

# *Lathrop, Winbauer, Harrel, Slothower & Denison L.L.P.*

*Attorneys at Law*

Post Office Box 1088, 201 West Seventh Avenue, Ellensburg, WA 98926

*F. Steven Lathrop, P.S.  
John P. Winbauer  
Susan K. Harrel  
Jeff Slothower  
James T. Denison, Jr.  
Christopher P. Taylor*

*Tel (509) 925-6916  
Fax (509) 962-8093*

RECEIVED

July 7, 2010

JUL -7 2010

**VIA HAND DELIVERY**

1st \_\_\_ 2nd \_\_\_ 3rd \_\_\_  
KITTITAS COUNTY BOARD OF COMMISSIONERS

Kittitas County  
Board of Commissioners  
205 W 5th AVE STE 108  
Ellensburg WA 98926-2887

**RE: Notice of Administrative Appeal and Administrative Appeal**

Dear Board:

## **BACKGROUND**

This office represents Jim Hand, who owns real property located in Sections 17 and 20, Township 18 North, Range 18 East W.M. in Kittitas County, Washington. Mr. Hand has hired and has been represented in Boundary Line Adjustment No. BL-05-07051 and Segregation No. SG-05-07051 by David Nelson of Encompass Engineering and Surveying. For the purposes of the above-referenced applications Mr. Nelson is Mr. Hand's agent.

## **APPEAL**

This appeal is filed pursuant to KCC 15A.07.010 and is an appeal of an administrative determination or decision. Mr. Hand has a pending boundary line adjustment application and exempt segregation application. These two applications have been pending since 2005. On June 25, 2010 Mr. Hand's agent, Mr. Nelson, received a letter from Kittitas County Community Development Services regarding SG-05-07051 and BL-05-07051. The letter was signed by Jeff Watson, Staff Planner. A true and correct copy of the letter is attached hereto and incorporated herein by reference as Exhibit 1. In the letter Kittitas County Community Development Services, by and through Mr. Watson, indicates that SG-05-07051 and BL-05-07051 will be reviewed simultaneously under the State Environmental Policy Act (SEPA). Further, Kittitas

County Community Development Services indicates that SEPA review is necessary to assess the “cumulative impacts” of seven segregations and six boundary line adjustments based upon “their proximity to one another and the resulting shared infrastructure.” The boundary line adjustments and segregations do not provide for or propose the construction of improvements and thus there is no shared infrastructure.

In addition, Kittitas County Community Development Services required, as a condition of further processing of SG-05-07051 and BL-05-07051, the completion of a SEPA checklist, the payment of the \$470.00 SEPA application fee, and a formal request for additional information as outlined in Kittitas County Code, Chapter 15A.030.040. Kittitas County Community Development Services further indicated that the applications were placed on hold and they would expire in 180 calendar days unless the requested additional information is submitted.

1. The Decision Being Appealed.

The administrative decision by Kittitas County Community Development Services as set forth in the June 25, 2010 letter attached as Exhibit 1 hereto constitutes an administrative decision and is the administrative decision being appealed.

2. Appellant.

The Appellant is Jim Hand, c/o Jeff Slothower, PO Box 1088, Ellensburg, Washington.

3. Specific Reasons Appellant Believes Decision is Wrong.

The Appellant believes the administrative decision by Kittitas County Community Development Services as set forth in the June 25, 2010 letter attached as Exhibit 1 hereto is wrong for the following reasons.

3.1 SG-05-07051 and BL-05-07051 are vested applications and/or have preliminary approval and as a result the County cannot now impose SEPA review; and

3.2 Exempt segregations and boundary line adjustments under applicable State and Kittitas County Code are not subject to SEPA and an applicant is not required to pay the fee for and to complete a SEPA checklist as a condition of having the boundary line adjustments and/or exempt segregations processed; and

3.3 Even if SEPA and or Kittitas County Code allowed the County to require a boundary line adjustment and/or exempt segregation applicant to pay additional application fees and complete a SEPA checklist, the imposition of that requirement in Mr. Hand’s situation and with respect to the above-referenced applications is not appropriate because the boundary line adjustment and exempt segregation applications do not propose to create any improvements on the ground and will not affect the environment in any way, shape or form. Thus, there are no

cumulative impacts and the County's determination that there are potential cumulative impacts as a result of the boundary line adjustments and exempt segregations are incorrect; and

3.4 There is no provision in the Kittitas County Code that a boundary line adjustment and/or exempt segregation that is not processed and completed within 180 days expires. In fact, under the Kittitas County Code at the time these applications were filed and thus the Code the applications are vested to, and under current Kittitas County Code, there is no deadline in which an applicant must process a boundary line adjustment and/or an exempt segregation.

4. Desired Outcome or Changes to the Decision.

The Appellant desires that SG-05-07051 and BL-05-07051 be processed without being required to go through the SEPA process and that the Appellant not be required to pay for and submit a SEPA checklist as a condition of continued processing.

5. Appeal Fee.

The applicable \$500.00 appeal fee is enclosed herewith and is hereby tendered to the County and the Appellant requests that the Clerk of the Board of County Commissioners set a date and time certain for a hearing on the aforementioned appeal.

SUBMITTED this 7 day of July.

By:   
Jeff Slothower, WSBA No. 14526  
Attorney for Jim Hand

JS:hh

Encls.

cc: Client (*via email and regular mail*)

**Exhibit 1**  
**June 25, 2010 Letter from Jeff Watson**



KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES  
411 N. Ruby St., Suite 2, Ellensburg, WA 98926  
CDS@CO.KITTITAS.WA.US  
Office (509) 962-7306  
Fax (509) 962-7682

June 25, 2010

Dave Nelson  
108 East 2nd Street  
Cle Elum WA 98922

Subject: SG-05-07051 Hand  
BL-05-07051 Hand

Dear Mr. Nelson,

Based upon review of the above referenced segregation and boundary line adjustment applications, Community Development Services will require the projects to be reviewed simultaneously under the State Environmental Policy Act (SEPA). Environmental review is required to assess the cumulative impacts of the seven segregations and six boundary line adjustments collectively based on their proximity to one another and the resulting shared infrastructure.

Kittitas County Code Chapter 15.04.090 (Ord. 98-10) established exempt levels for minor new construction under Washington Administrative Code (WAC) 197-11-800(1)(b) based on local conditions. For residential dwelling units in WAC 197-11-800(1)(c)(i), the threshold is up to nine dwelling units. The seven segregations and six boundary line adjustments as proposed in this series of land use applications will result in a total of 20 additional potential residential lots.

Please complete and return the attached SEPA checklist for the above listed applications, along with the \$470.00 application fee to Community Development Services at 411 North Ruby Street, Ellensburg, WA 98926; attention Jeff Watson, Staff Planner. This letter shall serve as a formal request for additional information as outlined in Kittitas County Code Chapter 15A.030.040. These applications will be placed on hold and the application processing "clock" stopped until the above requested information is provided. Applications shall expire after 180 calendar days unless the requested additional information is submitted in complete form, or other arrangements are made with Kittitas County Community Development Services.

If you have any questions regarding this matter, please feel free to contact me at (509) 933-8274.

Sincerely;

Jeff Watson  
Staff Planner



Kittitas County Office Of The Treasurer

Deanna Jo Panattoni, Treasurer

205 W 5th Avenue, Suite 102

Ellensburg, Wa 98926

Phone (509) 962-7535 Fax (509) 933-8212

Cash Receipts

Receipt Number: 2010-4725 Date: 07/07/2010

Received From: JULIE KJORSVIK- CATHERINE

Check Amount: \$500.00

Cash Amount: \$0.00

Eft Amount: \$0.00

Total Amount: \$500.00

Deputy: MEGANA Receipt Type: CHK

Template:

Comments:

ADMINISTRATIVE APPEAL FEE FOR JIM HAND CSR 2010-2995

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

Kittitas County Treasurer's Office

Submitted By: MEGAN ACREE



**Kittitas County Office Of The Treasurer**  
**Deanna Jo Panattoni, Treasurer**  
205 W 5th Avenue, Suite 102  
Ellensburg, Wa 98926  
Phone (509) 962-7535 Fax (509) 933-8212

Cash Suspense

Receipt Number: 2010-2995 Date: 07/07/2010

Received From: JULIE KJORSVIK

Check Amount: \$500.00  
Cash Amount: \$0.00  
Eft Amount: \$0.00  
Total Amount: \$500.00

Deputy: JULIEK Receipt Type: CHK

Template: COMMISSIONER: COMMISSIONERS

Comments:

ADMINISTRATIVE APPEAL FEE FOR JIM HAND

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

Kittitas County Treasurer's Office

Submitted By: JULIE KJORSVIK

9736

98-703/1251  
02005684

**JIM HAND**  
LIC. HAND\*JE547JL  
961 WHITNEY PH. 509-522-3300  
WALLA WALLA, WA 99362

DATE 7-6-2010

PAY TO THE ORDER OF Walla Walla County Board of Commissioners \$ 500.-

Five Hundred & 00/100 DOLLARS

MP

**AmericanWest Bank**  
Walla Walla Financial Center  
30 W. Main St.  
Walla Walla, WA 99362  
TeleService 1-800-772-5479

*J. Hand*

MEMO

⑆ 2510703710 2005684 ⑆ 09736

SAFETY PAPER  
DUPLICATE  
WALLET OR DUPLICATE