

**STAFF REPORT  
EVENHUS EXPANSION OF NON-CONFORMING USE**

TO: Douglas County Hearing Examiner  
FROM: Douglas County Land Services Staff  
RE: Evenhus, NC-08-01  
DATE: July 17, 2008

**I. GENERAL INFORMATION**

**Proposal:** A request to expand a legal non-conforming use. The expansion would consist of a two story 630 square feet (315 square ft. footprint) residential addition.

**Location:** The subject property is located off N Union Ave connecting to Grant Road further described as being located in the Northwest ¼ of the Southwest ¼ of Section 9, Township 22 North, Range 21 East, W.M., Douglas County, Washington. The Douglas County Assessor Number for the subject property is 22210930004, and the zoning designation is General Industrial.

**II. SITE PLAN INFORMATION**

**Site Characteristics:** The subject property is 8.25 acres and does not have county road frontage. The site is adjacent to orchards to the south and west, with the northern and eastern areas undeveloped. The land to the south and west is zoned General Industrial, while the land to the north and east is zoned Dryland Agriculture. There is currently an existing residence with accessory structures onsite including a detached garage, storage buildings and barn.

**Access:** Access to the site is via a private road named North Union Avenue.

**Zoning:** The subject property is located within the General Industrial (I-G) Zoning District. Residential structures are not an outright permitted use within the I-G Zoning District. Existing residential buildings are then considered to be non-conforming with respect to use.

**Expansion of a Nonconforming Use:**

Douglas County Code Chapter 18.82 establishes review criteria for the consideration of proposals for the expansion of nonconforming uses. The review criteria is listed below:

The following procedures shall be followed to change a nonconforming use to a different nonconforming use, expand a nonconforming use throughout a building/structure, expand a nonconforming structure or use throughout a lot or

onto an adjoining lot, or replace a nonconforming use and/or building/structure damaged by any means beyond seventy-five percent of its pre-damaged value as determined by using the most recent ICBO construction tables:

A. Applications submitted under this section are classified for quasi-judicial review described in DCC Section 14.10.040.

B. The hearing examiner may grant the relief requested if he/she finds all of the following:

1. That the expansion, change, reconstruction or replacement requested would not be contrary to the public health, safety or welfare; and
2. That the proposed expansion, change, reconstruction or replacement is compatible with the character of the neighborhood; and, in the case of an expansion or change, does not significantly jeopardize future development of the area in compliance with the provisions and the intent of the zoning district; and
3. That the significance of the hardship asserted by the applicant is more compelling than, and reasonably overbalances, the public interest resulting from the denial of the relief requested; and
4. That the use or building/structure was lawful at the time of its inception; and
5. That the approval of the requested expansion, change, reconstruction or replacement will not significantly adversely impact nearby properties.

C. The hearing examiner shall deny the proposed expansion, change, reconstruction or replacement if he/she finds that one or more of the provisions in DCC Section 18.82.080(B) are not met.

D. When approving a change in or the expansion, reconstruction or replacement of a nonconforming use or building/structure, the hearing examiner may attach conditions to the proposed change, expansion, reconstruction or replacement or any other portion of the development in order to assure that the development is improved, arranged, designed and operated to be compatible with the objectives of the comprehensive plan, applicable development regulations and neighboring land uses and transportation systems

### **Permit History:**

The single family residence was originally permitted in 1960, as was an accessory pole building. At that time, the residence was in conformance with County regulations. When zoning was changed to General Industrial in the early to mid 1990's, the house became a legal, but non-conforming use. A building permit was issued in 2005 for a barn. Agricultural structures and uses are permitted within the General Industrial zoning designation.

### **III. COMPREHENSIVE PLAN**

The Greater East Wenatchee Comprehensive Plan designates the subject property as Industrial. The following goals and policies set forth in the comprehensive plan are relevant to this development.

#### Industrial:

Activities located in this area are designed to be compatible with both airport activities and surrounding agricultural resource land. Grant Road is the major arterial serving this site and offers good access to all properties.

Goal 1: Promote industrial development which contributes to economic diversification, growth and stability of the community without degrading its natural systems or residential living environment.

Goal 2: Provide state and federal system airports with reasonable protection from airspace obstructions, incompatible land uses and nuisance complaints that could restrict operations.

### **IV. ENVIRONMENTAL REVIEW**

This project is exempt from SEPA review (WAC 197-11-800(2)(e)).

### **V. AGENCY AND PUBLIC COMMENTS:**

Affected public agencies and surrounding property owners have been given an opportunity to comment on the proposal. Agency comments have been included as Appendix A. At the time of staff review, no public comments had been submitted.

### **IV. PROJECT ANALYSIS**

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.

#### Comprehensive plan consistency:

The expansion is located within the unincorporated portion of the East Wenatchee Urban Growth Area and is served with water, power and on-site septic. The Comprehensive Plan's intent is to protect residential areas from uses that might create excessive noise, visual, air, and water pollution.

In addition, the comprehensive plan's intent is to expand industrial structures and uses within the industrial designation, considering protection from incompatible land uses and nuisance complaints that could restrict operations.

The subject property is on the northern edge of the Industrial designation, with surrounding uses of agriculture and openspace. The nearest Industrial operations are approximately ½ acre from the single family residence.

The nearest adjacent parcel of which is designated Industrial (currently in orchard use).is approximately 100 feet west from the single family residence.

The proposed expansion appears consistent with the goals and policies of the comprehensive plan.

Consistency with Douglas County Code Chapter 18.82, criteria for expansion of a nonconforming use:

1. *That the expansion, change, reconstruction or replacement requested would not be contrary to the public health, safety or welfare:*

Applicant response:

- The expansion requested is a mere 630 square feet total (315 square feet up, and 315 square feet down), so essentially a footprint of only 315 square feet.
- The property is 8.26 acres and is situated in the middle of orchards, and bare land is north approximately 2000 feet off Grant Road. The new roof is no higher than the existing roof and the residence sits at the base of a small hill that is approximately 100 feet higher than the roof of the house. There will not be increased traffic on our private road which accesses Grant Road. This addition of a 315 square foot footprint will not affect public health, safety or welfare in any way.

2. *That the proposed expansion, reconstruction or replacement is compatible with the character of the neighborhood; and in the case of an expansion or change, does not significantly jeopardize future development of the area in compliance with the provisions an the intent of the zoning district:*

Applicant response:

- Our house is the only residence in this immediate area. The closest building is a cold storage warehouse located approximately 700 feet southwest of our house. We are surrounded by orchards and bare land to the North.
- Our house is a typical daylight basement home. A simple rectangular building with an unfinished basement. The designated changes will

improve the “character” of the home by giving it some actual character with the small addition and new siding.

- These changes will have no impact whatsoever on the future development of the area.

Staff response:

The existing structure on the property has been a part of the surrounding neighborhood for over 40 years. The existing lot is accessed by a private road. The proposed expansion is in character with the current neighborhood. The expansion, as conditioned, would not significantly jeopardize the future development of the area.

3. *That the significance of the hardship asserted by the applicant is more compelling than, and reasonably overbalances, the public interest resulting from the denial of the relief requested:*

Applicant response:

- There is a major design flaw in this home that is a true danger to everyday use of the home. That is the stairway as it was constructed. It was steep, not to code, and dangerously close to the main entry door and had no upper landing. A door opened directly to the first step. Or 2 year old granddaughter actually took a tumble all the way down the stairs a year ago, but was thankfully not seriously hurt. So that was our main impetus to remodel.
- In order to change the stairs, the main entry door needs to be relocated. The only logical place is to locate it opening into what is now the living room. The living room is totally too small at 15x16 feet for any kind of family gatherings.
- Therefore a small addition for the new living room would be necessary, creating space below that would allow for an art studio for Jennifer, who is a professional artist and has been using the unfinished basement as her studio space without sufficient lighting, cleanliness, or air filtration.
- Because our son and family visits often (5 people) we give them our room upstairs and sleep downstairs in the unfinished basement without bathroom facilities.
- Essentially, there would be no public interest served in denial of this request as it would not impact the public in any way.

4. *That the use or building/structure was lawful at the time of its inception:*

Applicant response:

- This home was constructed in 1985 and had to have the approval of Douglas County Planning Department at that time.

- Our home was clearly lawful at the time of construction and is considered “non-conforming” only as the result of a zoning change at some time after construction.
- We have been approached a couple times in the last couple years about zone swapping, but elected to retain the light industrial zoning for the other benefits associated with it. If we had changed our zoning to agricultural, our request for the addition would not be questioned, and these extra charges would not be necessary.
- There years ago, right after purchasing this property, we built a 36x36 foot horse barn and were not required to go through this hearing and approval procedure.

Staff response:

The single family residence was originally permitted in 1960, as was an accessory pole building. Mr. Evenhus states the residence was built in 1985, however according to County records it was permitted in 1960. At that time, the residence was in conformance with County regulations.

5. *That the nearby properties will not be significantly adversely impacted by approving the requested expansion, change, reconstruction or replacement:*

Applicant response:

- This small addition will not adversely impact nearby properties in any way. It is a 315 square foot footprint on the south side of our home. The new roof is no higher than the existing roof. This project will only enhance nearby properties.

Staff response:

The applicant’s residence is located on the northern edge of their property. If the adjacent properties south and west convert from agricultural operations to industrial in the future the single family home would be 300 feet from the property to the south and 100 feet from the property to the west. This is consistent with the buffering standards of residences from incompatible uses.

Consistency with Title 20, “Development Standards”, D.C.C.:

Title 20 of the Douglas County Code identifies specific development standards that must be met.

*Stormwater.* Douglas County Transportation Services and the Washington State Department of Transportation have indicated that no additional stormwater facilities are warranted.

*Landscaping.* As a residential expansion, the facility is exempt from landscape standards. Additionally, the need to condition the structure to buffer it from surrounding uses is not necessary given the proposed location. The distance of the unit to adjacent properties is adequate.

*Parking.* Existing parking facilities are adequate to serve the residence.

*Signs.* No new signs have been proposed for the residence.

### **Agency Comments:**

Douglas County Land Services- Building, states that if the Hearing Examiner approves the non-conforming application then the department will proceed with the review, approval and issuance of a building permit. No work is to be performed until a building permit has been issued.

## **V. RECOMMENDATION**

Should the Douglas County Hearing Examiner determine that the proposed expansion of a nonconforming use is warranted, planning staff has provided suggested findings of fact and conditions of approval for consideration. As conditioned below, this application does not appear to be detrimental to the general public health, safety, or welfare and appears to meet the basic intent and criteria associated with Title 18, 19, and 20 of the Douglas County Code and the Greater East Wenatchee Area Comprehensive Plan. Staff recommends approval of NC-08-01 subject to the following findings of fact and conditions of approval:

### ***Suggested findings of fact:***

1. The subject property is designated as Industrial in the Greater East Wenatchee Comprehensive Plan and as conditioned is consistent with the goals and policies of the plan.
2. The structure has been located on the subject property prior to the adoption of the 2007 Greater East Wenatchee Area Comprehensive Plan as amended, and the Douglas County Zoning Code Title 18 as amended. Therefore it is considered an existing legal nonconforming use.
3. The subject property is located within the General Industrial (I-G) Zoning District.
4. The proposal is in conformance with the Greater East Wenatchee Comprehensive Plan.
5. This project is exempt from SEPA review per WAC 197-11-800(2)(e).
6. As conditioned, the proposal complies with Douglas County Code, Title 18 "Zoning", Title 19 "Environment", and Title 20 "Development Standards."

7. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
8. As conditioned, appropriate provisions have been made for the public health, safety and general welfare.
9. In 1960 a previous owner of the property received a building permit to construct the single family residence.
10. Section 18.82.080, of the Douglas County Code allows the expansion of nonconforming uses, provided the expansion is approved by the Douglas County Hearing Examiner through a public hearing.
11. Adjacent to the subject property towards the south and west are agricultural operations.

***Suggested conditions of approval:***

1. Authorization of this project means that it shall proceed in conformance with the plans on file with Douglas County Transportation & Land Services, except as modified below or as amended by the Douglas County Hearing Examiner.
2. The applicant shall be responsible to obtain and comply with any required local, state or federal rules, regulations, and permits.
3. A building permit shall be required for the proposed expansion of the single family residence.

Respectfully submitted,

Marla Olson  
Associate Planner