

**DOUGLAS COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

140 19<sup>th</sup> Street NW  
East Wenatchee, WAS 98802-4109

**BEFORE THE DOUGLAS COUNTY HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
P-15-02	)	<b>DECISION AND</b>
Ackerman / Dahl	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on May 21<sup>st</sup>, 2015, 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 applicants are Tadd Ackerman, 2740 8<sup>th</sup> St SE, East Wenatchee WA and David Dahl, 408 Rock Island Rd, East Wenatchee.
2. General Description: A major subdivision application for a 11 lots. Proposed lot sizes range from 5,558 square feet to 8,995 square feet. Average lot size is 7,200 square feet. The project is proposed to be served by public water and sewer.
3. Location: The subject property is located at 2831 NW Cascade Ave. The property is further described as being located within Section 35, Township 23N, Range 20 E., W.M. in Douglas County WA. The Douglas County Assessor’s Parcel Number is 40900005602.
4. Site Information:

Total Project Size:	2.43 acres
No. of lots	11
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 in the southwest corner adjacent to Cascade Avenue. An approximately 15 foot slope down extends from the northwest corner of the property to the southeast corner.

6. Surrounding Property: To the north, Single family home on large lot; to the south, Multi family complex; to the east, Vacant; to the west, Vacant.
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 Medium Residential.
10. The subject property is located in the R-M zoning district which allows for subdivisions as permitted uses.
11. On March 28, 2007, Douglas County adopted portions of Title 17 of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Area.
12. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
13. The subdivision will access NW Cascade Avenue. Nine of the lots will access a new public road and cul-de-sac. Lots 9 and 10 will access directly on to NW Cascade. The new interior road will be developed to the Douglas County Road Standards local access streets and cul-de-sacs. All roadway improvements would be the responsibility of the developer.
14. A Traffic Impact Study from Transportation Engineering NorthWest LLC., dated June 8, 2012 was submitted for the proposal.
15. Frontage Improvements are addressed in Chapter 12.50.150 *Transportation System and Frontage Improvements*, of the Douglas County Road Standards. NW Cascade Avenue is designated as Urban Arterial. The proposed internal road will be designated as an Urban Local Access Road, Figure 3-7a as the applicable road standard.
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. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will be addressed prior to final plat approval.
18. Comments from reviewing agencies have been considered and addressed where appropriate.
19. Douglas County issued a Determination of Nonsignificance on April 30, 2015 pursuant to WAC 197-11-355 (Optional DNS).
20. 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.
21. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.

22. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
23. The Eastmont School District #206 has determined that adequate school related facilities exist to accommodate increased student enrollment associated with increased residential development.
24. 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.
25. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
26. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
27. The entire Planning Staff file was admitted into the record at the public hearing.
28. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.
29. An open record public hearing after due legal notice was held on May 21, 2015.
30. Appearing and testifying on behalf of the applicant was Ed Zontek. Mr. Zontek testified that he is the consulting engineer for the applicant and was authorized to appear and speak on behalf of the applicant and property owner. Mr. Zontek testified that all of the Proposed Conditions of Approval were acceptable. Mr. Zontek further testified that there was sufficient buildable space on each of the proposed lots for a single family residence and all normal accessory structures. He indicated that no variance for development of any of the lots would be necessary.
31. No member of the public appeared at the hearing.
32. 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.
33. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
34. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
35. 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.

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 Greater East Wenatchee Area 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 East Wenatchee Municipal Code as adopted by Douglas County.
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-15-02 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 February 27, 2015 and April 16, 2015 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. 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.
9. The following notes shall appear on the face of the plat:
  - 9.1 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.
10. 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.
11. The final plat shall show the location of all easements serving or encumbering the subject property.
12. 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. Addresses for each lot shall be shown on the face of the final plat mylar prior to final plat approval.

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. Prior to final plat approval, written verification from the Wenatchee Reclamation District that the requirements of the District have been satisfied is required.
19. Written verification from Douglas County Fire District #2 that fire hydrants and fire flow have been provided in compliance with DCC 15.28 (Int'l Fire Code 507 & Appendix B); and emergency ingress and egress have been provided in compliance with DCC 15. (Int'l Fire Code Appendix D) must be submitted to the county prior to final plat approval.
20. Prior to final plat approval, written verification from the Douglas County Sewer District that the requirements of the District have been satisfied and certifying the sewer service is available to each lot.
21. 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.
22. The following language must appear with the Health District signature line:
  - 22.1 "The Health District makes no representation as to the legal availability of water to this plat."
23. Final plans for transportation 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, 15, 17 and 18, to AASHTO Policy on Geometric Design of

Highways and Streets, in accordance with the current Douglas County Road Standards as updated at the time of final plat approval, and other applicable code requirements.

24. Final design plans for the improvements in public rights-of-way and affecting existing public facilities require County acceptance prior to the start of construction.
25. Prior to final plat approval, a 1-foot non-vehicular access easement shall be depicted along the project's western boundary with NW Cascade Avenue, excluding the location of the approved joint use driveway location serving lots 9 and 10. A note on the plat shall indicate that access is limited to private, joint use access easements provided.
26. The required road improvements for this development shall include:
  - 26.1 Half street frontage improvements to NW Cascade Avenue in accordance with Figure 3-8, Urban Arterial. Right-of-way shall be dedicated as necessary to bring the width from monumented centerline up to thirty five (35) feet. Construction of improvements or execution of Deferred Improvement Agreement is required prior to final plat approval. Execution of a deferred improvement agreement is subject to acceptance of the location of the cluster mailbox unit. If a deferred improvement agreement is executed in lieu of construction, a construction easement shall be provided to facilitate future construction. The width of the construction easement shall be identified and accepted as part of the construction plan review and acceptance.
  - 26.2 Design of the (future) frontage improvements is required and shall be included within the submitted/accepted construction plans. The design shall be coordinated with adjacent design plans for the parcel to the south which are on file with Douglas County. PRELIMINARY design of the NW Cascade Avenue improvements shall be included within the construction plan set, noting the improvements as FUTURE. Private access improvements shall accommodate future half street frontage improvements.
  - 26.3 The internal roadway (Road A) shall be a full width street in accordance with Figure 3-7a, Urban Local Access Road (Parking Both Sides).
  - 26.4 The designer shall identify the applicable WSDOT Standard Driveway detail to be utilized throughout the development. Sidewalk easements and language as necessary shall be identified on the face of the plat.
27. Illumination shall be designed and installed at road intersection and cul-de-sacs consistent with East Wenatchee Municipal Code and Douglas County Code Section 12.57.100 Roadway Illumination and follow Douglas County PUD Standards. The applicant shall be responsible for PUD charges for connection of street lights to the transformer or hand hole. A plat note and bonding may be required if cul-de-sac illumination is not completed prior to final plat approval.
28. Final plans and right-of-way dedication associated with the location of cluster mailbox units for the subdivision shall be provided. Location to be approved the the County Engineer and the USPS Postmaster. Comments submitted on 3/20/15 indicate the USPS has identified a location

along the Lot 11 frontage between NW Cascade Avenue and the proposed driveway. The designer shall identify and confirm that this location is in compliance with intersection design standards. (Location of mail box cluster on NW Cascade Avenue requires construction of a pull out per WSDOT/AASHTO standards. Additionally this would negate the applicability of a deferral of NW Cascade Avenue improvements.)

29. 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, applicable codes, the approved construction plans. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Road Standards, with final reports submitted to Douglas County along with certification.
30. 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.
31. Utility installation/replacement/upgrade within the Douglas County right-of-way, including, but not limited to NW Cascade Avenue shall be approved by Douglas County. Damage to existing roads, both public and private, 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.
32. Five foot utility easements are required along all lots or tracts with county road frontage in accordance with the Douglas County Road Standards.
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. Construction and post-construction stormwater shall be addressed in accordance with East Wenatchee Municipal Code, Douglas County Code and the Stormwater Management Manual for Eastern Washington SWMMEW (Ecology). Measures to address stormwater infiltration during frozen soil conditions shall be included, including provisions for overflow. The stormwater plan shall have supporting calculations and final "as built" drawings shall be delivered to Douglas County prior to final plat approval. 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. Recommendations and/or requirements contained within the Final Drainage Analysis shall be incorporated into final project approval, including but not limited to the addition of plat notes and recording of operation and maintenance agreements and/or easements. The designer shall specifically address access for maintenance and inspection in addition to the Site Suitability Criteria included within the SWMMEW.
34. The site is located within an Aquifer Recharge Area, the designer shall include provisions in the design plans and report addressing the requirement of Douglas County Code 19.18E.
35. Measures addressing frozen soil conditions and/or extreme weather conditions which include an Underground Injection Control (UIC) facility shall be registered prior to construction.

36. Stormwater 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 tracts.
37. Provisions to provide access for inspection and maintenance to the stormwater tract shall be addressed within the design plans, report and on the face of the plat.
38. 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. Topographic constraints limit overflow to the public right-of-way. A downstream analysis of potential overflow impacts shall be provided.
39. The engineer of record shall provide certification that the system has been completed in accordance with the accepted plans, as well as applicable East Wenatchee Municipal Code, Douglas County Code and the Stormwater Management Manual for Eastern Washington.
40. Prior to final plat approval, an operation and maintenance agreement must be executed, recorded and AF# 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.
41. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW).
42. SEPA document indicates that the applicant will submit a Notice of Intent Application for a Construction Stormwater General Permit. Acquisition of permits is the responsibility of the applicant.
43. 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.
44. One (1) single access point for construction activities may be approved from NW Cascade Avenue. A stabilized construction access for the site shall be shown on the Stormwater Pollution Prevention Plan (SWPPP) and maintained throughout construction. The SWPPP shall be submitted and accepted prior to on-site grading.
45. Preliminary approval shall expire 5 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 26<sup>th</sup> day of May, 2015.

DOUGLAS COUNTY HEARING EXAMINER



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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.**