

COPY

**DOUGLAS COUNTY LAND USE HEARING EXAMINER**  
**2011 ANNUAL REPORT**

**I. INTRODUCTION**

The office of Douglas County Land Use Hearing Examiner has been in existence for many years. I have been serving as the Douglas County Land Use Hearing Examiner since May, 2006. Prior to this date I was the Hearing Examiner Pro-Tem. My current contract with Douglas County is automatically renewed on a bi-annual basis, subject to being terminated by any party at any time.

Douglas County Code, Section 2.13.130 requires the Hearing Examiner to report, in writing, to the Board of Commissioners at least once per year. The purpose of this report is to review the administration of the County's land use policies and regulating resolutions, as well as reporting on the number and type of decisions rendered since the prior report.

This report is on all actions from January 1, 2011, through November 30, 2011.

Douglas County land use hearings are generally held once a month, on the third Thursday. So far this year, decisions have been rendered in the following areas (the numbers of each specific application are in parenthesis): SP - Shoreline Permit (10), P - Plat (3), CUP - Conditional Use Permit (4), APP – Administrative Appeal (1).

This report is on all actions from January 1, 2011, through November 30, 2011. During this time frame I have rendered decisions on 15 separate permit applications.

The total amount of Hearing Examiner billings from January 1, 2011, through November 30, 2011 is \$8034.00.

**II. ANALYSIS**

**Administrative Appeal**

There was one administrative appeal for this year. There were no administrative appeals in 2010. The total amount billed so far for this matter is \$91.00. This appeal arises out of a Notice of Violation that was sent to the appellants regarding numerous alleged shoreline development violations on property along the Columbia River near Rock Island. The appellants have hired an attorney which has necessitated the County getting

the County Prosecutor involved in this matter as well. The open record public hearing was held on November 17<sup>th</sup>, 2011 and I have left the record open for additional evidence and legal argument from the appellant and the County. A decision should be rendered by the end of the year.

### **Shoreline Permits**

There were 10 shoreline permit decisions. The total amount billed for those decisions was \$3952.00. This makes an average fee per application of \$395.20. In 2010 there were 12 Shoreline permit decisions.

As in years past, shoreline permit applications generally involved the placement of docks and/or boatlifts on the Columbia River. There were also permits relating to restoration of shoreline based upon work done on the shorelines that was not authorized.

### **Plats**

There were 4 separate plat decisions totaling fees of \$1898.00. This calculates out to \$523.25 per decision. In 2010, there was 1 plat application and 1 plat amendment.

The plat decision-making process was relatively straightforward, with rules and regulations imposed by the County Commissioners being implemented by the Hearing Examiner. However, I have found that applicants are now more aggressively challenging off-site improvements upon which agencies are suggesting that the projects be conditioned. Generally, these involve off-site street improvements and/or sewer and water line improvements. In 2011, I continued to notice an increase in significant plat developments being scattered throughout the County but primarily within the urban area of East Wenatchee.

1). Most recently, there was an application for a clustered plat development on property adjacent to the Highlander Golf Club. This project was approved with conditions of approval.

2). There was also a 7 lot cluster plat that was approved. This project is located on SR 173. Another plat, known as Riverview Ranch, Inc. is a cluster subdivision of 22 lots on approximately 72 acres. This project is located at the intersection of Rock Island Road and SR 28. This project was also approved subject to conditions of approval.

3). The final plat involved a 14 lot major subdivision on approximately 4.4 acres on property that is located off Badger Mountain Road. This project was also approved subject to conditions of approval.

4). Finally, there was a final plat submitted by Don and Laura Mounter for a 23 lot subdivision located on approximately 13 acres of property off of North Baker Avenue. That project was also approved subject to conditions of approval.

## **Conditional Use Permits**

There were 4 conditional use permit application decision with a billing of 2093.00. This calculates out to \$523.25 per decision. There were 4 conditional use permit applications in 2010.

Conditional use permits are one of the most interesting and challenging areas in the land use decision process. Conditional uses are uses that are allowed within a particular zone unless there are no conditions that can be implemented to insure consistency of the use with the Comprehensive Plan and the Zoning Code and the character of the area. When deciding appropriate conditions of approval, I base those conditions upon the evidence that is submitted during the hearing process. They may be conditions that are suggested by staff, County departments, individual citizens, opponents and other experts and/or lay witnesses. In many applications there is no objection to the particular use and the conditions as proposed by the Zoning Code and Planning staff are implemented. When there are concerns by the public to a particular conditional use permit application, I must make a factual determination as to whether or not those concerns will factually and legally warrant placement of a condition. If conditions are factually and legally appropriate, it is then my responsibility to craft the language of a condition that will address the factual concerns and that can be appropriately monitored.

Conditional use permits this year included an application by Waste Management to amend their conditional use permit to increase the maximum annual volume of asphalt, concrete and soil to be crushed and processed on site.

There was also a conditional use permit for a veterinary clinic to be located on SE Fourth Street in East Wenatchee.

There was a conditional use permit issued for Sprint Boat Race Facility on property located on Grant Road near the airport.

There was also a conditional use permit requested by Selland Construction for an inert waste landfill on two locations on a subject property that when filled, would create a level building site.

All of the above referenced conditional use permits were approved subject to conditions of approval.

## **III. CONCLUSION**

Douglas County is completing its sixth year with myself serving as the Hearing Examiner. Throughout this year I have never been requested to remove myself as a Hearing Examiner, nor have been required to remove myself as a Hearing Examiner due to any conflict of interest/appearance of fairness issues.

Hearings have been held and evidence gathered in an orderly fashion. Written decisions have been rendered on a timely basis. In rendering all of my decisions, I apply the laws and regulations set by your Board and State legislatures to the facts of the case.

I would invite each of you to continue to attend hearings as you can. You will find that I consider it an important part of my duty to allow all members of the public to present the evidence and testimony they wish to be included into the record, so long as it is consistent with the laws as set forth in this state.

I recently attended the statewide conference of the Hearing Examiners Association of Washington. This is an association of all land use hearing examiners within the State of Washington. This was held in Chelan, Washington in October, 2011. This conference was held over two days. At this conference I was elected Secretary/Treasurer of the Hearing Examiners Association of Washington.

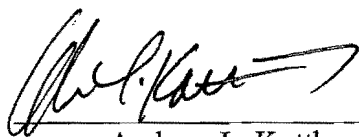
In 2011, I also served as Hearing Examiner for Chelan County, Grant County, Garfield County, Kittitas County, City of Chelan, City of Mattawa, City of Entiat, City of Wenatchee, City of East Wenatchee, City of Leavenworth, City of Cashmere, Town of Coulee City, City of Grand Coulee, City of Kittitas, City of Rock Island and the City of Quincy. I also serve as Hearing Examiner for Chelan-Douglas Health District.

Once again, I would like to commend the entire Douglas County Planning Department and staff for their professionalism in the preparation and presentation of their staff reports and their conduct at hearings. Their diligence and hard work make my job easier as they present the application materials and preliminary evidence in a succinct and easily comprehensible format. It allows me to do my job on a more efficient basis which saves the County money. They are always prepared and always professional at hearings. In short, we have a Planning Department of which the entire County can be proud.

In summary, the Hearing Examiner process continues to be successfully implemented in Douglas County.

Respectfully submitted this 14<sup>th</sup> day of December, 2011.

DOUGLAS COUNTY LAND USE HEARING EXAMINER



Andrew L. Kottkamp