

Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P-09-01)	DECISION AND
Brett and Deanne Telford)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on March 26, 2009, 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 Brett and Deanne Telford, 1199 Webb Place South, East Wenatchee, WA 98802.
2. General Description: Brett and Deanne Telford have submitted a major subdivision application for a 2 lot limited land segregation. Proposed lot sizes are 11.74 acres and 2 acres. The subdivision is proposed to be served by domestic water and a septic system.
3. Location: The subject property is located off of South Webb Place and is further described as being located in the S ½ of the NW ¼ of Section 23, Township 22 North, Range 21 East, W.M., in Douglas County, Washington. The Douglas County Assessor Number for the subject property is 22212320026.
4. Site Information:

Total Project Size:	13.74 acres
No. of lots	2
Domestic Water:	East Wenatchee Water District
Sewage Disposal:	On-site septic
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 characterized as flat to gently sloping; the southeast corner of the property is a seep ravine that encompasses approximately one acre. The site is currently in orchard use. A barn is located on the southern portion of the property and a single family residence is located on the northern portion of the property with a proposed pool adjacent to the house.
6. Surrounding Property: To the north, Orchards; to the south, Single Family Residence; to the east, Ravine- Single Family Residence; to the west, Orchards, Columbia River Packing, and Single Family Residences.
7. The subject property is designated as Commercial Agriculture 10 by the Douglas County Countywide Comprehensive Plan.
8. The subject property is within the Commercial Agriculture 10 (AC-10), zoning district, which allows for the division of property.
9. The subject property meets the minimum development standards of the Commercial Agriculture 10 (AC-10) zoning district.
10. The proposal does not exceed the maximum density identified in the comprehensive plan as being appropriate for lands designated as Commercial Agriculture 10 acres.
11. The proposal meets the limited land segregation criteria in Chapter 18.16.220, D.C.C.
12. Comments from reviewing agencies have been considered and addressed where appropriate.
13. Water, on site septic systems and power can adequately serve the subdivision.
14. Soil mapping from the USDA Natural Resource & Conservation Service indicate the presence of potentially geologically hazardous soils on the eastern portion of the subject property.
15. A Geologic Hazard Assessment by J.B Hamilton Consulting dated September 18, 2007 was submitted, containing recommendations.
16. In order to meet the state requirements for Enhanced 911 Service, all lots within this plat will be addressed prior to final plat approval.
17. 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.

18. Section 17.04.040(A) authorizes dedications of right-of-way and improvements to the area directly affected by the development.
19. Section 12.50.150, D.C.C., authorizes the requirement of frontage and off-site improvements to the transportation system that serves the development.
20. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
21. Douglas County issued a Determination of Non-significance on March 11, 2009 in accordance with WAC 197-11-355 (Optional DNS).
22. Means of access to the subject property is off of South Webb Pl., a county road.
23. 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.
24. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
25. 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.
26. The Chelan Douglas Health District has determined that lot sizes are adequate for on-site septic systems.
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. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.
31. Public hearing after due legal notice was held on March 26, 2009. Appearing and testifying on behalf of the applicant was Brett Telford. Mr. Telford testified that all of the proposed conditions of approval were acceptable. He also indicated that the steep slope that is identified in the staff report will be partially on both of the new

parcels that are being created. However, even the smaller parcel (approximately 2 acres) will have approximately 1.5 acres of buildable space.

32. No members of the public testified at the hearing.
33. 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.
34. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
35. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
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 been granted authority to render this decision.
2. As conditioned, this development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan.
3. As conditioned, the proposal is consistent with Title 17 “Subdivisions”, Title 18 “Zoning”, and Title 19 “Environment” of the Douglas County Code.
4. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
5. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan.
6. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
7. Public use and interests will be served by approval of this proposal.
8. 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.

9. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
10. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
11. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
12. 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.
13. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
14. 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-09-01, Brett and Deanne Telford, 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 project shall proceed in substantial conformance with the plans dated as received on January 16, 2009 and on file with the Department of Transportation & Land Services, except as modified below.
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. It is the responsibility of the applicant to contact the Douglas County Assessor's and Treasurer's offices to confirm all taxes and assessments are current prior to final plat approval.

5. Prior to final plat approval an agreement must 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.
6. A plat certificate showing parties of interest from a title company must accompany the final plat in accordance with RCW 58.17.165. All parties having ownership interest in the subject property shall acknowledge the short plat.
7. The developer shall coordinate with the following agencies and written documentation from these agencies must be submitted to Douglas County Land Services prior to final plat approval verifying that all conditions and improvements have been completed to the satisfaction of the agencies:
 - Douglas County Public Utility District
 - East Wenatchee Water District
 - Chelan-Douglas Health District
 - Greater Wenatchee Irrigation District
8. All improvements associated with this development must be in place or a subdivision agreement executed (specifying timeframes and improvements) and financial assurances posted prior to final plat approval.
9. The following items shall be shown on the final plat:
 - The location of all utilities and utility easements.
 - Adjacent platted subdivisions or property owners where adjoining property has not been platted.
 - Property addresses for the each lot (contact Todd Wilson, Douglas County GIS coordinator, at 884-7173).
 - All existing structures.
10. The following language must appear with the Chelan-Douglas Health District's signature line:
 - The Health District has not reviewed the legal availability of water to this development.
11. The following notes shall be placed on the final plat:
 - Future development must conform to the conclusions and recommendations of the Geologic Hazard Area Risk Assessment completed by Jonathan B. Hamilton dated September 18, 2007, as recorded under AFN number _____.
 - The subject property is located within or near designated agricultural lands, forest lands or mineral resource lands on which a variety of activities may occur that are not compatible with residential or other type of 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 resource-related activities associated with usual and normal resource management practices which, when performed in accordance with county, state and/or federal law, shall not be subject to legal action as public nuisances.

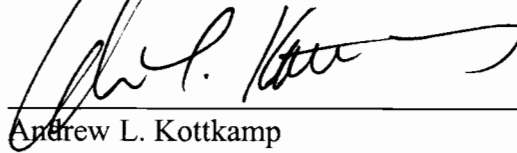
- Based on historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. The Washington State Department of Ecology recommends that the soils be sampled and analyzed for lead and arsenic and for organochlorine pesticides. If these contaminants are found at concentrations above the MTCA cleanup levels, the Washington State Department of Ecology recommends that potential buyers be notified of their occurrence. This note shall not be required to be placed on the final plat, if the soils are sampled by a professional with adequate credentials to verify that the site does not contain lead and arsenic and organochlorine pesticides at concentrations above the MTCA cleanup levels.
 - Future development of Lot 1 may require the submittal of a geologic risk assessment consistent with Douglas County Code Chapter 19.18D, as amended. “Lot owners are responsible for preventing runoff onto adjacent sites, in accordance with DCC 20.34 Stormwater Drainage.”
 - At the time of building permit submittal, an engineered stormwater plan to retain all design storm runoff from on-site improvements, including but not limited to buildings and other impervious surfaces, shall be submitted in accordance with Douglas County Code. Prior to occupancy, certification shall be provided from the Engineer of Record that the stormwater system was installed in accordance with the plans submitted.
12. 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.
13. Prior to final plat approval the Geologic Hazard Area Risk Assessment submitted by Jonathan B. Hamilton dated September 18, 2007 shall be recorded and referenced on the final plat mylar.
14. The final plat shall show a building envelope for lot 2 meeting the setback requirements of 18.16.080 A-C, & F. The building envelope shall take International

Building Code Section 18.05.3.2 footing setback from descending slope surface into account.

15. It shall be verified by a licensed surveyor that the portion of lot two (2) above the ravine is no greater than one acre.
16. 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.
17. Utility installation/replacement/upgrade within the Douglas County right-of-way, including but not limited to South Webb Place shall be approved by Douglas County. Damage to existing roads, both public and private, (including but not limited to South Webb Place) 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
18. Five foot utility easements are required along all lots or tracts with county road frontage in accordance with the Douglas County Road Standards.
19. 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.
20. Individual/common plan of development for this proposal may exceed 1 acre of disturbed ground. This would meet 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 must be obtained prior to beginning ground-breaking activities. The Department of Ecology contacts for this area are Bryan Neet, (509) 575-2808, bneet461@ecy.wa.gov, and Cory Hixon, (509) 454-4103, chix461@ecy.wa.gov.
21. 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.

Dated this 6th day of April, 2009.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Any aggrieved party or agency of record may request a reconsideration of this Hearing Examiner's decision. Motions for reconsideration must be filed with the Department within ten (10) days from the date of issuance as defined by RCW 36.70C.040(4)(a). Unless otherwise provided, the filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiners decision to Superior Court. Motions for reconsideration are governed by Douglas County Code 2.13.150.

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.