

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)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P-14-01)	DECISION AND
Handley)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on April 17, 2014, 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 Andy Handley, 2590 6th Street SE, East Wenatchee WA.
2. General Description: A major subdivision of one parcel totaling 5.21 acres zoned Low Density Residential (R-L). The proposed subdivision would consist of 9 lots, sized from 13,507 square feet to 27,878 square feet, and a tract for a power line easement. The project is proposed to be served by public water and on-site septic systems.
3. Location: The subject property is described as being located at the intersection of South Mary Avenue and 8th Street SE, East Wenatchee, Section 19, Township 22 N, Range 21 EWM, Douglas County Washington. The Douglas County Assessor's Number is 4100000403.
4. Site Information:

Total Project Size:	5.21 acres
No. of lots	9
Domestic Water:	East Wenatchee Water District
Sewage Disposal:	Douglas County Sewer District
Power/Electricity:	Douglas County PUD
Fire Protection:	Douglas County Fire District #2
Telephone Service:	Frontier
5. Site Characteristics: The subject property is characterized as flat. A pump house, located along the southern property line exists and no other structures are present on the property. The site is also a former orchard.

6. Surrounding Property: To the north, Orchards; to the south, Single family homes; to the east, Single family homes, vacant lots; to the west, Orchards, vacant lots.
7. The subject property is located within the Greater East Wenatchee Planning Area.
8. The subject property is located within the East Wenatchee Urban Growth Area.
9. The Comprehensive Plan Designation is Low Residential.
10. The subject property is located in the R-L zoning district which allows for subdivisions as permitted uses.
11. On March 28, 2007, Douglas County adopted Ordinance No. 07-01H which adopted portions of Title 17 of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Area.
12. EWMC 17.72, as adopted by Douglas County, requires that residential lots shall have not less than sixty feet of frontage on a public roadway. The proposed Lot 5 shows a lot frontage of 20.33 feet adjoining South Mary Avenue, which does not meet the code requirement.
13. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
14. The subdivision will access S Mary Avenue. The proposal includes 3 access easements connecting to S Mary Avenue. One access will serve lots 1-4, one access for lot 5, and one access serving lots 6-9. The access easements will be developed to the Douglas County Road Standards for access easements. All roadway improvements would be the responsibility of the developer.
15. The proposed development fronts on S. Mary Avenue (Urban Local Access) and SE 8th Street (Urban Collector). The existing conditions of S. Mary Avenue include a nine (9) foot lane with a one (1) foot wide gravel shoulder. The existing conditions of 8th Street SE include an eleven (11) foot lane with a one (1) foot wide gravel shoulder. Frontage improvements are addressed in Chapter 12.50.150 *Transportation System and Frontage Improvements*, of the Douglas County Road Standards.
16. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
17. The subject property is located within a wellhead protection area and thus is subject to and must comply with Douglas County Code 19.18E *Aquifer Recharge Areas*.
18. An irrigation canal owned and operated by the Wenatchee Reclamation District runs adjacent to entire length of the south property line.
19. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will be addressed prior to final plat approval.
20. Comments from reviewing agencies have been considered and addressed where appropriate.

21. Douglas County issued a Determination of Non-significance on March 26, 2014 pursuant to WAC 197-11-355 (Optional DNS).
22. 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.
23. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
24. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
25. The Eastmont School District #206 has determined that adequate school related facilities exist to accommodate increased student enrollment associated with increased residential development.
26. 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.
27. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
28. An open record public hearing, after due legal notice was provided, was held on April 17, 2014.
29. The entire planning staff file of record was admitted into the record at this hearing. The Hearing Examiner considered the entire record in formulating this decision.
30. At the open record public hearing, staff recommended approval subject to recommended conditions of approval. Staff indicated that agreement had been reached with the applicant regarding revision and elimination of certain proposed conditions.
31. Jennifer Lange, assistant county engineer for Douglas County discussed the recommended changes to propose the conditions of approval as set forth in her April 11, 2014 memorandum to Jack Heide and the Douglas County Hearing Examiner.
32. Douglas County Transportation of Land Services staff recommended elimination of proposed condition of approval # 36.
33. Appearing and testifying on behalf of the applicant was John Torrence. Mr. Torrence testified that he is an agent authorized to appear and speak on behalf of the property owner and applicant. Mr. Torrence indicated that the applicant was present at the hearing. Mr. Torrence testified that all of the proposed conditions of approval, including amendments contained in the April 11, 2014 memorandum from Ms. Lange to Mr. Heide and the hearing examiner were acceptable to the applicant. He further testified that no variances would be needed for any of the proposed lots in order to construct a single family residence and associated accessory structures.

34. 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. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Greater East Wenatchee Area Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interests will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Title 17 Zoning of the East Wenatchee Municipal Code as adopted by Ordinance # 01-01H.
5. As conditioned, the proposal is consistent with Title 17 "Subdivision", Title 19 "Environment", and Title 20 "Development Standards", of the Douglas County Code.
6. 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-14-01 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. The project shall proceed in substantial conformance with the plans and application materials of file dated February 20, 2014 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. A plat certificate showing parties of interest from a title company must be submitted with the blue-line drawings.
4. 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.
5. All parties having an ownership interest in the subject property shall acknowledge the plat.

6. 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.
7. The following notes shall appear on the face of the plat:
 - 7.1 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.
8. 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.
9. The final plat shall show the location of all easements serving or encumbering the subject property.
10. 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. Contact Todd Wilson at 509-884-7173 prior to blue line submittal to select appropriate road names. All of the access easements must be named. Addresses for each lot shall be shown on the face of the final plat Mylar prior to final plat approval.
11. Prior to final plat approval all lots with public roadway frontage must be shown on the face of the plat as having no less than sixty feet of lot frontage per EWMC 17.72, as adopted by Douglas County, which states residential lots shall have not less than sixty feet of frontage on a public roadway.
12. 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.
13. The developer shall install all utilities in accordance with the standards and specifications of the Douglas County PUD, East Wenatchee Water District, Douglas County Sewer District, and Douglas County Fire District #2. All utilities shall be located underground.
14. The developer shall prepare final plans for the development and installation of utilities for the approval of the respective purveyors prior to site development. Final "as-built" drawings shall be delivered to purveyors upon completion.
15. 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.

16. Prior to final plat approval, written verification from the East Wenatchee Water District that the requirements of the District have been satisfied and certifying water availability is required.
17. Prior to final plat approval, written verification from the Wenatchee Reclamation District that the requirements of the District have been satisfied is required.
18. Written verification from Douglas County Fire District #2 that fire hydrants and fire flow have been provided in compliance with DCC 15.08 (Int'l Fire Code 507 & Appendix B - 1000 gallons per minute flow); and emergency ingress and egress have been provided in compliance with DCC 15.08 (Int'l Fire Code Appendix D) must be submitted to the county prior to final plat approval.
19. Written verification from Douglas County Sewer District No 1 that the subject property has been annexed into the District's Service Boundary and that sewer is provided to each lot must be provided prior to final plat approval.
20. Written verification of the availability of public water and sanitary sewer to each lot must be submitted to the Chelan Douglas Health District prior to final plat approval.
21. The following language must appear with the Health District signature line:
 - 21.1 "The Health District makes no representation as to the legal availability of water to this plat."
22. 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 the Douglas County Comprehensive Road Standards and other applicable existing code requirements.
23. 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.
24. All grading and excavation shall conform to Douglas County Code; *Chapter 15.36 GRADING AND EXCAVATION*, wall construction shall meet setbacks identified in DCC 15.36. A building permit may be necessary for walls over four (4) feet in height or walls that carry a surcharge.
25. The required road improvements for this development shall include:
 - 25.1 South Mary Avenue (Urban Local Access, Figure 3-7b)
 - 25.1.1 Half Street Frontage Improvements, including curb, gutter, and sidewalk & parking.
 - 25.1.2 Right-of-way dedication to bring South Mary Avenue right-of-way to a minimum 50-foot width, 25-feet minimum from centerline.
 - 25.2 28th Street SE (Urban Collector/Arterial, Figure 3-8)
 - 25.2.1 Half Street Frontage Improvements, including curbs, gutter and sidewalk

- 25.2.1 Right-of-way dedication to bring 8th Street SE right-of-way to a minimum 60-foot width, 30-foot minimum from centerline
- 25.3 A minimum face of curb radius of 45-feet at the intersection of 8th Street SE and S Mary Avenue shall be provided. Right-of-way radius shall be provided such that all public improvements are located within the right-of-way.
26. Prior to final plat approval a 1-foot non-vehicular access easement shall be depicted along the parcel frontage of 8th Street SE and S. Mary Avenue, excluding the proposed and approved driveway and joint use access easement locations.
27. Driveway access easements shall be designed and constructed in accordance with Douglas County Code 12.53 and Figure 4-1 (Driveways and Access Easements) access easements shall be provided to the lots as follows:
- 27.1 Northern access easement: Lot 1, 2, 3, and 4.
 - 27.2 Southern access easement: Lot 6, 7, 8, and 9.
 - 27.3 Lot 5 shall have a single direct access to S. Mary Avenue.
28. Applicant is responsible for coordination of approval of private accesses provisions with the County Fire Marshall.
29. All new or revised driveways and accesses onto a County Road (including temporary or construction accesses) shall meet sight distance requirements as per DCC 12.52.040(F) and require an approved access permit as per the procedures in DCC 12.24, *Approaches to County Roads*.
30. Illumination shall be designed and installed consistent with Douglas County Code Section 12.57.100 *Roadway Illumination*. Illumination shall be designed and constructed at the intersection of 8th Street SE and S. Mary Avenue only. The applicant shall be responsible for PUD charges for connection of street lights to the transformer or hand hole.
31. 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.
32. 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. Monitoring shall be required as determined appropriate by the engineer of record and in accordance with the Comprehensive Road Standards (DCC) with final reports submitted to Douglas County along with the certification.


33. 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*.
34. Utility installation/replacement/upgrade within the Douglas County right-of-way, including, but not limited to S. Mary Avenue and 8th Street SE 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. 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*.
35. Five foot utility easements are required along all lots or tracts with county road frontage in accordance with the Douglas County Road Standards.
36. 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.
37. 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 in accordance with DCC 20.34 *Stormwater Drainage* and address the provisions of DCC 20.36 *Construction and Post Construction Stormwater*, together with applicable local, state and federal regulations. 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. 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. Recommendations and/or requirements contained within the Final Drainage Analysis shall be incorporated into final project approval, including but not limited to plat notes and recording of operation and maintenance agreements and/or easements.
38. Due to proximity of the proposed infiltration facility to the existing irrigation canal. The designer shall coordinate design and evaluation of impacts of infiltration upon the irrigation canal with the Irrigation District. A letter of concurrence with the stormwater system design shall be acquired by the Irrigation District prior to acceptance of the stormwater plans & report by Douglas County.
39. The Wenatchee Reclamation District requires a berm to be located along the south property line of the subdivision to keep stormwater runoff from entering the canal.

40. The subject property is located within a wellhead protection area. Expansion of water and sewer shall be by Design and construction of the stormwater system and associated subdivision improvements shall comply with Douglas County Code 19.18E Aquifer Recharge Areas.
41. Registration of facilities regulated under the Washington State Department of Ecology Underground Injection Control (UIC) Program shall be completed PRIOR to construction.
42. Stormwater detention facilities shall be located on a separate tract, under the functional control of the homeowners association with each lot having an undivided interest in the tract(s).
43. Final grading plan shall show how stormwater from the internal lots will be directed to the proposed infiltration pond. The development plan shall be required to either provide a connection to the proposed stormwater pond for each lot, or that a note be placed on the face of the plat requiring the design and approval by Douglas County for an on-site stormwater system for each lot at the time application is made for a building permit. Based on the contour information shown the site plan, it appears that it may be possible to extend a connection from Lot 9 to the proposed stormwater pond.
44. Prior to final plat approval, an operation and maintenance agreement must be recorded and AFN# referenced on the face of the final plat regarding the private stormwater facilities. Said agreement shall be executed on standard forms approved by Douglas County. It shall be clearly noted on the face of the final plat that Douglas County will not maintain the private stormwater facilities (tracts). 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.
45. A note on the face of the plat shall specify that 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.
46. A note on the face of the plat shall state the following:
 - 46.1 "Lots 8 and 9 are prohibited from discharging stormwater and any type of wastewater (including water from swimming pools, spas and hot tubs into the canal.)"
47. The Preliminary Drainage Report indicates that stormwater is proposed to be infiltrated on site. Infiltration testing shall be performed prior to acceptance of the final construction plans and stormwater report, in order to verify the suitability of the site to accommodate the proposed system.
48. In accordance with the Stormwater Management Manual for Eastern Washington, design and maintenance criteria for infiltration ponds and the policies of the Greater East Wenatchee Stormwater Utility Management Team, stormwater facilities shall be above ground facilities, located on a separate tract which is adjacent to and providing an emergency overflow to the public right of way. This policy 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.

49. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMMEW).
50. 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 (SWMMMEW).
51. 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.
52. One access point for construction activities shall be approved from South Mary Avenue. A stabilized construction access for the site shall be shown on the Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall be submitted and accepted prior to on-site grading taking place.
53. 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 21st day of April, 2014

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.