

Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P#07-09)	DECISION AND
CMH Homes, Inc.)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on March 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 applicant, CMH Homes, Inc., has submitted a major subdivision application for a 17 lot subdivision. Proposed lot sizes range from 1 acre to 2.35 acres in size, with an average lot size of 1.19 acres. The site is designated as Residential Low by the Greater East Wenatchee Area Comprehensive Plan with a maximum identified housing density of 6 dwelling units per acre. The Residential Low, R-L, Zoning District identifies that the minimum lot size is 7,000 square feet, except as provided in EWMC Chapter 17.72 for lot size averaging. In order to facilitate future infill within the urban growth area and the subject property, proposed lots within the preliminary plat in conjunction with plans for road and utility infrastructure systems have been designed to accommodate the future redivision of the plat, at such time sanitary sewer is available.
2. The applicant is CMH Homes, Inc., 1821 N. Wenatchee Avenue, Wenatchee, WA 98801.
3. The subject property includes tax parcel: 22210530004. The proposed plat is located north of 10th St. NE, with 16 of the 17 proposed lots fronting on the county road. The site is located in a portion of the southeast quarter of the southeast quarter of Section 6, and a portion of the southwest quarter of the southwest quarter of Section 5, Township 22 N., Range 21 E., W.M., Douglas County, WA.

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4. Surrounding Properties:
North: Steep shrub steppe hillside with dryland agriculture benched above.
South: 10th St. NE and dispersed single family homes and orchard
East: 4 sheds/outbuildings and a single family residence adjacent to proposed lot 16. This adjoining residence has direct access to 10th St. NE. Orchard is approximately 70-90' from the property line, located primarily downslope from proposed lot 17.
West: Steep shrub steppe hillside
5. The subject property is located in the R-L Zoning District which allows the division of property into residential lots.
6. The subject property is located within the East Wenatchee Urban Growth Boundary.
7. The Greater East Wenatchee Area Comprehensive Plan designates this area as appropriate for low residential development.
8. The proposal does not exceed the maximum density identified in the comprehensive plan as being appropriate for lands designated as Low Residential.
9. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
10. 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.
11. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will be addressed prior to final plat approval.
12. Internal access would be provided by access easements connecting to 10th St. NE at 4 locations.
13. The U.S. Department of Agriculture Natural Resource Conservation Services classifies a portion of the site as containing soils that are very limited, within the steeper northern portion of the site. This soil class is an Alstown-Cheviot Complex, 30-65 percent slopes. The flatter portion of the site contains Cashmere Fine Sandy Loam, 3-8% slopes. Several gullies lead to a single low point on the subject property, with a culvert inlet at the intersection of 10th St. NE and South Nile Avenue.
14. Douglas County issued a Mitigated Determination of Non-Significance for this proposal in accordance with WAC 197-11-355 and WAC 197-11-350, the State Environmental Policy Act (SEPA), on March 11, 2008.

15. The applicant has amended the subject application via the mitigation agreement process, MDNS, to address county code requirements and agency comments.
16. A geologically hazardous area/flood hazard analysis was submitted by the applicant's engineer, Robert Culp, P.E., Munson Engineers, dated July 25, 2007 and amended on November 28, 2007, February 1, 2008, and February 20, 2008.
17. The geologically hazardous area/flood hazard analysis prepared for the site submitted by the applicant's engineer, Robert Culp, P.E., Munson Engineers, dated July 25, 2007 and amended on November 28, 2007, February 1, 2008, and February 20, 2008; concluded that: "However, with suitable remediation identified below, the depicted building pads are feasible for each lot, and access road locations as shown are feasible for the site."
18. 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.
19. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
20. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
21. Douglas County issued a Mitigated Determination of Nonsignificance on February 1, 2008 pursuant to WAC 197-11-355. Reviewing agencies were provided a copy of the Mitigation Agreement. Per WAC 197-11-355 there was no further comment period on this DNS.
22. 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.
23. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
24. 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.
25. The outdoor storage of junk materials is not listed as a permitted use in the RL Zoning District.

26. Douglas County Code defines junk as: DCC: 14.98.443 Junk. "Junk" means any storage or accumulation of inoperable motor vehicles or equipment, vehicle or equipment parts, used lumber and building materials, pipe, white goods, appliances, demolition waste, any used material, or any solid waste."
27. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
28. This Application was found to be Technically Complete as required by law.
29. The entire Planning Staff file was admitted into the record at the public hearing.
30. Public hearing after due legal notice was held on March 31, 2008. Appearing and testifying on behalf of the applicant was Sherry Markwardt. Ms. Markwardt testified that she had no objection to any of the proposed conditions of approval. Her testimony indicated that all sites could be developed with a single-family residence and accessory structures without the need for a variance.
31. There was no public testimony in favor of the project. Public testimony in opposition to the project was given by Eric Sebring. Mr. Sebring owns land to the east of the subject property and brought the issue of drainage through the property to the County's attention. His testimony was that the water flowing through these drainages can be substantial. It was based upon Mr. Sebring's contact with the County that resulted in the additional study by Douglas County Transportation and Land Services resulting in the memorandum dated March 31, 2008, from Jennifer Lange to Glen DeVries.
32. 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.
33. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
34. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
35. This proposal, subject to the conditions of approval, does not include uses or activities that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70).
36. 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 authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Greater East Wenatchee Area Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As conditioned, the proposal is consistent with Title 17 Zoning of the East Wenatchee Municipal Code as adopted by Ordinance # 01-01H.
5. As conditioned, the proposal is consistent with Chapter 15.48 “Flood Damage Prevention”, Title 17, “Subdivisions”; Title 19, “Environment”; and Title 20, “Development Standards”, of Douglas County Code.
6. Comments from reviewing agencies have been considered and addressed where appropriate.
7. As conditioned, the subdivision can adequately be served by public water and onsite septic systems and power.
8. As conditioned, the development will not adversely affect the general public health, safety and general welfare.
9. Public use and interests will be served by approval of this proposal.
10. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
11. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
12. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
13. 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.
14. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.

15. 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#07-09, Oakwood Homes, is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

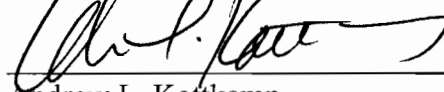
All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

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.
2. The Applicant shall obtain all permits required by all federal, state and local agencies with jurisdiction.
3. The Applicant shall comply with all federal, state and local laws and regulations.
4. Construction shall proceed substantially as shown on the application materials on file with Douglas County, except as modified by conditions below.
5. The project shall proceed in substantial conformance with the plans and application materials on file except as amended by the conditions herein.
6. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
7. A plat certificate showing parties of interest from a title company must be submitted with the blue-line drawings.
8. 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.
9. All parties having an ownership interest in the subject property shall acknowledge the plat.
10. It is the responsibility of the applicant to contact the Douglas County Assessor's and Treasurer's offices to confirm all taxes are current prior to final plat approval.

11. Prior to final plat approval, Douglas County Land Services must find that the mitigation conditions contained within the Mitigated Determination of Non-Significance, issued on March 11, 2008 for P#07-09, have been met.
12. All improvements shall be in place prior to plat finalization or a subdivision agreement must be entered into between the applicant and the County. The subdivision agreement shall specify surety, time frames, etc. If the developer elects to enter into a subdivision improvement agreement, an appropriate financial security such as a surety bond or irrevocable standby letter of credit shall accompany said agreement in conformance with D.C.C. 14.90.
13. Measures to address stormwater, including mitigation of impacts to adjacent properties, shall be incorporated into the final stormwater design. The stormwater design shall be submitted to the County Engineer for review and comment prior to acceptance. This may require reconfiguration of transportation and stormwater features within easements and/or an increase in easement width in order to adequately accommodate stormwater conveyance and water quality features.
14. The applicant shall comply with all recommendations contained in a March 31, 2008, memorandum from Jennifer Lange to Glen DeVries as well as the Stormwater Plan-Project Report prepared by Munson Engineers dated 2007, revised January, 2008, and the Site Evaluation of the Proposed Subdivision prepared by Tower Design dated January 24, 2006.
15. Prior to final plat approval, materials meeting the definition of junk under Douglas County Code must be removed to approved locations.

Dated this 14th day of April, 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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