land reconfigured within, and parcels created by an administrative segregation must comply with KCC 16.18.030 Parcel creation - Irrigation water delivery system requirements, KCC 13.04.080 OSDS Location, KCC 17A.08.025 Wellhead protection areas, and KCC Title 12 Road Standards. (Ord. 2005-31, 2005)

EXHIBIT 7

11-10

County Staff

Development Regulation Amendment

Project Description: Establish submittal requirements for Comprehensive Plan Amendments, including SEPA environmental checklists

Kittitas County Community Development Services prepared proposed amendments for consistency and clarity in Title 15B, Comprehensive Plan Amendments Process. The proposed amendments establish application submittal requirements, including submittal of SEPA environmental checklist for annual Comprehensive Plan Amendments. These amendments were docketed with CDS prior to the June 30, 2011, docketing deadline. The text amendments are shown in Exhibit J.

The Board of County Commissioners held a public hearing on October 25, 2011 and **approved the request as presented** with a 3-0 vote finding that:

- I. Testimony was received for this proposal.
- II. The proposed amendments to the development regulations will provide clarity and consistency to processing Comprehensive Plan Amendment applications in Kittitas County.
- III. The Planning Commission recommended approval to the Board of County Commissioners.

11-11

County Staff

Development Regulation Amendment

Project Description: Revise sections of KCC 16 to create a clear review process for administrative segregations

Kittitas County Community Development Services prepared proposed amendments to clarify the process for administrative segregations. These amendments were docketed with CDS prior to the June 30, 2011, docketing deadline.

These amendments do not revise the substantive amendments made to the administrative segregation definition in KCC 16.08.015 during the 2010 docket process (*see* Ordinance No. 2010-014, pg 25). The purpose of these amendments is to create a new Chapter, Administrative Segregation, in Title 16, Subdivision, which includes procedures for review and which relocates the substantive requirements included in KCC 16.04.020 and KCC 16.08.015 to a new "Requirements" section. The text amendments are shown in Exhibit K.

The Board of County Commissioners held a public hearing on October 25, 2011 and **approved the request as presented** with a 3-0 vote finding that:

- I. Testimony was received for this proposal.
- II. The proposed amendments to the development regulations will provide clarity and consistency to processing administrative segregation applications in Kittitas County.
- III. The Planning Commission recommended approval to the Board of County Commissioners.

EXHIBIT K

11-11

County Staff

Development Regulation Amendment

Project Description: Revise sections of KCC 16 to create a clear review process for administrative segregations

Kittitas County Code, Title 16, SUBDIVISIONS, is amended as follows:

Chapters

16.04 General Provisions

16.05 Binding Site Plans

16.06 Administrative Segregation

16.08 Definitions

16.09 Performance Based Cluster Platting

16.12 Preliminary Plats

16.18 Irrigation and Sprinkling

16.20 Final Plats

16.24 Survey Data - Dedications

16.28 Development of Illegally Divided Land

16.32 Short Plat Requirements

16.36 Large Lot Subdivision

16.40 Penalties

Chapter 16.04

GENERAL PROVISIONS

[...]

16.04.020 Exemptions.

The provisions of this title shall not apply to:

- ~~1. (Deleted by Ord. 92-3);~~
- ~~2. 1.~~ An alteration made for the purpose of adjusting boundary lines as defined in KCC 16.08.055.
- ~~3. 2.~~ Divisions made by testamentary provisions or the laws of descent;
- ~~4. 3.~~ Cemeteries and other burial plots while used for that purpose;
- ~~5. Parcels 4. Divisions~~ created by administrative segregation, **as provided the division is in accordance with Chapter 16.06, defined in KCC 16.08.015, shall be created by survey and that comply with all requirements of RCW 58.09 and chapter 332-130 WAC. A specific statement of purpose of survey and the specific exemption claimed shall be shown on the face of the title and record of survey.**
- ~~6. 5.~~ Any division of land for the purposes of installing or maintaining publicly owned facilities, utilities, emergency services, structures and uses, including but not limited to utility substations, pump stations, wells, watershed intake facilities, fire stations, or other utility and emergency services facilities of the same or similar nature, provided that such parcel shall not be required to meet the minimum lot size of the subject zoning district (KCC Title 17). The remaining parcel

may be less in total area than the minimum lot size for the zone but if used for a building site must comply with all other county regulations (e.g. on site sewage systems, setbacks, etc.).

[...]

Chapter 16.06

ADMINISTRATIVE SEGREGATION

Sections

16.06.010 Applicability.

16.06.020 Requirements.

16.06.030 Process for Approval

16.06.040 Appeal.

16.06.050 Recording.

16.06.060 Amendments and Rescindment.

16.06.010 Applicability.

Applies to the division of land within the boundaries of a legal description when fewer than ten lots or tracts are created and where no lot or tract is less than twenty (20) acres.

16.06.020 Requirements.

1. **An administrative segregation review must be completed and obtained, pursuant to KCC 16.06.030**
2. **Land reconfigured within, and parcels created by an administrative segregation shall not be further subdivided without review under the provisions for short plat, large lot subdivision, or plat as appropriate.**
3. **Land reconfigured within, and parcels created by an administrative segregation shall not be reduced in size through a boundary line adjustment below 80 acres if within the Commercial Forest Zone or below 20 acres for all other zones.**
4. **Land reconfigured within, and parcels created by an administrative segregation must comply with the minimum lot size requirements of KCC 17.57.040 if within the Commercial Forest Zone, KCC 16.18.030 Parcel creation- Irrigation water delivery system requirements, KCC 13.04.080 OSDS Location, KCC 17A.08.025 Wellhead protection areas, and KCC Title 12 Road Standards.**
5. **Parcels must be created by a survey that complies with all requirements of RCW 58.09 and chapter 332-130 WAC. A specific statement of purpose of survey and the specific exemption claimed shall be shown on the face of the title and record of survey.**

16.06.030 Process for Approval

1. **Applications shall be filed on forms prescribed by the Community Development Services department. The application shall be accompanied by review fee(s) paid in full. The fee for such application shall be established annually by resolution.**
2. **An application for an administrative segregation shall receive both preliminary approval and final approval before recording a survey to create the proposed parcels.**
3. **The director shall consider, and base his preliminary decision to approve with or without conditions, deny, or return the application on the following:**
 - a. **Compliance with the requirements of KCC 16.06.020.**
 - b. **The recommendations and comments of agencies having pertinent expertise or jurisdiction.**

4. The director shall consider, and base his final decision to approve, deny, or return the application on the following:
 - a. Compliance with the requirements of the director's preliminary decision.
 - b. Confirmation from the Treasurer's Office that all taxes have been paid in full.
 - c. Compliance with the survey requirements of KCC 16.06.020(5).
5. The approved administrative segregation shall be recorded with the Kittitas County Auditor within twelve (12 months) of preliminary approval. Upon recording, the division of land shall be binding on the owner, his heirs and assigns.

16.06.030 Appeal.

Any decision by the director shall be final unless appealed to the Board of County Commissioners as provided for in KCC 15A.07.

16.05.040 Expiration.

An administrative segregation is not considered approved until a survey creating the parcels has been recorded. Failure to record within twelve (12) months of preliminary approval means the administrative segregation application is expired and must be resubmitted for review and approval. The time periods of this section do not include the time during which the administrative segregation was not pursued due to the pendency of administrative appeals or legal actions.

[...]

Chapter 16.08
DEFINITIONS

[...]

16.08.015 Administrative segregation.

"Administrative segregation" means the division of land within the boundaries of a legal description into fewer than ten lots or tracts where no lot or tract is less than twenty (20) acres. Administrative segregations must comply with Chapter 16.06 of this title. Land reconfigured within, and parcels created by an administrative segregation shall not be further subdivided without review under the provisions for short plat, large lot subdivision, or plat as appropriate. Land reconfigured within, and parcels created by an administrative segregation shall not be reduced in size below 20 acres through a boundary line adjustment. Land reconfigured within, and parcels created by an administrative segregation must comply with KCC 16.18.030 Parcel creation Irrigation water delivery system requirements, KCC 13.04.080 OSDS Location, KCC 17A.08.025 Wellhead protection areas, and KCC Title 12 Road Standards.

[...]

EXHIBIT 8

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
EASTERN WASHINGTON REGION
STATE OF WASHINGTON

CONFEDERATED TRIBES AND BANDS OF
THE YAKAMA NATION,

Petitioners,

v.

KITTITAS COUNTY,

Respondent.

Case No. 12-1-0001

PREHEARING ORDER

THIS Matter came before the Board in a Prehearing Conference held telephonically on March 12, 2012. Patrick D. Spurgin appeared on behalf of Petitioner. The County appeared through their attorney Neil Caulkins. Raymond L. Paoletta is the Presiding Officer.

Based on the discussions during the prehearing conference and Petitioner's March 12, 2012 clarification of the issues, the following Order is entered:

I. ISSUES

1. Does the adoption of the amendments to the Kittitas County subdivision ordinance to allow land divisions by administrative segregation under Chapter 16.06 KCC without compliance with subdivision procedural requirements and standards and in a manner that is not consistent with a valid comprehensive plan violate RCW 36.70A.130 and RCW 36.70A.040?
2. Does Kittitas County's administrative segregation approval process adopted in KCC 16.06 violate RCW §§ 36.70A.020(1), (2), (8), (9), (10), and (12), RCW §§ 36.70A.030(2), (8), and (10), RCW 36.70A.060(3), RCW 36.70A.070, and RCW 36.70A.170 because it fails to provide protection for resource lands?

- 1 3. Does Kittitas County's administrative segregation approval process in KCC 16.06, as
2 adopted, violate RCW §§ 36.70A.020(1), (2), (8), (9), (10) and (12), RCW §§
3 36.70A.030(15), (16), and (17), RCW 36.70A.070, RCW 36.70A.011, and RCW
4 36.70A.060 because it fails to protect rural lands?
5
6 4. Does Kittitas County's administrative segregation approval process adopted in
7 Chapter 16.06 KCC violate RCW 36.70A.070(1), RCW 36.70A.070(5)(c)(iv), or other
8 Washington State Growth Management Act provisions codified at RCW 19.27.097
9 and RCW 58.17.110 because it fails to satisfy water resources protection
10 requirements?
11
12 5. Does Kittitas County's process for approval of divisions of land through the
13 administrative segregation approval process in Chapter 16.06 KCC, as adopted,
14 rather than through implementation of large lot subdivision procedures in Chapter
15 16.36 KCC or other subdivision procedural requirements or standards violate RCW
16 36.70A.020(7), (9), (10) and (11) or WAC 365-196-500?
17
18 6. Does Kittitas County's process for approval of divisions of land through the
19 administrative segregation approval process in Chapter 16.06 KCC, as adopted, (1)
20 violate RCW 36.70A.040 and RCW 36.70A.060 by allowing approval of a division of
21 land without consideration of consistency of such a project with the Kittitas County
22 Critical Area Ordinance, or (2) violate RCW 36.70A.040 and RCW 36.70A.480 by
23 allowing approval of a division of land without consideration of consistency of such a
24 project with the Kittitas County Shoreline Master Program?
25
26 7. Did Kittitas County's Determination of Nonsignificance issued for Ordinance 2011-
27 013 fail to comply *prima facie* with the State Environmental Policy Act, Chapter
28 43.21C RCW with respect to impacts from the adoption of administrative segregation
29 provisions?
30
31 8. Does the DNS fails to comply with the State Environmental Policy Act, RCW
32 43.21C.030(c) and RCW 43.21C.031 because it was clearly erroneous with respect
to the determination of insignificance of impacts to fish, wildlife and water resources
from the division of land through administrative segregations?

1 **Petitioner has the obligation to review these issue statements to ensure that it**
2 **properly sets forth the issues raised. If the Petitioner objects to the completeness or**
3 **accuracy of these issue statements, Petitioner must file a written motion for change**
4 **together with the proposed changed issue or issues in its entirety no later than seven**
5 **(7) days after the date of this order.**
6
7

8 **II. SCHEDULE**

9 The following schedule shall remain in effect unless modified in writing by subsequent order
10

11 February 10, 2012	Petition for Review filed
12 February 21, 2012	Notice of Hearing and Preliminary Schedule
13 March 12, 2012	Index Due (Respondent to file)
14 March 12, 2012	Prehearing Conference
15 April 4, 2012	Deadline for Dispositive Motions and for Motions to Supplement the Record (proposed supplements to be attached)
16 April 16, 2012	Deadline for Responses to Dispositive Motions and to Motions to Supplement the Record
17 April 24, 2012	Anticipated date of Orders on Motions
18 May 21, 2012	Deadline for Petitioner's Prehearing Brief (with exhibits)
19 June 11, 2012	Deadline for Respondent's Prehearing Brief (with exhibits)
20 June 19, 2012	Deadline for Petitioner's Reply Brief (optional)
21 June 27, 2012 22 10:00 a.m.	Hearing on Merits of Petition Location to be determined
23 August 8, 2012	Final Decision and Order Deadline

24 **III. RECORD**

25 **Index** - All documents considered by the County in taking the challenged action should be
26 included in the Index.
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1 Additions to the record are items which were overlooked and the County agrees should be
2 added to its Index. Additions to the record should be submitted with proposed Index
3 numbers. Additions disputed by the County will not be allowed as additions to the record
4 provided the County notifies the Petitioner of its objection within five days of receiving notice
5 of the proposed additions.
6

7 The record may be supplemented with other evidence if the motion to supplement
8 demonstrates that the evidence is necessary, or will be of substantial assistance to the
9 Board in reaching its decision. See RCW 36.70A.290(4). Motions to supplement should
10 also include proposed Index numbers for the evidence sought to be included in the Index.
11 Supplements to the record may come from outside the County's record but must be
12 demonstrated to be "necessary or of substantial assistance to the board in reaching its
13 decision." Any supplements to the record proposed must meet the standard set forth in
14 RCW 36.70A.290(4).
15
16

17 IV. EVIDENCE

18 The Index to the Record lists the documents that may be introduced as exhibits but those
19 documents do not become evidence until they are referenced in a brief and submitted to the
20 Board as exhibits to that brief.
21

22 **Exhibits** – The evidence before this Board in this proceeding shall consist of the exhibits
23 attached to briefs and presented to the Board. Respondent may choose to reference to
24 Petitioners' exhibits, rather than duplicate and submit the same exhibits. The briefs must cite
25 to the exhibits and explain how the exhibits support the arguments in the briefs. The
26 exhibits should contain the Index number(s) from which they are drawn.
27
28

29 **The parties are requested to tab each exhibit and include a Table of Exhibits.** Exhibits
30 shall be filed at the same time as hearing briefs and served on all parties but may not be
31 served electronically. If the brief is filed and/or served electronically, the exhibits to that brief
32 will be deemed timely if they are placed in the U.S. mail postage paid on the same day.

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V. BRIEFS

Briefs shall be filed with the Board and served on the representatives of the other parties on the dates and times specified on the schedule. If no time is specified, they must be served by 4:00 p.m. **The original and three copies of briefs and exhibits are required by the Board. A Table of Exhibits is also required. The original is to be two-hole punched and each of the three additional copies three-hole punched on the left side. The three copies should be double sided. The Board requests that each party submit an electronic version of each brief (without exhibits) to the Board.**

Length of Briefs – Any brief 15 pages or longer shall have a table of authorities and a table of contents. WAC 242-03-570(3) states: "Clarity and brevity are expected to assist a board in meeting its statutorily imposed time limits. A presiding officer may limit the length of a brief and impose format restrictions." The opening prehearing brief of the Petitioners and the brief of the County for the hearing on the merits shall be limited to 30 pages plus exhibits. Petitioners' reply brief shall be limited to 15 pages. All exhibits shall be tabbed. Pursuant to WAC 242-03-080, documents other than exhibits shall be typewritten or printed, properly captioned, signed by the appropriate person submitting the same, shall include his/her address and telephone number, and shall be on 8- 1/2 x 11 inch paper. In the event that a party wishes to file a longer brief, the party must provide the reasons for additional length and request permission to file an over length brief from the presiding officer.

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VI. RULES OF PROCEDURE

The Board's Rules of Practice and Procedure shall apply to the proceedings in this case. The Board's Rules of Practice and Procedure may be found in the Washington Administrative Code (WAC), at Chapter 242-03 WAC.

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VII. DISABILITY ACCOMMODATION

Any person who requires an accommodation to participate in or attend the hearings in this case is asked to contact the Executive Assistant for the Board at least one week in advance of the scheduled hearing to arrange an appropriate accommodation.

VIII. FAILURE TO ATTEND OR PARTICIPATE

A party who fails to attend or participate in any hearing or other stage of the adjudicative proceedings before the Board in this case may be held in default and an order of default or dismissal may be entered pursuant to WAC 242-03-710.

IX. COMMUNICATION WITH THE BOARD

Pursuant to RCW 34.05.455, the parties may not communicate *ex parte* with the Presiding Officer or other board members except on limited procedural aspects of this case. The parties are directed to Paulette Yorke, Executive Assistant to the Board, at (360) 664-9170, who will act as Board liaison.

DATED this 15th day of March, 2012.

Raymond L. Paolella, Presiding Officer

EXHIBIT 9

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

ORDINANCE NO. 2012- 0060

**AMENDMENT AND REPEAL OF KITTITAS COUNTY'S PROCESS FOR
ADMINISTRATIVE SEGREGATION**

WHEREAS, Kittitas County plans under Ch. 36.70A RCW, the Growth Management Act and Ch 43.21C RCW, the State Environmental Policy Act; and

WHEREAS, Kittitas County is seriously concerned with protecting its rural character and the environment; and

WHEREAS, Kittitas County's administrative segregation process does not provide for the level of review required legally and fails to protect rural character and the environment; and

WHEREAS, Kittitas County's administrative segregation process does not qualify for vested rights under Washington State law; and

WHEREAS, A public hearing to consider amending Kittitas County's process for administrative segregations was held on August 21, 2012 at 2:00 pm; and

WHEREAS, due notice of the hearing had been given as required by law, and the necessary inquiry has been made into the public interest to be served by such change procedure; and,

WHEREAS, that meeting was continued until August 28, 2012, and then until September 11, 2012, and then until September 18, 2012; and

WHEREAS, The Kittitas County Board of County Commissioners voted to approve the proposed changes to the administrative segregation process and directed the Prosecutor's Office to prepare the enabling documents.

BE IT HEREBY ORDAINED: by the Board of County Commissioners of Kittitas County, Washington, after due deliberation and in the best interest of the public, does hereby approve amendment to Kittitas County Code to amend its administrative segregation process. Kittitas County Code Chapter 16.06, as well as sections 16.04.020, 16.08.015, 16.08.087, and 16.08.118 of the Kittitas County Code shall be amended to read as follows and Information Services is hereby directed to make the necessary changes to the County Code appearing upon the County's website:

Chapter 16.06
ADMINISTRATIVE SEGREGATIONS

Sections

16.06.010 Repealed.

16.06.020 Repealed.

16.06.030 Repealed.

16.06.040 Expiration and Credit.

16.06.050 Repealed.

16.06.060 Repealed.

16.06.010 Repealed.

16.06.020 Repealed.

16.06.030 Repealed.

16.06.030 Repealed.

16.06.040 Expiration and Credit.

All administrative segregation applications that have not received a letter of official denial and have received preliminary approval, shall, within 3 months of the adoption of this Ordinance, either (1) be submitted for final approval pursuant to the administrative segregation regulation in effect when the applications received preliminary approval, (an extension of up to three months may be requested by applicants who have submitted everything necessary for final review except the survey so long as the applicant demonstrates that they have financially obligated themselves, by payment of a deposit for example, to have the survey done within the extension period), or (2) convert to either a short plat, long plat, or large lot subdivision by notifying Kittitas County of the desire to convert and by paying any additional fees necessary for the review of the application to which the matter is being converted. Such converting applicant shall be eligible to credit application fees previously paid towards an appropriate subdivision in accord with this code section. As an example, if the prior administrative segregation application was creating three lots, it would be appropriate for the applicant to credit the fee towards a short plat application and provide all necessary additional materials to make up a complete short plat application. Similarly, if the administrative segregation application had been to create 20 lots, the new application should be for a long plat and the applicant would need to submit all needed additional fees and materials, including SEPA review, to make a complete long plat application. Prior to one year from the passage of this ordinance the converting applicant must submit the remaining necessary materials (potentially including all SEPA documentation and including proof of preliminary approval and fees paid) to create a complete short plat, long plat, or large lot subdivision application. Upon payment of the additional fee and submission of the additional necessary materials the converting applicant shall receive a vesting date establishing the land use regulations that will govern the review of the converted application.

Applications that neither finish nor complete the conversion process by the deadlines herein shall be expired and void. The County shall endeavor to send all undenied

administrative segregation applications individual notice of this regulation, but actual receipt of such notice is not necessary for the applicant to be bound by this regulation and the time limits contained herein. All applications by applicants who fail to request final administrative segregation approval or, for conversions to subdivision applications, fail to provide proof of amounts paid (including acceptance the subdivision fee credit) and preliminary acceptance, and provide additional materials within the time limits provided in this ordinance, are expired and void. Kittitas County shall provide notice to the Yakama Nation of all applications submitted for final approval no less than 14 days before such approval and shall consider comment from the Yakama Nation in each instance of final review. Nothing in this section exempts applicants for administrative segregations from any applicable laws including, but not limited to, the Washington Department of Ecology's Upper Kittitas Ground Water Rule, Chapter 173-539A WAC, the Kittitas County Zoning Ordinance, Title 17 KCC, the Kittitas County Critical Areas Ordinance, Title 15 KCC, Title 17A KCC, or the Kittitas County Shoreline Master Program. Nothing in this section shall be construed to expand or diminish the rights or obligations of persons receiving final approval of an administrative segregation application before September 18, 2012.

16.04.020 Exemptions.

The provisions of this title shall not apply to:

1. An alteration made for the purpose of adjusting boundary lines as defined in KCC 16.08.055.
2. Divisions made by testamentary provisions or the laws of descent;
3. Cemeteries and other burial plots while used for that purpose;
4. Any division of land for the purposes of installing or maintaining publicly owned facilities, utilities, emergency services, structures and uses, including but not limited to utility substations, pump stations, wells, watershed intake facilities, fire stations, or other utility and emergency services facilities of the same or similar nature, provided that such parcel shall not be required to meet the minimum lot size of the subject zoning district (KCC Title 17). The remaining parcel may be less in total area than the minimum lot size for the zone but if used for a building site must comply with all other county regulations (e.g. on site sewage systems, setbacks, etc.).

16.08.015 Repealed.

16.08.087 Division.

"Division" means the creation of a lot through short or long subdivision, large lot subdivision, use of intervening ownership, etc., but not including a boundary line adjustment.

16.08.118 Parcel creation.

"Parcel creation" means the creation of a lot through short or long subdivision, large lot subdivision, use of intervening ownership, etc. and including boundary line adjustments.

BE IT HEREBY FURTHER ORDAINED that any scrivener's errors later detected may be remedied by Information Services at the direction of the Prosecutor's Office without the need to bring such before the Board of County Commissioners for board action.

BE IT HEREBY FURTHER ORDAINED that this regulation shall take effect immediately upon signature by the Board of County Commissioners and shall apply equally to all pending applications for administrative segregation, regardless of date such applications were submitted to the County.

ADOPTED this 18th day of September 2012.

BOARD OF COUNTY COMMISSIONERS
KITITAS COUNTY, WASHINGTON



Alan A. Crankovich, Chairman


Obie O'Brien, Vice-Chairman


Paul Jewell, Commissioner

APPROVED AS TO FORM:




Julie A. Kjorsvik

Greg Zempel, Prosecuting Attorney
WSBA#19125

EXHIBIT 10

14-07 Kittitas County Proposal:

Amend Kittitas County Code Chapter 15A to Expand Standards and Transfer Authority for Administration of the Local SEPA Regulation to KCC Title 15, Exhibit I

The Board of County Commissioners held a public hearing on November 4, 2014, and extended the public hearing until 6:00 pm, November 12, 2014. On November 12, 2014 the Board of County Commissioners **approved the request** as with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 4-0.
- II. Public testimony for this proposal was not received.
- III. The amendment to Chapter 15A of the Kittitas County Code is necessary in order to transfer relevant SEPA regulations to Kittitas County Code Chapter 15.
- IV. The amendment to Chapter 15A of the Kittitas County Code changing the public comment period of Shoreline Conditional Use Permit and Variances from 15 days to 30 days is necessary in order to meet State requirements.
- V. The amendment to Chapter 15A of the Kittitas County Code is necessary to illustrate the process for clearing and grading permits.
- VI. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

14-08 Kittitas County Proposal:

Amend Title 16 of the Kittitas County Code to address split zoned parcels, adequate water supply, boundary line adjustments, and administrative segregations with regard to any future subdivisions in the County, Exhibit J

The Board of County Commissioners held a public hearing on November 4, 2014, and extended the public hearing until 6:00 pm, November 12, 2014. On November 12, 2014 the Board of County Commissioners **approved the request as presented** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 4-0.
- II. Public testimony for this proposal was not received.
- III. The amendment to Kittitas County Code Chapter 16.04 is necessary to prohibit split zones from being created as a result of boundary line adjustments.
- IV. The amendment to Kittitas County Code Chapter 16.05.020 is necessary to eliminate the requirement for public agency notification of the approval of binding site plans.
- V. The amendment to Kittitas County Code Chapter 16.06 is necessary to repeal standards for administrative segregations, which are no longer permitted by Kittitas County.
- VI. The amendment to Kittitas County Code Chapter 16.08.055 is necessary to clarify the definition of a Boundary line adjustment.
- VII. The amendment to Kittitas County Code Chapter 16.10 is necessary to provide standards for boundary line adjustments.
- VIII. The amendments to Kittitas County Code 16.12.150, 16.32.050, and 16.36.015 are necessary to clarify compliance with Kittitas County Code 13.35.

- IX. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

14-09 Kittitas County Proposal:

Amend Kittitas County Code Chapters 16.09 and 16.08 to allow platting in the Agriculture 20 and Commercial Agriculture zones providing for larger lots for benefit to owners involved in agriculture pursuits while maintaining required underlying densities, Exhibit K

The Board of County Commissioners held a public hearing on November 4, 2014, and extended the public hearing until 6:00 pm, November 12, 2014. On November 12, 2014 the Board of County Commissioners **approved the request as amended by the applicant** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 4-0.
- II. Public testimony for this proposal was presented by the applicant and supporters of the amendment outlining the benefit of such amendment for preservation of agricultural activities. One person testified against the proposal.
- III. The amendment to Kittitas County Code Chapter 16.08 is necessary to clarify agricultural definitions.
- IV. The amendment to Kittitas County Code Chapter 16.09 is necessary to allow the creation of lots greater than those allowed by conservation plats.
- V. The amendment to Kittitas County Code Chapter 16.09 provides standards to approve subdivisions determined to be for agricultural preservation.
- VI. The amendment of Kittitas County Code Chapter 16.09 will not increase the density of the underlying zone.
- VII. The change meets the Growth Management Act and the objectives of the Comprehensive Plan.

14-10A Kittitas County Proposal:

Updates to the Official County Zoning Map and Land Use Tables in Chapters 2 and 8 of the Comprehensive Plan, Exhibit L.

The Board of County Commissioners held a public hearing on November 4, 2014, and extended the public hearing until 6:00 pm, November 12, 2014. On November 12, 2014 the Board of County Commissioners **approved the request as presented** with a 3-0 vote finding that:

- I. The Planning Commission recommended approval to the Board of County Commissioners with a vote of 4-0.
- II. Public testimony for this proposal was not received.
- III. The amendment to the official Kittitas County Zoning Map will update underlying zones within PUDs, indicate total units approved within each PUD, and update other map changes.
- IV. The amendment to the Comprehensive Plan Land Use tables in Chapters 2 and 8 will reflect the map changes in numerical format by zone.

EXHIBIT J: Docket Item 14-08

14-08 Kittitas County Proposal:

Amend Title 16 of the Kittitas County Code to address split zoned parcels, adequate water supply, boundary line adjustments, and administrative segregations with regard to any future subdivisions in the County.

Exhibit J

Ordinance 2014-015 Kittitas County Comprehensive Plan and Development Code Update

December 2, 2014

Page J-1

Kittitas County Code Title 16, Subdivisions, is proposed as follows:

Title 16
Subdivisions

Title 16 | SUBDIVISIONS*

Chapters

- 16.04 General Provisions
- 16.05 Binding Site Plans
- 16.06 ~~Repealed Administrative Segregations~~ ~~Administrative Segregations~~
- 16.08 Definitions
- 16.09 Cluster Platting and Conservation Platting
- 16.10 Boundary Line Adjustments
- 16.12 Preliminary Plats
- 16.16 Road Construction Standards and Other Required Improvements
- 16.18 Irrigation and Sprinkling
- 16.20 Final Plats
- 16.24 Survey Data - Dedications
- 16.28 Development of Illegally Divided Land
- 16.32 Short Plat Requirements
- 16.36 Large Lot Subdivision
- 16.40 Penalties

* For provisions regarding private sewage disposal systems in plats, see Ch. 13.08 of this code.
Prior ordinance history: Ords. 70-13, 71-8, 73-2, 73-8, 73-10, 74-1, 75-3, 75-4, 75-13, 75-12, 76-3, 76-5, 77-2, 773, 77-4, 79-2, 79-3, 80-1, 81-4, 82-3, 84-6, 87-5, 89-3, 90-5, 92-3, 92-11, 96-19, Res. 80-25, and DPW-1-82.

**Chapter 16.04
GENERAL PROVISIONS**

Sections

- 16.04.010 Applicability.
- 16.04.020 Exemptions.
- 16.04.025 Prohibition of split-zone parcels
- 16.04.030 Administration.
- 16.04.040 Procedure - Application and fees.

16.04.025 Prohibition of split-zoned parcels
No lot created through the provisions of this Title or adjusted through the boundary line adjustment process shall contain more than one land use zone classification.

**Chapter 16.05
BINDING SITE PLAN**

Exhibit J

Sections

- 16.05.010 Binding Site Plan Alternative to Platting.
- 16.05.020 Requirements.
- 16.05.030 Appeal.
- 16.05.040 Recording.
- 16.05.060 Amendments and Rescindment.

16.05.020 Requirements.

- A. Whenever a binding site plan for an eligible project is proposed on a parcel of land for which neither a planned unit development or a building permit has been approved for the entire parcel, the following must be satisfied prior to recording:
 - 1. A conceptual site plan shall be prepared in a form prescribed by the director which includes the following information (if appropriate to the project type):
 - a. Maximum number of dwelling units permitted.
 - b. Approximate size and location of all proposed buildings.
 - c. Approximate layout of an internal vehicular circulation system, including proposed ingress and egress.
 - d. Approximate location of proposed open space, including required landscaped areas, if any.
 - e. Approximate location of parking areas.
 - f. Location and size of utility trunk lines serving the site.
 - g. Topography detailed to five-foot intervals.
 - h. Location of water storage and fire hydrant location.
 - i. Demonstrate that the requirements of Chapter 13.35, Kittitas County Code, Adequate Water Supply Determination, can be met.
 - 2. ~~Upon application, the director shall distribute copies to public agencies having pertinent expertise or jurisdiction and all persons owning real property within 300 feet from and parallel to the boundaries of the proposed activities and such contiguous area under the legal control of the applicant for review and comment. Upon application, the director shall distribute copies to public agencies having pertinent expertise or jurisdiction and all persons owning real property within 300 feet from and parallel to the boundaries of the proposed activities and such contiguous area under the legal control of the applicant for review and comment.~~
- B. The director shall consider, and base his decision to approve with or without conditions, deny or return the application on the following:
 - 1. Conformance of the proposed site plan with any approved building permit or planned unit development and any conditions on a portion of the site, and with any applicable codes and ordinances, of the State of Washington and Kittitas County. The director shall identify, to the extent feasible, conditions likely to be imposed on building permits related to dedication of right-of-way or open space, and tracts, easements or limitations which may be proposed or required for utilities, access, drainage controls, sanitation, potable water supply, protection of sensitive areas or other unique conditions or features which may warrant protection of the public health, safety and welfare. Such preliminary conditions shall not be binding at the time of building permit approval.

Exhibit J

2. The recommendations and comments of agencies having pertinent expertise or jurisdiction.
 3. Proof that all lots or tracts created by binding site plan are approved for irrigation delivery by the appropriate irrigation entity or entities.
 4. The director may require dedication of additional road right-of-way pursuant to criteria contained in Kittitas County Code.
- C. Additional documents shall be submitted as necessary for review and approval and may include a plat certificate, boundary survey, agreements, easements, covenants.
- D. The plan must be approved and signed in the same manner as a short plat. Prior to recording, the director shall verify the final plan and any attachments to determine whether the binding site plan is accurate and complete and complies with any conditions or approval. Approval of a binding site plan does not give the applicant a vested right to build without regard to subsequent changes in zoning or building codes or other applicable land use regulations prior to application for a building permit on the subject property. ((Ord. 2014-005, 2014); Ord. 2011-013, 2011; Ord. 2005-31, 2005)

Chapter 16.06

~~REPEALED ADMINISTRATIVE SEGREGATIONS*~~

Sections

~~16.06.010 Repealed.~~

~~16.06.020 Repealed.~~

~~16.06.030 Repealed.~~

~~16.06.040 Expiration and Credit.~~

~~16.06.050 Repealed.~~

~~16.06.060 Repealed.~~

~~16.06.010 Repealed.~~

~~(Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

~~16.06.020 Repealed.~~

~~(Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

~~16.06.030 Repealed.~~

~~(Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

~~16.06.030 Repealed.~~

~~(Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

~~16.06.040 Expiration and Credit.~~

~~All administrative segregation applications that have not received a letter of official denial and have received preliminary approval, shall, within 3 months of the adoption of this Ordinance, either (1) be submitted for final approval pursuant to the administrative segregation regulation in effect when the applications received preliminary approval, (an extension of up to three months may be requested by applicants who have submitted everything necessary for final review~~

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except the survey so long as the applicant demonstrates that they have financially obligated themselves, by payment of a deposit for example, to have the survey done within the extension period), or (2) convert to either a short plat, long plat, or large lot subdivision by notifying Kittitas County of the desire to convert and by paying any additional fees necessary for the review of the application to which the matter is being converted. Such converting applicant shall be eligible to credit application fees paid towards an appropriate subdivision in accord with this code section. As an example, if the prior administrative segregation application was creating three lots, it would be appropriate for the applicant to credit the fee towards a short plat application and provide all necessary additional materials to make up a complete short plat application. Similarly, if the administrative segregation application had been to create 20 lots, the new application should be for a long plat and the applicant would need to submit all needed additional fees and materials, including SEPA review, to make a complete long plat application. Prior to one year from the passage of this ordinance the converting applicant must submit the remaining necessary materials (potentially including all SEPA documentation and including proof of preliminary approval and fees paid) to create a complete short plat, long plat, or large lot subdivision application. Upon payment of the additional fee and submission of the additional necessary materials the converting applicant shall receive a vesting date establishing the land use regulations that will govern the review of the converted application. Applications that neither finish nor complete the conversion process by the deadlines herein shall be expired and void. The County shall endeavor to send all undenied administrative segregation applications individual notice of this regulation, but actual receipt of such notice is not necessary for the applicant to be bound by this regulation and the time limits contained herein. All applications by applicants who fail to request final administrative segregation approval or, for conversions to subdivision applications, fail to provide proof of amounts paid (including acceptance the subdivision fee credit) and preliminary acceptance, and provide additional materials within the time limits provided in this ordinance, are expired and void. Kittitas County shall provide notice to the Yakama Nation of all applications submitted for final approval no less than 14 days before such approval and shall consider comment from the Yakama Nation in each instance of final review. Nothing in this section exempts applicants for administrative segregations from any applicable laws including, but not limited to, the Washington Department of Ecology's Upper Kittitas Ground Water Rule, Chapter 173-539A WAC, the Kittitas County Zoning Ordinance, Title 17 KCC, the Kittitas County Critical Areas Ordinance, Title 15 KCC, Title 17A KCC, or the Kittitas County Shoreline Master Program. Nothing in this section shall be construed to expand or diminish the rights or obligations of persons receiving final approval of an administrative segregation application before September 18, 2012. (~~Ord. 2012-006, 2012; Ord. 2011-013, 2011~~)

Sections

~~16.06.010 Repealed.~~

~~16.06.020 Repealed.~~

~~16.06.030 Repealed.~~

~~16.06.040 Expiration and Credit.~~

~~16.06.050 Repealed.~~

~~16.06.060 Repealed.~~

~~16.06.010 Repealed.~~

~~(Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

~~16.06.020 Repealed.~~

~~(Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

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~~16.06.030 Repealed.
(Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

~~16.06.030 Repealed.
(Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

~~16.06.040 Expiration and Credit.~~

~~All administrative segregation applications that have not received a letter of official denial and have received preliminary approval, shall, within 3 months of the adoption of this Ordinance, either (1) be submitted for final approval pursuant to the administrative segregation regulation in effect when the applications received preliminary approval, (an extension of up to three months may be requested by applicants who have submitted everything necessary for final review except the survey so long as the applicant demonstrates that they have financially obligated themselves, by payment of a deposit for example, to have the survey done within the extension period), or (2) convert to either a short plat, long plat, or large lot subdivision by notifying Kittitas County of the desire to convert and by paying any additional fees necessary for the review of the application to which the matter is being converted. Such converting applicant shall be eligible to credit application fees paid towards an appropriate subdivision in accord with this code section. As an example, if the prior administrative segregation application was creating three lots, it would be appropriate for the applicant to credit the fee towards a short plat application and provide all necessary additional materials to make up a complete short plat application. Similarly, if the administrative segregation application had been to create 20 lots, the new application should be for a long plat and the applicant would need to submit all needed additional fees and materials, including SEPA review, to make a complete long plat application. Prior to one year from the passage of this ordinance the converting applicant must submit the remaining necessary materials (potentially including all SEPA documentation and including proof of preliminary approval and fees paid) to create a complete short plat, long plat, or large lot subdivision application. Upon payment of the additional fee and submission of the additional necessary materials the converting applicant shall receive a vesting date establishing the land use regulations that will govern the review of the converted application. Applications that neither finish nor complete the conversion process by the deadlines herein shall be expired and void. The County shall endeavor to send all undenied administrative segregation applications individual notice of this regulation, but actual receipt of such notice is not necessary for the applicant to be bound by this regulation and the time limits contained herein. All applications by applicants who fail to request final administrative segregation approval or, for conversions to subdivision applications, fail to provide proof of amounts paid (including acceptance the subdivision fee credit) and preliminary acceptance, and provide additional materials within the time limits provided in this ordinance, are expired and void. Kittitas County shall provide notice to the Yakama Nation of all applications submitted for final approval no less than 14 days before such approval and shall consider comment from the Yakama Nation in each instance of final review. Nothing in this section exempts applicants for administrative segregations from any applicable laws including, but not limited to, the Washington Department of Ecology's Upper Kittitas Ground Water Rule, Chapter 173-539A WAC, the Kittitas County Zoning Ordinance, Title 17 KCC, the Kittitas County Critical Areas Ordinance, Title 15 KCC, Title 17A KCC, or the Kittitas County Shoreline Master Program. Nothing in this section shall be construed to expand or diminish the rights or obligations of persons receiving final approval of an administrative segregation application before September 18, 2012. (Ord. 2012-006, 2012; Ord. 2011-013, 2011)~~

**Chapter 16.08
DEFINITIONS**

Sections

16.08.010 Word construction.

16.08.015 Repealed.

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- 16.08.020 Alley.
- 16.08.040 Block.
- 16.08.050 Board.
- 16.08.055 Boundary line adjustment.
- 16.08.056 Cluster.
- 16.08.057 Cluster plat.
- 16.08.060 Comprehensive plan.
- 16.08.070 Conservation plat.
- 16.08.080 Dedication.
- 16.08.086 Director.
- 16.08.087 Division.
- 16.08.090 Easement.
- 16.08.100 Large lot subdivision.
- 16.08.110 Lot.
- 16.08.115 Minimum lot size.
- 16.08.117 Open space.
- 16.08.118 Parcel creation.
- 16.08.120 Planning commission.
- 16.08.130 Plat.
- 16.08.135 Plat certificate.
- 16.08.140 Plat, final.
- 16.08.160 Public works director.
- 16.08.165 Road, public and private.
- 16.08.185 Short plat.
- 16.08.186 Short Subdivision.
- 16.08.190 Subdivider.
- 16.08.200 Subdivision.

.....

16.08.055 Boundary line adjustment.

"Boundary line adjustment" means making alterations to existing lots, tracts or parcels through adjusting one (1) or more property lines. ~~A boundary line adjustment is an alteration made for the purposes of adjusting boundary lines, in a manner which does not create any additional lot, tract, or parcel, which contains insufficient area and/or dimensions to meet minimum requirements for a building site. No lot or parcel resulting from a boundary line adjustment may be smaller than the minimum size allowed in that zone; provided, however, if the lot or parcel was already a nonconforming lot size that did not meet the minimum lot size for that zone, a boundary line adjustment may adjust boundaries so that a nonconforming lot is larger even if it still continues to be less than the minimum lot size for that zone.~~

~~Boundary line adjustments are not intended to make changes that result in increased development or density otherwise regulated by applicable land use codes. The resulting legal descriptions shall incorporate the original legal descriptions and the resulting change to those descriptions.~~

~~Boundary line adjustments are not intended to make changes that result in increased development or density otherwise regulated by applicable land use codes. The resulting legal descriptions shall incorporate the original legal descriptions and the resulting change to those descriptions.~~

~~Boundary line adjustments must comply with KCC 16.18 and KCC Title 12 Road Standards. (Ord. 2013-001, 2013; Ord. 2005-31, 2005)~~

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Chapter 16.10

BOUNDARY LINE ADJUSTMENTS

Sections

16.10.010 Applicability

16.10.020 Application requirements

16.10.030 Review criteria

16.10.040 Review procedures

16.10.050 Recording

16.10.060 Transfer of title

16.10.070 Expiration

16.10.010 Applicability.

A boundary line adjustment is an acceptable means of transferring land between abutting legally created parcels, provided:

1. No additional lots, parcels or tracts are created as part of the transfer;
2. No lot that currently conforms to minimum area and dimension regulations shall be adjusted so as to become nonconforming; and
3. No nonconforming lot shall be adjusted in a manner that increases the nonconformity.
4. No parcels with split zoning are created as a part of the transfer per KCC Chapter 16.04.025.

16.10.020 Application requirements.

Applicants for a boundary line adjustment shall submit the following for review and approval:

1. A brief narrative description of the proposed boundary line adjustment;
2. Existing and proposed legal descriptions of the affected lots;
3. Scaled drawings of both existing and proposed site plans as described in KCC Title 15A.03.030;
4. A certificate of title issued within the preceding one hundred twenty (120) days.

16.10.030 Review criteria.

In addition to the requirements in KCC 16.10.010 above, the Director shall consider, and base his/her decision to approve or deny a boundary line adjustment on the following:

1. Compliance with KCC Title 17 Zoning;
2. Compliance with KCC Title 12 Roads and Bridges;
3. Compliance with KCC Title 13 Water and Sewers;;
4. Compliance with KCC Title 14 Buildings and Construction;
5. Compliance with KCC Chapter 16.18 Irrigation and Sprinkling and RCW 58.17.310 and;
6. Compliance with KCC Title 20 Fire and Life Safety.

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16.10.040 Review procedures.

The Director shall review the boundary line adjustment for compliance with this chapter and all other land use regulations in effect at the time the application was deemed complete. If all requirements for approval are met, the Director shall provide written findings of fact supporting the approval of the boundary line adjustment.

16.10.050 Recording.

Prior to recording, a final Preliminary Survey along with legal descriptions and final acreages for all lots involved -shall be submitted to Community Development Services for review and approval. The Director shall verify that the final survey and any attachments are accurate and complete and that they comply with all of the requirements in KCC 16.10.030. Boundary line adjustments do not become effective until recorded with the Kittitas County Auditor.

16.10.060 Transfer of title.

The recording of a boundary line adjustment does not constitute a transfer of title. Separate deeds to this effect must be recorded with the Kittitas County Auditor and are not subject to the provisions of this Chapter.

16.10.070 Expiration.

If the boundary line adjustment is not recorded with the Kittitas County Auditor within two (2) years of the date of approval, the boundary line adjustment shall be null and void.

16.12.150 Road, sewer, water and fire system recommendations.

The planning official, county public works director, county health officer, and the county Fire Marshal, shall certify to the Hearing Examiner, prior to the hearing, their respective recommendations as to the adequacy of the proposed road system, the proposed sewage disposal and potable water supply systems; compliance with Kittitas County Code Chapter 13.35, Adequate Water Supply Determination; and fire and life safety protection facilities within the subdivision. The recommendations of the planning official, county public works director, county health officer, and the county Fire Marshal, shall be attached to the Hearing Examiner's report for transmittal to the board. (Ord. 2014-005, 2014; Ord. 2011-013 , 2011; Ord. 2005-31, 2005)

16.32.050 Short plat review.

The planning official shall be vested with the responsibility of processing short plat applications. The county shall review and consider the proposed short subdivision with regard to:

1. Its conformance with all county subdivision, zoning, health and sanitation, roads and bridges, and fire and life safety regulations and with laws adopted by the state of Washington.
2. Its conformance to all standards and improvements required under this title.
3. Potential hazards created by flood potential, landslides, etc.
4. Provisions for all improvements and easements (roads, ditches, etc.) required by this title.
5. Access for all proposed lots or parcels by way of a dedicated road right-of-way or easement.

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6. All other relevant facts which may determine whether the public interest will be served by approval of the proposed subdivision.
7. Lots or parcels created by the final platting of a subdivision or short subdivision may not be further divided within a five-year period without filing of a final plat; except as provided for in RCW 58.17.060 (Ord. 2011-013 , 2011; Ord. 2005-31, 2005)
- 7.8. Its compliance with Kittitas County Code Chapter 13.35, Adequate Water Supply Determination. (Ord. 2014-005, 2014)

16.36.015 Criteria for eligibility as a large lot subdivision.

1. All large lot subdivisions shall conform to the county comprehensive plan and all zoning regulations in effect at the time the large lot subdivision is submitted.
2. Consistent with parcel creation by long and short subdivision provisions of this code, preliminary approval of large lot subdivisions shall mean that road and access requirements are identified and conformance with section 16.04 of this code has been met.
3. Proof that all lots or tracts created by large lot subdivision are approved for irrigation delivery by the appropriate irrigation entity or entities shall be provided.
4. Requirements for easements as set forth in Section 16.12.110 shall be met.
5. The appropriate dedication as provided for in 16.24.090 and 16.24.110, A dedication shall appear on the face of the large lot subdivision survey with the following statement:

KNOWN ALL MEN BY THESE PRESENT: that the undersigned, owner(s) in fee simple of the described real property, does hereby grant forever unto all owners of lots in this survey and all future plats in this survey a common ownership interest in all private roads shown.

6. A note shall appear on the subdivision survey with the following statement:

"NOTE: The lots in this survey are created through the large lot subdivision review process. As such there has been review for conformance with suitability for on-site sewage disposal and availability of potable water."

7. All large lot subdivisions shall contain information set forth in Sections 16.12.010 through 16.12.030. (Ord. 2005-31, 2005)
- 7.8. All large lot subdivisions shall meet requirements of Kittitas County Code Chapter 13.35, Adequate Water Supply Determination. (Ord. 2014-005, 2014)

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EXHIBIT 11


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**BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
EASTERN REGION**


CONFEDERATED TRIBES AND]	NO. 12-1-0001
BANDS OF THE YAKAMA NATION,]	
]	
Petitioner,]	STIPULATED JOINT MOTION
]	FOR DISMISSAL
vs.]	
]	(WAC 242-03-720(1)(b))
]	
KITTITAS COUNTY,]	
]	
Respondent.]	

The Petitioner and the Respondent jointly request the dismissal of the above-captioned matter. The parties have reached a settlement and request that the matter be dismissed. The parties request an order from the Board dismissing the case, as authorized by WAC 242-03-720(1)(b).

DATED this 26th day of February, 2013.



 Patrick D. Spurgin,
 Attorney for Petitioner



 for Neil Caulkins,
 Attorney for Respondent

NSRA 36596

RECEIVED
MAR 11 2013
KITITITAS COUNTY
PROSECUTING ATTORNEY

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
EASTERN WASHINGTON REGION
STATE OF WASHINGTON

CONFEDERATED TRIBES AND BANDS OF
THE YAKAMA NATION,

Case No. 12-1-0001

Petitioner,

ORDER OF DISMISSAL

v.

KITITITAS COUNTY,

Respondent.

This matter comes before the Board on a Stipulated Joint Motion for Dismissal filed by the parties on February 27, 2013.

I. DISCUSSION

WAC 242-03-720(1)(b) states that an action shall be dismissed by the Board upon stipulation for dismissal by Petitioner and Respondent. Petitioner and Respondent in this case jointly request dismissal and indicate that the parties have reached a settlement. The Board finds that this case should be dismissed because all parties have stipulated to dismissal.

II. ORDER

This action is dismissed and the case is closed.

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DATED this 7th day of March, 2013.


Raymond L. Paoella, Presiding Officer


Chuck Mosher, Board Member


William Roehl, Board Member

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**BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
EASTERN WASHINGTON REGION**

Case No. 12-1-0001

Confederated Tribes and Bands of the Yakama Nation v. Kittitas County

DECLARATION OF SERVICE

I, LYNN TRUONG, under penalty of perjury under the laws of the State of Washington, declare as follows:

I am the Office Assistant for the Growth Management Hearings Board. On the date indicated below a copy of the ORDER OF DISMISSAL in the above-entitled cases was sent to the following through the United States postal mail service:

Patrick D. Spurgin
411 North 2nd Street
Yakima, WA 98901

Neil A. Caulkins
Deputy Prosecuting Attorney
Room 213, Kittitas County Courthouse
205 West Fifth Avenue
Ellensburg WA 98926

DATED this 7TH day of March, 2013.


Lynn Truong, Office Assistant