

# Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

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<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
P#07-12	)	<b>DECISION AND</b>
Clemons Subdivision	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on January 17, 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 is Highland Ridge Development, LLC, 1920 8<sup>th</sup> Street, East Wenatchee, WA 98802.
2. This application is for a 41-lot major subdivision application, submitted by Highland Ridge Development, LLC, on an approximately 9.88 acre site. The lots range in size from 6,993 to 9,877 square feet. The subdivision would be served by sanitary sewer provided by the Douglas County Sewer District and public water from the East Wenatchee Water District. The subdivision fronts both South Lyle Avenue and 8<sup>th</sup> Street SE. A single access point is proposed to South Lyle Avenue. The subject property is within a portion of the SW 1/4 of Section 28, Township 22 N., Range 21 E., W.M.
3. The subject property is located within the East Wenatchee Urban Growth Area.
4. The Comprehensive Plan Designation is Low Residential.
5. The subject property is located in the R-L Residential Low Density District of the East Wenatchee Municipal Code, which allows for subdivisions.
6. The minimum lot size in the R-L Residential Low Density District is 7,000 square feet. Proposed lot 38 is 6993 square feet.

P#07-12  
Clemons Subdivision  
Page 1 of 15

7. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
8. The subdivision will access South Lyle Avenue via a new public street within a 50' right-of-way. The road will be constructed to Douglas County Road Standards for a Urban Local Access Road. The new street will end in two temporary turn-arounds. All roadway improvements would be the responsibility of the developer.
9. Section 12.50.150, D.C.C., authorizes the requirement of frontage and off-site improvements to the transportation system that serves the development.
10. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the 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. This development falls inside the Kentucky Street Wellfield Aquifer Recharge Area (Wellhead Protection Zone) and must be consistent with Douglas County Code, Chapter 19.18E.060.F:
13. Comments from reviewing agencies have been considered and addressed where appropriate.
14. Douglas County issued a Determination of Non-significance with a 14-day comment period on December 27, 2007 in accordance with WAC 197-11-340.
15. 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.
16. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
17. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
18. 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.
19. The applicant completed a Cultural Resource Survey and submitted the results in a letter dated September 17, 2007, in response to a request from the Washington State

Department of Archaeology and Historic Preservation and the Confederated Bands of the Yakama Nation. The report indicated that no cultural resources were found.

20. Design and construction of the stormwater facilities for the site and the road shall conform to the requirements contained in the DC Road Standards including, but not limited to, Section 12.52.050 *Stormwater Management*, and the Stormwater Management Manual for Eastern Washington (SWMMEW).
21. 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.
22. Douglas County Land Services approved a Boundary Line Adjustment (BLA) on April 25, 2007. The BLA has not been recorded with the Douglas County Auditor's Office.
23. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
24. The entire Planning Staff file was admitted into the record at the public hearing.
25. Public hearing after due legal notice was held on January 17, 2008. Appearing and testifying on behalf of the applicant were Norm Nelson and Jon Torrence. Mr. Nelson testified on behalf of the applicant that all of the proposed conditions of approval were acceptable and that no variances would be needed for the development of single family residences and accessory structures on the proposed lots.
26. Mr. Torrence, the consulting engineer, testified that the applicant would perform all necessary upgrades to the Douglas County Sewer District facilities necessary to service this project.
27. Also testifying at the hearing was Ed Baugh, an adjoining property owner. Mr. Baugh testified that he is the neighbor to the north of the subject property. He testified that his use of his property is currently agricultural. He had a total of nine concerns about the project. However, he indicated that he was not against the project but just had concerns, primarily related to his ability to continue to use his property for agricultural purposes. Those concerns were as follows:
  - 1) Fencing of the property lines between the subject property and his property in order to discourage trespassing;
  - 2) Acknowledgment by the developer and future landowners that his property is currently being used for agricultural purposes and that there will be activities associated with those agricultural purposes, such as spraying in the early

morning hours and burning. These agricultural practices may cause inconveniences to the future landowners in the subject property;

- 3) Dust control;
  - 4) Preservation of the irrigation line currently serving his property as well as other residences;
  - 5) Requiring two-car garages;
  - 6) Maintenance of sidewalks on 8<sup>th</sup> and Lyle;
  - 7) Maintenance of the stormwater detention pond;
  - 8) Because they are small lots, having buildings in appropriate size to fit those lots;
  - 9) Whether there will be parking allowed on the internal roads.
28. No other member of the public testified.
29. Staff indicated that the subject property is zoned Low Residential and that neither County or City codes require fences. He also indicated that an agricultural disclosure statement was not required because the adjacent lands, such as Mr. Baugh's, are zoned Low Residential and not Agriculture. Staff also indicated that all access to all lots would be off of the internal roads and not off of either 8<sup>th</sup> Street or Lyle. Finally, staff indicated that the homeowners association would be required to maintain the stormwater facility subject to inspection by Douglas County.
30. After Mr. Baugh's testimony, the applicant provided rebuttal testimony. This testimony was through Mr. Norm Nelson and Mr. Jon Torrence.
31. The applicant indicated that they would fence the northern property line. The applicant's representatives testified that they would find and relocate any and all irrigation lines on the subject property. The applicant testified that there were no easements for irrigation on the subject property. However, they would endeavor to locate those lines and to move them with as little inconvenience as possible to neighboring properties.
32. The applicant's representatives testified that they had no objection to notice being placed on the plat advising future landowners of the current agricultural practices in the vicinity and the potential impacts the agricultural use may have upon the residential uses.
33. Regarding dust control, the applicant's representatives indicated that dust control is a requirement and that the contractor would have a 24-hour number available where a contact person can be reached for the public to express any concerns.
34. The applicant's representatives testified that requirement of two-car garages would be fine with the applicant.

35. The applicant's representatives testified that while the sidewalks would be in County right-of-way, they would agree to have provisions in their covenants that the homeowners association will be required to perform snow removal on the sidewalks including those on 8<sup>th</sup> Street and Lyle.
36. The applicant's representatives testified that it is their intent that the building sizes would be proportional to the lot sizes. There are maximum lot coverage requirements in the County Code and the applicant will have maximum lot coverages in their covenants.
37. The applicant's representative indicated that parking on internal roads would be allowed.
38. 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.
39. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
40. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
41. 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 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 “Subdivision”, Title 18 “Zoning”, Title 19 “Environment”, and Title 20 “Development Standards”, of the Douglas County Code and Chapters 17.24 and 17.72 of the East Wenatchee Municipal Code.
7. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
8. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
9. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
10. 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.
11. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
12. 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#07-13, Clemons Subdivision, 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 of 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 drawing. All parties having an ownership interest in the subject property shall acknowledge the plat.
8. 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.
9. The Assessors Office has indicated that the plat name is close to existing plat names. Prior to final plat approval, the plat name must be approved by the Assessors Office.
10. 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.
11. An addressing plan shall be assigned by Douglas County Transportation Services during blue line review of the final plat. Addresses for each lot shall be shown on the face of the final plat mylar prior to final plat approval.
12. During construction, all work associated with the proposed project shall occur between the hours of 6:00 a.m. to 7:00 p.m., Monday through Friday and 7:00 a.m. to 7:00 p.m., Saturday. Construction activities on Sunday shall not commence before 8:00 a.m. and shall conclude by 7:00 p.m.
13. All lots within the subdivision shall be at a minimum 7,000 square feet.
14. Prior to final plat approval an agreement shall be entered into with Eastmont School District #206 that either provides a proportionate dedication of land for schools and school grounds or that the developer enter into a voluntary agreement for payment in lieu of dedication in accordance with RCW 82.02.020.

15. Prior to final plat approval, written verification from Douglas County Fire District #2 of satisfaction of the following requirements must be submitted:
  - Adequate fire flow and fire hydrants per DCC 15.28;
  - Adequate access roadway per DCC 15.24;
  - “No Parking” signs in compliance with Appendix D of the International Fire Code shall be provided in the emergency turn-around.
16. The following language must appear with the Health District signature line:
  - “The Health District makes no representation as to the legal availability of water to this plat.”
17. The developer shall coordinate with the Douglas County Public Utility District (PUD) to determine necessary improvements and easements that may be required in order to provide electrical service to the plat. Written verification from the Douglas County PUD that easements and improvements have been addressed to their satisfaction, shall be required prior to final plat approval.
18. The developer shall coordinate with the Douglas County Sewer District and East Wenatchee Water District for the provision of sewer and water service. Written verification must be provided to the Chelan Douglas Health District that sewer and water service is available to each lot prior to final plat approval.
19. Prior to final plat approval written verification must be received from the Wenatchee Reclamation District that all of the Districts requirements have been met.
20. A dust abatement plan shall be filed with and approved by Douglas County prior to any clearing, grading, and/or construction. Washington State Department of Ecology accepted dust control measures shall be adhered to, both during and after construction. The plan shall also include a 24 hr. a day contact for the person responsible for dust control on the project.
21. Individual/common plan of development for this proposal exceeds 1 acre of disturbed ground. This meets the threshold used by the Washington State Department of Ecology in administering their General Permit to Discharge Storm Water Associated with Construction Activity. If required the permit shall be obtained prior to beginning ground breaking activities. The Department of Ecology contact for this area is Cory Hixon (509) 454-4103. Acquisition of permits is the responsibility of the applicant.
22. The Boundary Line Adjustment approved by Douglas County Land Services on April 25, 2007 shall be recoded with the Douglas County Auditor prior to submittal of the blueline review.

23. Final plans for on site and off site road improvements designed by a professional engineer licensed in the State of Washington shall be submitted to and approved by Douglas County prior to construction. Construction plans shall be prepared in accordance with the requirements of Douglas County Code Chapters 12, 17, and 18, to AASHTO Policy on Geometric Design of Highways and Streets, in accordance with the current Douglas County Road Standards adopted in ordinance #TLS-04-02-30B on August 10, 2004, and other applicable existing code requirements.
24. Final design plans for the improvements in public rights-of-way and affecting existing public facilities require County acceptance prior to the start of construction.
25. Prior to final plat approval a 1-foot non-vehicular access easement shall be recorded and shown along the western property line of Lots 1, 2, 3, & 41, and the southern property line of Lots 4-10. A physical barrier, temporary in nature and approved by Douglas County, shall be placed along the one-foot easement. All lots must access from the internal road system. No direct access will be permitted to either South Lyle Avenue, or 8<sup>th</sup> Street SE.
26. Frontage Improvements are addressed in Chapter 12.50.150 *Transportation System and Frontage Improvements*, of the Douglas County Road Standards.
  - 8<sup>th</sup> Street SE is designated as an Urban Collector. Because the facility is located inside the Federal Urbanized Area, Figure 3-8, Urban Collector, of the road standards is the applicable road standard. This standard includes a half street asphalt width of twenty-one (21) feet. This section is comprised of 8" CSBC, 4" CSTC, and 3" ACP. The existing condition of 8<sup>th</sup> Street SE includes an eleven (11) foot lane with a one (1) foot wide gravel shoulder.
  - South Lyle Avenue is designated as an Urban Local Access. Because the facility is located inside the Federal Urbanized Area, Figure 3-7b, Urban Local Access, AADT 200 and over, Parking both sides, of the road standards is the applicable road standard. This standard includes a half street asphalt width of eighteen (18) feet. This section is comprised of 8" CSBC, 4" CSTC, and 2-1/2" ACP. The existing condition of South Lyle Avenue includes a thirteen (13) foot lane with a one (1) foot wide gravel shoulder.
27. The required road improvements for this development include:
  - The internal streets shall be full width streets in accordance with Figure 3-7b, Urban Local Access Road.
  - The intersection of the interior road system with South Lyle Avenue shall be constructed in accordance with Figure 3-7b, Urban Local Access Road. Final configuration of the intersection is subject to review and acceptance by the County Engineer.
  - *The proposed road configuration is subject to review and acceptance by the County Engineer. The construction plans shall provide sufficient data beyond*

*the eastern property line to determine the feasibility of the future connectivity of the internal local access road system to future road systems to the east of the property.*

- Half Street frontage improvements to 8<sup>th</sup> Street SE shall be constructed along the project limits in accordance with Figure 3-8, Urban Collector. Right of way shall be dedicated as necessary to bring the width from monumented centerline up to thirty (30) feet.
  - Half Street frontage improvements South Lyle Avenue shall be constructed along the project limits in accordance with Figure 3-7b, Urban Local Access. Right of way shall be dedicated as necessary to bring the width from monumented centerline up to twenty-five (25) feet.
  - Temporary turnarounds, located in easements, are required at the end of the local access streets in accordance with the requirements of Figure 3-9 of the DC Road Standards to accommodate emergency response vehicles. Measures to accommodate snow removal and storage shall be incorporated and shown on the plat, including a 30'x30' snow storage easement. The temporary turnaround shall be approved by the Douglas County Fire Marshall and the County Engineer.
28. The non-buildable lot designated to become part of the Cooper property as part of a future boundary line adjustment shall be labeled as a tract until such time that the BLA is complete.
29. All new or revised driveways and accesses onto a County Road (including temporary or construction accesses) require an approved access permit as per the procedures in DCC 12.24, *Approaches to County Roads*.
30. Illumination shall be designed and installed consistent with Douglas County Code Section 12.58.100 *Roadway Illumination*, and follow Douglas PUD Standards for un-metered lights. The applicant shall be responsible for PUD charges for connection of street lights to the transformer or hand hole.
31. All improvements shall be in place prior to final plat approval, 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 accordance with DCC 14.90, *Performance Assurance and Guarantee*. Bonding of improvements in lieu of construction shall be at the discretion of Douglas County.
32. Prior to final plat approval and/or release of financial security, the engineer of record shall provide written certification that the final construction plans for the internal

road, utility plans, stormwater systems, and site grading plans have been constructed in accordance with the conditions of approval, Douglas County Code, the approved construction plans, and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Comprehensive Road Standards (DCC) with final reports submitted to Douglas County.

33. Prior to final plat approval, requirements for acceptance of the constructed improvements shall be met in accordance with the Road Standards, including Section 12.56.110 *Final Acceptance*, and 12.50.110 *Performance Assurance, B. Maintenance Performance*.
34. Prior to final plat approval, a private access maintenance and improvement agreement must be recorded and AF# referenced on the face of the final plat. It shall be clearly noted on the face of the plat that Douglas County will not maintain the private access.
35. Utility installation/replacement/upgrade within the Douglas County right-of-way, including but not limited to 8<sup>th</sup> Street SE and South Lyle Avenue shall be approved by Douglas County. Damage to existing roads, both public and private, (including but not limited to 8<sup>th</sup> Street SE and South Lyle Avenue) resulting from construction activities (including utility extensions required to provide necessary services to the proposed development) shall be repaired to the satisfaction of Douglas County, by the applicant. The extent of repair and/or replacement will be determined during construction plan review and during field inspection of the proposed work within the right-of-way. Repairs shall be completed prior to final plat approval. Repair of existing road surfaces may include overlays of the existing road surface, full or half width, depending upon the extent of impact to the existing road surface due to the construction activities. Existing moratoriums on public roads may limit utility work to boring or pushing. DCC 12.20.060, *Specific requirements - Underground utilities*
36. Five foot utility easements are required along all lots or tracts with county road frontage in accordance with the Douglas County Road Standards.
37. The applicant shall be responsible for preventing mud, dirt and debris from leaving the site, including stormwater runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
38. Prior to final plat approval, the applicant shall demonstrate compliance with Douglas County Code, Chapter 19.18E.060.F.
39. A final stormwater drainage plan designed by a professional engineer licensed in the State of Washington shall be submitted to and approved by Douglas County prior to construction. The entire site must be designed to retain all runoff from a 2-inch storm

event in a 90-minute period utilizing a Type II SCS rainfall distribution in accordance with DCC 20.34 *Stormwater Drainage*, together with applicable local, state and federal regulations at the time of drainage plan submittal. The plan shall take site grading into consideration and its effect on adjacent properties and shall accommodate off-site runoff. Measures to address stormwater infiltration during frozen soil conditions shall be included. The stormwater plan must have supporting calculations and final “as built” drawings shall be delivered to Douglas County upon completion. Any modifications to the system during construction shall be analyzed by the engineer and the results provided to the County to demonstrate the constructed stormwater facilities meet the conditions of approval.

40. Prior to final plat approval, an operation and maintenance agreement must be recorded and AF# referenced on the face of the final plat regarding the private stormwater facilities. Said agreement may be incorporated into proposed protective covenants. It shall be clearly noted on the face of the plat that Douglas County will not maintain the on-site stormwater facilities. Douglas County shall have the right to periodically inspect these facilities to verify design capacity and operation. A perpetual access easement shall be granted to the County and/or other governmental agencies having jurisdiction regarding storm water facilities. The agreement shall specify the homeowners of the subdivision as having responsibility for the long-term maintenance of the private stormwater drainage system within the development.
41. The Preliminary Drainage Report indicates that stormwater is proposed to be infiltrated on site. Infiltration testing shall be performed prior to acceptance of the plans and report, in order to verify the suitability of the site to accommodate the proposed system.
42. Stormwater detention facilities shall be located on a separate tract, under the functional control of the homeowners association. Douglas County shall have the right to periodically inspect these facilities to verify design capacity and operation. A perpetual access easement shall be granted to Douglas County and/or other governmental agencies with jurisdiction regarding stormwater.
43. Storm drainage tracts and stormwater easements shall be clearly noted on the face of the plat. Restrictions on future use and grading allowed within these areas must be clearly noted and described in the homeowner’s association documents or protective covenants and within the operation and maintenance agreement for the stormwater facilities.
44. An Operation and Maintenance documents shall be provided, recorded and referenced on the face of the plat and within the CCR’s for the subdivision. A note on the face of the plat shall reference the O&M document and note that the Homeowners Association is responsible for the maintenance of such facilities.

45. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW). Best Management Practices shall be employed to prevent runoff from flowing over the site slopes. Disturbed areas shall be re-vegetated and maintained throughout construction. Final grading shall incorporate permanent erosion control measures which routes stormwater runoff away from site slopes and directs the collected water to appropriate discharge locations.
46. Stormwater system design shall include features, contained within an easement to be shown on the final plat, designed to prevent the runoff of stormwater onto adjacent properties of the proposed subdivision.
47. Covenants for the subdivision shall incorporate a statement that lots owners are responsible for preventing stormwater runoff from discharging from their lot and onto adjacent properties.
48. The Phasing of storm drainage improvements shall be prohibited.
49. As necessary the engineer of record shall address the requirements and guidelines provided by the Department of Ecology, Underground Injection Control Program (UIC) as they apply to surface and subsurface infiltration facilities. The engineer of record shall certify that such facilities were designed and constructed and registered in accordance with applicable regulations prior to construction of such facilities and prior to acceptance of such facilities as complete.
50. The following core elements requirements contained in the SWMMEW – Stormwater Management Manual for Eastern Washington, must be satisfied by the Developer prior to acceptance of the construction plans:
  - Core Element #1 Preparation of a stormwater site plan
  - Core Element #2 Construction of stormwater pollution prevention
  - Core Element #3 Source control of pollution
  - Core Element #4 Preservation of natural drainage systems
  - Core Element #5 Runoff Treatment
  - Core Element #7 Operation and Maintenance
51. Appropriate measures to prevent sediment from leaving the site shall be maintained until such time as all on-site soils are stabilized. Prior to any on-site grading taking place, a temporary erosion/sedimentation control plan (SWPPP- Stormwater Pollution Prevention Plan), showing the location and control measures intended to minimize the effects of erosion and siltation due to construction operations shall be submitted and accepted by the County. This plan shall be maintained on-site at all times and

modified as necessary to address erosion issues as they arise. Additional erosion controls shall be implemented as necessary to prevent sediment from leaving the site.

52. One access point for construction activities shall be approved. A stabilized construction access for the site shall be shown on the Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall be submitted and accepted prior to on-site grading taking place.
53. Any grading, filling, and the creation of steep slopes in relation to building sites, must be monitored on-site by an engineer and or geology firm. A soils report and indication of satisfactory placement of fill from the engineer or geologist shall be required for building sites subject to fill and or steep slopes. The report certified by an engineer or geologist shall be submitted with subsequent building permit applications.
54. 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.
55. The applicant shall fence the northern property line at a minimum with that property adjoining the property owned by Mr. Baugh.
56. In the event that irrigation lines are found to exist on the subject property and need to be moved, the applicant shall provide a minimum of 7-day notice of a shutdown of the irrigation line to those properties who have irrigation water delivered through the lines proposed to be shut down. This notice shall state the date in which the irrigation will be shut off and the expected time period for irrigation water to be off.
57. There shall be stated on the plat the following statement:  
  
**The subject property is located within or near lands being utilized for agricultural purposes in 2008. This agricultural use may continue in the future. Activities may occur on lands used for agricultural purposes that are not compatible with residential development for certain periods of limited duration. Such activities may include but are not limited to noise, dust, smoke, odors and hours of operation resulting from harvesting, planting, fertilizing, pest control and other agricultural related activities associated with the usual and normal agricultural management practices.**
58. The applicant shall insure that the contractor developing the infrastructure of the subject property shall identify a contact person and telephone number who is

available 24 hours a day in which the public may contact in order to express concerns over the project, such as dust, noise and other such activity.

59. The applicant may require in its covenants two-car garages on all properties.
60. The applicant shall require in its covenants that the homeowners association will be required to perform snow removal on sidewalks adjacent to the property located on 8<sup>th</sup> Street SE and S. Lyle Avenue.
61. Maximum lot coverage shall be identified in the covenants.

Dated this 28<sup>th</sup> day of January, 2008.

DOUGLAS COUNTY HEARING EXAMINER



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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.**