

# **DOUGLAS COUNTY LAND USE HEARING EXAMINER** **2017 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 was recently approved by the Board of County Commissioners. It's for a four year term, ending December 31, 2020.

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, 2017, through December 31, 2017. There were a total of 18 applications that required Hearing Examiner decisions.

## **II. ANALYSIS**

### **Shoreline Permits**

There were 10 separate shoreline decisions. The vast majority of these were permits for the installations of joint use docks combined with boat lifts. The only other type of shoreline decision was one that requested permission to cut back a steep slope on the bank of the shoreline.

Most of these applications are routine. The vast majority of the property owners hire a local firm to process their applications. This firm works very well with Douglas County Planning Staff and therefore, by the time these matters get to hearing, all issues have been resolved. There are at times when specific items that are not resolved by agreement and that require a Hearing Examiner's decision to resolve the issue. But overall, shoreline permits are handled very efficiently in Douglas County.

### **Plats**

There were four separate Plat decisions. First, there was an application for a 74 lot subdivision, with lot sizes ranging from 12,500 sq. feet to 21,780 sq. feet. The property to be developed is located between 6<sup>th</sup> Street SE and 8<sup>th</sup> Street SE at the NE corner of the

intersection of 8<sup>th</sup> Street SE and S. Nile Ave. The project size is 27.6 acres. The Hearing Examiner conducted an open record public hearing. Members of the public did testify at this hearing, primarily concerned about increased traffic in the area and what mitigation would be appropriate to control the increased traffic. In the end, the Hearing Examiner approved this major subdivision subject to 51 conditions of approval, not including sub parts.

There was also an application for a 9 lot subdivision. Again, the lot sizes would range from 12,500 sq. feet to 21,780 sq. feet. This property is located on the South side of 6<sup>th</sup> Street SE and comprised of 7.3 acres. The Hearing Examiner conducted an open record public hearing in which no members of the public appeared. The Hearing Examiner issued his written decision approving the subdivisions subject to 38 conditions of approval, not including sub parts.

There was also an application for a seven lot cluster subdivision. The subject property is described as lot 10 of the plat of Desert Shores. The total project size is 52.8 acres. The plat of Desert Shores is north of Orondo, on the Columbia River. Lot 10 sits outside of the shoreline jurisdiction.

The Hearing Examiner conducted an open record public hearing in which no member of the public appeared. The Hearing Examiner approved this cluster subdivision subject to 39 conditions of approval, not including sub parts.

Finally, there was an application to amend a preliminary plat approval for the plat of Summer Run. This application to amend the preliminary plat was to add 7 lots within the subdivision. The new lots would range from between 12,579 sq. feet to 104,626 sq. feet. The Hearing Examiner conducted an open record public hearing in which no member of the public testified. The Hearing Examiner approved this amendment subject to 51 conditions of approval, not including sub parts.

### **Conditional Use Permits**

There were 3 Conditional Use Permit applications submitted for Hearing Examiner consideration in 2017. The first was for a private airstrip and a public events venue located off of Sandy Shores Drive next to US Hwy 97, between the highway and the Columbia River. The airstrip was not to include hangers. The event venue would have a kitchen, but it would be for final preparation of catered food and not for preparation of food on site. There would be a stage with sloping grass away from the stage. The Hearing Examiner conducted an open record public hearing in which no member of the public testified. The Hearing Examiner approved this permit application subject to 21 conditions of approval.

Another Conditional Use Permit application was submitted by Selland Construction. This application was for a mineral extraction operation on property located North of Grant Road and NE of Pangborn Airport off of North Venture Road. The proposed operation would disturb approximately 28 acres and would include storage and

staging areas for gravel, top soil and equipment. The Hearing Examiner held an open record public hearing on this matter. No member of the public testified at this hearing. The Hearing Examiner approved this permit application subject to 5 conditions of approval.

The last Conditional Use Permit application was also combined with shoreline permits. This related to the gravel mining operations at the 40 acre parcel commonly known as the Farrington Pit. The property is North of Turtle Rock Road and US Hwy 2/97. This parcel has been used as a gravel production source since 1977. The project would now include blasting operations. There is no mining that takes place within the 200 feet of the ordinary high water mark of the Columbia River, but a reclamation stock pile and an access road to existing wells currently exist closer than 200 feet from the Columbia River, thereby triggering shoreline jurisdiction. This application also proposed an open ended time extension for this mining operation.

After an open record public hearing in which no member of the public testified, the Hearing Examiner approved these permits subject to 18 conditions of approval. Of particular concern to the Hearing Examiner were the new blasting operations. Blasting would have the potential effect of not only disturbing neighbors and park users at Lincoln Rock State Park, but also wells in the area have the potential to be impacted by the blasting activity. One of the conditions of approval allowed the matter to be returned to the Hearing Examiner if it is determined by staff that complaints regarding the blasting warrant additional review by the Hearing Examiner.

### **Rocky Reach Trail**

Finally, the Hearing Examiner did conduct a hearing as directed by the Douglas County Board of Commissioners regarding the Rocky Reach Trail. As the commissioners are aware, this trail extension from the Odabashian Bridge to Lincoln Rock State Park went through Washington State Department of Transportation owned lands that are leased to orchardists. At the time of the initial permitting of the trail, there was significant concern about recreational uses of the trail not being consistent with the agricultural practices in the area. Several conditions of approval were a part of the permit approval for this trail extension. The hearing that I held on December 7<sup>th</sup>, 2017 was specifically limited to the question of whether mitigation measures had been effective. The Hearing Examiner understood this question to mean whether or not the existing mitigation measures were effective in mitigating the potential conflicting uses of the trail and orchardist.

There was significant written public testimony. Additionally, 13 individuals testified at this hearing. Most of the testimony surrounded the use of gates to control access to the trail. Most of the testimony came from recreational users of the trail that would like the gates removed. There was also testimony from the area manager of the Washington State Department of Parks setting forth his observations over the last few years. The area managers testimony demonstrated to the Hearing Examiner that mitigation measures in place have likely contributed to the lack of complaints and/or violations

regarding the original concerns relating to the trail approval. There was testimony from orchardists that the gate closures were effective mitigation measures.

The Hearing Examiner told the public at the hearing that the Hearing Examiner did not have authority to modify or eliminate conditions of approval as a result of this hearing. The sole purpose of the hearing was to determine whether or not the existing mitigation measures were affective. The Hearing Examiner found that the existing mitigation measures were in affective.

### **III. CONCLUSION**

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.

In 2017, I served as Hearing Examiner for Kittitas County, Douglas County, Chelan County, Garfield County, Columbia County, Grant County, Whitman County, Klickitat County, City of Chelan, City of Mattawa, City of Wenatchee, City of Entiat, 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, Town of Waterville, City of Quincy, Town of Waterville and City of Bridgeport. I also serve as Hearing Examiner for Chelan-Douglas Health District.

Once again, I would like to commend Mark Kulaas and 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 8 day of January, 2018.

DOUGLAS COUNTY LAND USE HEARING EXAMINER

A handwritten signature in black ink, appearing to read "Andrew L. Kottkamp", written over a horizontal line.

Andrew L. Kottkamp