

Douglas County TFS
OCT 30 2013
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DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

140 19th Street NW
East Wenatchee, WAS 98802-4109

BEFORE THE DOUGLAS COUNTY HEARING EXAMINER

IN THE MATTER OF P-08-09 Hideaway Lake Estates))))	FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND CONDITIONS OF APPROVAL
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THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on October 24th, 2013, 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 A Home Doctor, 1833 North Wenatchee Ave., Wenatchee WA.
2. General Description: A major subdivision application for a 11 lot major subdivision. Proposed lot sizes range from 8,500 square feet to 15.59 acres.
3. Location: The subject property is located Penn Avenue between Center Street and Douglas Street. The property is further described as being located within the SW Quarter of the SW Quarter of Section 24, Township 22N, Range 21 E., W.M. in Douglas County WA. The Douglas County Assessors Parcel Number is 41400005500.
4. Site Information:

Total Project Size:	15.59 acres
No. of lots	11
Domestic Water:	City of Rock Island
Sewage Disposal:	City of Rock Island
Power/Electricity:	Douglas County PUD
Fire Protection:	Douglas County Fire District #2
Telephone Service:	Frontier
5. Site Characteristics: The subject property is characterized generally flat. A portion of the site is in orchard. A significant portion of the center of the property is crossed by multiple electrical

transmission lines. An existing residence and shop is located at the southeast corner of the property.

6. Surrounding Property: To the north, Orchard; to the south, Orchard, Single family homes on large lots; to the east, Pasture, vacant; to the west, Single family homes.
7. The subject property is located within the Rock Island Urban Growth Area.
8. The Comprehensive Plan Designation is Low Residential.
9. The subject property is located in the R-L zoning district which allows for subdivisions as permitted uses.
10. On January 8, 2008, Douglas County adopted Resolution TLS-08-06 which adopted portions of Title 17 of the Rock Island Municipal Code within the unincorporated portions of the Rock Island Urban Growth Area.
11. There is an ongoing code enforcement action (CE-11-043) on the subject property. The code enforcement action was commenced because of accumulation of junk materials and the storage of vehicles in an amount and conditions not allowed by the Rock Island Municipal Code and Douglas County Code. A Notice of Violation and Order was issued on July 27, 2011.
12. A Cultural Resources Survey from Cultural Resource Consultants, Inc., dated July 30, 2008 was submitted for the project. This survey did not result in the identification of potentially significant cultural materials in the project area. The Survey did provide a recommendation for necessary actions should ground disturbing activities result in the inadvertent discovery of archaeological deposits.
13. Rock Island Municipal Code Chapter 17.16.070 does have requirements for stormwater drainage. However in the unincorporated portions of the city's urban growth area; those requirements are outdated. Douglas County is covered under the Washington State Department of Ecology NPDES Phase II Municipal Stormwater Permit. (WAR 046003) The permit coverage area includes the Rock Island Urbanized Area. In order to comply with the NPDES Permit, the County adopted by reference the Stormwater Management Manual for Eastern Washington. Furthermore Douglas County Code 20.34 and 20.36 have been amended to comply with the provisions identified within the NPDES Phase II Municipal SW Permit. Development within the permit coverage area is required to meet the minimum standards of the County's accepted Stormwater Management Program and applicable codes.
14. A Conceptual Drainage Report (Hideaway Lake Estates Preliminary Subdivision), dated September 25, 2013, prepared by Forsgren Associates was submitted for the subdivision.
15. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.

16. The subdivision will primarily access Center Street. One Lot will access Douglas Street and the large remainder lot will have access to either Penn Avenue or Douglas Street. All lots are proposed to front on a public road. All roadway frontage improvements would be the responsibility of the developer.
17. On August 5, 2013 a request for utilization of the City of Rock Island Road Standards as specified in the Rock Island Municipal Code was submitted and approved by the County Engineer.
18. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
19. Section 17.16.030(H) R.I.M.C. requires that new residential land divisions install perimeter curbs, gutters and sidewalks along all public streets in conformance with current design standards adopted by the City.
20. 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.
21. The City of Rock Island has identified that the project will be served by city water and that Lots 1-9 will be served by city sewer.
22. The Chelan Douglas Health District has determined that the proposed lot size for Lot 11 meets the lot size requirement per WAC 246-272A-0329 (2)(c).
23. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will be addressed prior to final plat approval.
24. The Douglas County Fire Marshall has identified that an existing fire hydrant with fire flow is available and all lots are fronting on a public street.
25. Comments from reviewing agencies have been considered and addressed where appropriate.
26. Douglas County issued a Determination of Nonsignificance on October 11, 2013 pursuant to WAC 197-11-355 (Optional DNS).
27. 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.
28. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
29. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
30. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.

31. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
32. The entire Planning Staff file was admitted into the record at the public hearing.
33. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.
34. An open record public hearing after due legal notice was held on October 24, 2013.
35. Appearing and testifying on behalf of the applicant was John Port. Mr. Port testified that he was the authorized agent of the Applicant. He testified that the project met Douglas County and Rock Island rules and regulations for this type of development. Mr. Port acknowledged that the applicant is responsible for the clean-up on proposed lot number 10 that is the subject of a code enforcement action. Apparently, Mr. Port testified that all of the proposed conditions of approval have been reviewed by him and were acceptable.
36. The following individuals testified from the public:
 1. Frank Van Doren. Mr. Van Doren testified in opposition to the project. Mr. Van Doren's primary concerns had to do with the annexation of his property into the City.
 2. Peggy Love. Ms. Love also testified in opposition to the project. She had concerns as to the current ownership of the property. She believed that the development was not compatible with the surrounding area.
37. In rebuttal, Mr. Port testified that the sale of the property was to close either October 23, 2013 or October 24, 2013.
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 been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Rock Island Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.

4. Public use and interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 17 Zoning of the Rock Island Municipal Code as adopted by Resolution TLS-08-06.
6. As conditioned, the proposal is consistent with Title 17 "Subdivision", Title 19 "Environment", and Title 20 "Development Standards", of the Douglas County 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-08-09 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 and application materials of file dated September 27, 2013 except as amended by the conditions herein.
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. A plat certificate showing parties of interest from a title company must be submitted with the blue-line drawings.

5. The final plat map shall be submitted by a land surveyor licensed in the State of Washington, and shall comply with the standards set forth in Title 17 of the Douglas County Code.
6. All parties having an ownership interest in the subject property shall acknowledge the plat.
7. 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.
8. Prior to final plat approval all code violation activities/conditions detailed in the July 27, 2011 Notice of Violation and Order shall be corrected and documentation shall be received and approved by Douglas County.
9. Should archaeological materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.) be observed during project activities, all work in the immediate vicinity should stop and the State department of Archaeology and Historic Preservation, the County Planning Office and the affected Tribe(s) should be contacted immediately. If any human remains are observed, all work should cease and the immediate area secured. Local law enforcement, the Douglas County Coroner, State Department of Archaeology and Historic Preservation, the County Planning Office and the affected Tribe(s) should be contacted immediately. Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53.44 and WAC 25-48) and human remains (RCW 68.50) is required. Failure to comply with this requirement could constitute a Class C Felony.
10. The following notes shall appear on the face of the plat:
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.
11. 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.
12. The final plat shall show the location of all easements serving or encumbering the subject property.
13. To facilitate efficient emergency response affecting public health and safety, an addressing plan shall be assigned by the Douglas County Geographic Information System Coordinator 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.
14. 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, Performance Assurance and Guarantee. Bonding of improvements in lieu of construction shall be at the discretion of Douglas County.

15. The location of existing utilities (i.e. power, sewer, water and irrigation lines, etc.) and utility and private access road easements shall be depicted on the face of the final plat.
16. The developer shall install all utilities in accordance with the standards and specifications of the Douglas County PUD, City of Rock Island and Douglas County Fire District #2. All utilities shall be located underground.
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. Prior to final plat approval, written verification from the City of Rock Island must be provided that water and sewer improvements have been completed, including necessary easements. This verification must be provided to Douglas County and the Chelan Douglas Health District.
19. Prior to final plat approval, written verification from the Wenatchee Reclamation District that the requirements of the District have been satisfied is required.
20. 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.”
21. Final plans for on-site and off-site 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 Douglas County Code, and other applicable existing code requirements.
22. The road standards associated with the proposed subdivision shall comply with the standards identified within the Rock Island Municipal Code.
23. Right-of-way dedication to bring the width up to a minimum of 30 feet from monumented centerline is required for Center Street, Penn Avenue, and Douglas Street along all lot frontages.
24. Final design plans for the improvements in public right-of-way and affecting existing public facilities require County acceptance prior to the start of construction.

25. 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.
26. 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.
27. 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.
28. 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.
29. Utility installation/replacement/upgrade within the Douglas County right-of-way, including, but not limited to Penn Avenue, Center Street and Douglas Street shall be approved by Douglas County. Damage 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 street 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.
30. Five foot utility easements are required along all lots or tracts with county road frontage in accordance with the Douglas County Road Standards.
31. In accordance with the Stormwater Manual for Eastern Washington, design and maintenance criteria for infiltration ponds, new stormwater facilities shall be above ground facilities, located on a separate tract which are adjacent to and provide an emergency overflow to public right-of-way. This provides for maintenance, inspection and access to the facility and provides additional protection to downstream properties from overflows in the event of failure of the stormwater facility.
32. The conceptual drainage report indicated that a 10 foot wide drainage easement will be constructed on the east side of Lots 1-9 and a storm drain line will run within the easement.

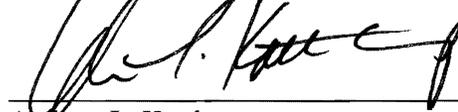
The report further indicated that runoff from each lot will be directed to this line either via surface flow or by direct piped connection of the roof drain leaders. The following note will be required on the face of the plat to ensure conformance with the proposed stormwater measures identified within the preliminary stormwater report. This suggested language may be amended upon agreement by Douglas County and the applicant.

- a. Prior to issuance of a building permit for Lots 1-9, a site specific engineered stormwater plan, addressing the direction of stormwater either via surface flow or piped connection shall be submitted and accepted. Prior to occupancy, the engineer of record shall provide certification that the individual on-site stormwater collection, conveyance and connection to private stormwater system has been completed in accordance with the accepted plans. Prior to occupancy, an individual private stormwater operation and maintenance agreement (covenant) shall be executed on Douglas County standard forms. The agreement shall be recorded with the county auditor.
33. A final storm water 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 the design event as specified within DCC 20.34 and 20.36, 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.
 34. Prior to final plat approval, an operation and maintenance agreement, prepared on Douglas County Standard forms, shall be recorded and AF# referenced on the face of the final plat for the private stormwater facilities located on proposed Lot 11 and the proposed stormwater infrastructure to be located within easement across Lots 1-9. Each lot shall have an undivided interest in the private stormwater facilities. It shall be clearly noted on the face of the final 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 stormwater 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.
 35. 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).
 36. 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 document or protective covenants and within the operation and maintenance agreement for the stormwater facilities.

37. 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.
38. 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. Acquisition of permits is the responsibility of the applicant.
39. The applicant shall be responsible for preventing mud, dirt and debris from leaving the site, including stormwater runoff from being tracked otherwise discharging onto the public right-of-way or adjacent properties.
40. Preliminary approval shall expire 7 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 28th day of October, 2013.

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.