

Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P-08-01)	DECISION AND
Charles Reppas & Benjamin Beck)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on July 31, 2008, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. The applicants are Charles Reppas, 21407 9th Ave., Bothell WA and Benjamin Beck, 725 South Jarvis, East Wenatchee WA.
2. General Description: Charles Reppas and Benjamin Beck have submitted a 32 lot, 8.25 acre major subdivision. Proposed lot sizes range from 6875 square feet to 16,618 square feet. The average lot size is 8,450 square feet.
3. Location: The subject property is located on the north side of Rock Island Road at the intersection of Rock Island Rd and S. Jarvis Ave. The property is further described as being located within Section 13, Township 22 North, Range 20 East, W.M., in Douglas County, Washington. The Douglas County Assessor Numbers for the subject property are 40200006101 and 40200006202.
4. Site Information:

Total Project Size:	8.25 acres
No. of lots	32
Domestic Water:	East Wenatchee Water District
Sewage Disposal:	Douglas County Sewer District #1
Power/Electricity:	Douglas County PUD
Fire Protection:	Douglas County Fire District #2
Telephone Service:	Verizon

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5. Site Characteristics: The subject property is situated on a south-facing slope. The property slopes to the south at approximately 10 percent with an 80 foot elevation change. An old gravel pit has been identified in the northwest portion of the subject property. The western portion of the site is a former orchard and is currently vacant. The eastern portion of the site is currently in orchard. A residence and outbuildings are located on the southern center of the site.
6. Surrounding Property: To the north, Single Family Homes – Plat of Skyview Ridge; to the south, Large lot single family homes, Orchard, to the east, Large lot single family homes, Orchard, Rock Island Road, 8th Street SE; to the west, Single Family Homes
7. The subject property is located within the Greater East Wenatchee Planning Area.
8. The subject property is located within the East Wenatchee Urban Growth Area.
9. The Comprehensive Plan Designation is Low Residential.
10. The subject property is located in the R-L zoning district which allows for subdivisions as permitted uses.
11. On March 28, 2007, Douglas County adopted Ordinance No. 07-01H which adopted portions of Title 17 of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Area.
12. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
13. Soil mapping from the USDA Natural Resource & Conservation Service indicate the presence of steep and severe building soils on the subject property. A Geologic Hazard Risk Assessment, from J.B. Hamilton Consulting LLC., dated October 22, 2007 was submitted by the applicant. The Assessment identified that an old gravel pit site is present on the northwest portion of the subject property. J.B. Hamilton Consulting LLC submitted supplemental geologic information regarding the pit site dated April 25, 2008 and June 4, 2008.
14. The subdivision will access Rock Island Road. Lot 31 will access 8th Street SE.
15. A Traffic Impact Study from Transportation Engineering NorthWest, LLC, dated December 28, 2007 was submitted for the proposal. This study recommended that the applicant fully fund and construct the necessary site roadway and associated frontage improvements on Rock Island Road as project mitigation.

16. Frontage improvements are addressed in Chapter 12.50.150 *Transportation System and Frontage Improvements*, of the Douglas County Road Standards. Rock Island Road is designated as an Urban Arterial. As this site is located inside of the Federal Urbanized Area, Figure 3-8, urban Arterial, of the road standards is the applicable road standard. This standard includes a half street asphalt width of twenty-two feet; 8" CSBC, 4" CSTC, and 3" ACP. The existing condition of Rock Island Road includes a twelve foot asphalt lane with a one foot asphalt shoulder.
17. The inclusion of permanent cul-de-sacs is strongly discourage as they inhibit road and pedestrian network circulation (see 12.52.040 *Design Requirements, L. Cul-de-Sacs and Dead-End Roads* for specific requirements) and are not consistent with the Greater East Wenatchee Area Comprehensive Plan.
18. In order to facilitate the best possible road and pedestrian network circulation; Section 12.52.030 (A)(2) authorizes the requirement that the layout of roads to provide for the extension of existing roads.
19. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
20. On July 1, 2008 the Douglas County Board of Commissioners signed Resolution No. TLS-08-38 vacating S. Jarvis Ave through the subject property.
21. An temporary access easement has been granted along the original constructed path of S. Jarvis Ave pursuant to easement documents recorded under AFNs 3125082 and 3125083.
22. Douglas County is required to comply with the Eastern Washington Phase II Municipal Stormwater Permit, issued by the Department of Ecology, in compliance with the provisions of the State of Washington Water pollution Control Law, Chapter 90.48, RCW and the Federal Water Pollution Control Act, title 33, USC, Section 1251 et seq.
23. A Preliminary Stormwater Drainage Overview, dated December 2007, from Torrence Engineering LLC was submitted by the applicant. The applicant has proposed that stormwater runoff from the site be handled by a drywell. This approach poses additional impacts such as coordination of the drywells with other utilities, protection of the facilities from siltation during the construction period when large amounts of the development will be bare, and coordination of requirements with the Washington State Department of Ecology.
24. Due to maintenance and failure history of previously utilized drywell facilities and monitoring requirements associated with the Department of Ecology UIC program,

which governs drywell facilities, stormwater facilities shall be designed to facilitate reasonable monitoring and maintenance to ensure the long term functionality; Douglas County requires above grade discharge and treatment of stormwater, into open facilities such as a settling pond or swale, prior to discharge into subsurface facilities in order to allow for visual inspection of the collected stormwater prior to entering the subsurface portion of the facility.

25. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will be addressed prior to final plat approval.
26. Comments from reviewing agencies have been considered and addressed where appropriate.
27. The applicants and Douglas County signed a mitigation agreement establishing the mitigation conditions relative to the environmental impact of the project. Douglas County issued a Mitigated Determination of Nonsignificance on July 14, 2008 pursuant to WAC 197-11-340 (2). A comment period commenced on July 15, 2008 and ends on July 28, 2008.
28. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
29. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
30. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
31. The Eastmont School District #206 has determined that the District has insufficient capacity in existing facilities to accommodate increased student enrollment associated with increased residential development.
32. Section 17.24.150 of the Douglas County Code requires that every subdivision shall be served by a water supply system approved and installed to meet the requirements and standards of the Chelan Douglas Health District.
33. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
34. This Application was found to be Technically Complete as required by law.
35. The entire Planning Staff file was admitted into the record at the public hearing.

36. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.
37. Public hearing after due legal notice was held on July 31, 2008. Appearing on behalf of the applicant was Charles Reppas. Mr. Reppas testified that the applicant agreed with all findings within the staff report and agreed to all conditions of approval contained in the mitigation agreement of July 3, 2008.
38. Also testifying on behalf of the applicant was John Torrence. Mr. Torrence testified relating to street improvements on Rock Island Road and whether or not they would extend onto 8th Street SE. The mitigation agreement has a small portion of 8th Street SE also being subject to improvements. The applicant is prepared to satisfy the conditions set forth in the mitigation agreement or, in the alternative, to continue improvements on Rock Island Road adjacent to property not part of the applicant's property, to the intersection of Rock Island Road and 8th Street SE.
39. Andrew Schauer of Douglas County Transportation and Land Services testified that it would be their preference to extend the improvements to Rock Island Road to the intersection of 8th Street SE and to not have the improvements on 8th Street SE adjacent to Lot 31 of the applicant's proposed development. However, it was agreed that the mitigation agreement does provide for these improvements and that there would need to be some amendment made to the mitigation agreement in order to accomplish this change. The Hearing Examiner would not object to any change of the mitigation agreement regarding road improvements on Rock Island Road and the elimination of improvements on 8th Street SE, assuming that the applicant and the County were in full and complete agreement to these changes.
40. Supplemental materials were submitted by staff at the hearing. This was a July 24, 2008, comment from the Douglas County PUD. This was admitted into the record at the hearing.
41. There was public testimony regarding this project. Testifying in favor of the project was Ruth Ruppert. Ms. Ruppert indicated that her father, Ben Beck, owns the land on the east portion of the project site. She testified that they were in support of the project.
42. Randall Rice of East Wenatchee testified in opposition to the project. Mr. Rice's concerns were primarily related to deficiencies of a nearby development known as Skyview Ridge. His testimony was that Skyview Ridge was having problems with their development and compliance with conditions of approval and therefore the Hearing Examiner should not grant approval to this project because one of the applicant's was also the developer of the Skyview Ridge development.

43. Also testifying in opposition to the project was Susan Price. Ms. Price also testified regarding problems with the Skyview Ridge subdivision being in compliance with its conditions of approval. She testified that it was her wish that they would finish the Skyview Ridge project before starting this project as the construction of both projects at the same time will have impacts upon her enjoyment of life.
44. Also testifying in opposition to the project was Matt Campos. Mr. Campos also testified to the negative impacts the Skyview Ridge project has had on his property and that he desired protection from the County so that this new development would not have any further impacts.
45. Mr. Torrence testified briefly in rebuttal indicating that there would only be one access point to the construction project of the subject project and that that access point would not be through Skyview Ridge. He also testified that although there was not a requirement for grading standards within the Douglas County Code, that his client had agreed to grading standards as suggested by Douglas County Transportation and Land Services staff.
46. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
47. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
48. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
49. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Greater East Wenatchee Area Comprehensive Plan.

4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Public use and interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 17 Zoning of the East Wenatchee Municipal Code as adopted by Ordinance # 01-01H.
7. As conditioned, the proposal is consistent with Title 17 “Subdivision”, Title 19 “Environment”, and Title 20 “Development Standards”, of the Douglas County Code.
8. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
9. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
10. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
11. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Douglas County Code or the Comprehensive Plan.
12. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
13. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Application P-08-01, Charles Reppas & Benjamin Beck, is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant’s heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the “Applicant,” which terms shall include the owner or owners of the property, heirs, assigns and successors.

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2. The project shall proceed in substantial conformance with the plans and application materials of file dated January 9, 2008 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. A plat certificate showing parties of interest from a title company must be submitted with the blue-line drawings.
5. The final plat map shall be submitted by a land surveyor licensed in the State of Washington, and shall comply with the standards set forth in Title 17 of the Douglas County Code.
6. All parties having an ownership interest in the subject property shall acknowledge the plat.
7. Preliminary approval shall expire 5 years from the date of Notice of Action by the Douglas County Hearing Examiner. Final plat approval after the expiration will require the submittal of a new preliminary application and approval based on applicable documents and codes in effect at the time of re-application.
8. The applicant shall comply with all agreed mitigation measures/conditions set forth in the July 3, 2008, mitigation agreement.

Dated this 7th day of August, 2008.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.

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