

**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-15-03	)	<b>DECISION AND</b>
Iowa Avenue Estates	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on May 21, 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 applicant is Chapaacka LLC, 31 Sageland Rd., East Wenatchee WA.
2. General Description: A major subdivision application for a 6 lot subdivision. Proposed lot sizes range from 8,760 square feet to 11,914 square feet. The project is proposed to be served by public water and sewer.
3. Location: The subject property is located at 491 S Iowa Ave. The property is further described as being located within the SE Quarter of Section 13, Township 22N, Range 20 E.W.M. in Douglas County WA. The Douglas County Assessors Parcel Number is 97600000100.
4. Site Information:

Total Project Size:	1.5 acres
No. of lots	6
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: A single family dwelling is located in the northern center of the property.
6. Surrounding Property: Single family homes.
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 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. Lots 1, 2, 5 and 6 of the subdivision will access S. Iowa Avenue. Lots 3 and 4 will access James Avenue/Jean St SE. These two local access drives do not meet on the property.
14. Frontage Improvements are addressed in Chapter 12.50.150 Transportation System and Frontage Improvements, of the East Wenatchee Comprehensive Street Standards. S. Iowa Avenue is designated as a Urban Collector. East Wenatchee Municipal Code Street Standard, Figure 3-8, Urban Collector is the applicable street standard. S James Ave and Jean Street SE are designated as Urban Local Access Street. East Wenatchee Municipal Code Street Standard Figure 3-7b is the applicable street standard.
15. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
16. A Preliminary Stormwater Drainage Report, dated March 2015, prepared by Jeff Sutton, PE, of Erlandsen was submitted for the proposed 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 May 6, 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 the District has adequate school related facilities to support the proposal.
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 Dan Beardslee. Mr. Beardslee testified that he was an agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Beardslee identified two irregularities within the staff report that he wanted to bring to the Hearing Examiner's attention. He indicated that the home currently under remodel will remain. He testified that he was not made aware of the potential code violation for this home remodel until shortly before the hearing. He testified that there was sufficient buildable space on all of the proposed lots for the construction of a single family residence and normal accessory structures without the need for a variance.
31. No member of the public appeared at the hearing.
32. Supplemental materials were submitted by Staff at the hearing, including the following:
  - 32.1 May 18<sup>th</sup>, 2015 memorandum from Hugh Theiler, Douglas County Code Enforcement to the Hearing Examiner. This consisted of the memorandum, two photographs and a May 18<sup>th</sup>, 2015 letter from Mr. Theiler to Chapacka, LLC.
33. 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.
34. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
35. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
36. 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 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-15-03, 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 March 23, 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.
  - 9.2 At time of building permit submittal a site specific engineered stormwater plan and report outlining conformance with Douglas County Code 20.34 & 20.36 and EWMC shall be submitted and accepted by the County.
  - 9.3 Prior to occupancy, certification shall be submitted by the engineer of record that the private stormwater improvements and site development has been completed consistent with the accepted stormwater plan and report.
  - 9.4 Prior to occupancy a private stormwater operation and maintenance agreement (county standard form) shall be executed for the individual stormwater systems and recorded with the County Auditor.

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 utility easements (i.e. power, sewer, water and irrigation lines, etc.) 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 #1, Wenatchee Reclamation District and Douglas County Fire District #2. All utilities shall be located underground.
16. 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 adequate fire protection measures meeting the International Fire Code and DCC 15.28 are in place. Roadways shall meet Chapter 15.24.030 Fire apparatus Access and International Fire Code Appendix D, Fire Apparatus Access Roads for emergency access.
20. Prior to final plat approval, written verification from the Douglas County Sewer District No. 1 that the requirements of the District have been satisfied is required.

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 East Wenatchee Municipal Code and Douglas County Code Chapters 12, 15, 17 and 18, and the AASHTO Policy on Geometric Design of Highways and Streets, in accordance with the current 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 western boundary with S. Iowa Avenue. A note on the plat shall indicate that access is limited to the internal road system.
26. Road improvements associated with this development shall include:
  - 26.1 Half street frontage improvements to S. Iowa Avenue in accordance with Figure 3-8, Urban Collector Street (30 feet minimum right-of-way from centerline). Extend frontage improvements around corner to connect into end of existing curb, gutter and sidewalk along adjoining parcel.
  - 26.2 Half street frontage improvements to S. James Avenue and Jean Street SE in accordance with Figure 3-7b, Urban Local Access Street. Half street frontage improvements are required in proximity to frontage of access to proposed lots 3 & 4. Extend frontage improvements to connect into end of existing sidewalk along adjoining parcel number 97600000200.
  - 26.3 Proposed lots 1, 2, 5 and 6 shall access via a joint driveway off of S. Iowa Avenue. Applicant to construct a private drive for access to said lots. Proposed lots 3 and 4 may be permitted access off of S. James Avenue/Jean Street SE via a separate joint driveway. Private drives shall be constructed in accordance with Figure 4-1, driveways & access Easements and Chapter 5/ Appendix D of the International Fire Code. Coordinate design, review/acceptance with the County Fire Marshal. Access easements shall be recorded on the final plat.
27. All new or revised driveways and access 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.

28. 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, East Wenatchee Municipal Code, and the approved construction plans. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Douglas County Road Standards and East Wenatchee Municipal Code, with final reports and certification submitted to Douglas County.
29. Prior to final plat approval, requirements for acceptance of the constructed improvements shall be met in accordance with the Comprehensive 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 S Iowa Avenue, S. James Avenue and Jean Street SE shall be approved by Douglas County. A permit to perform work in the right-of-way shall be obtained prior to construction. 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. 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. EWMC 12.04 (Public Right-of-way Excavation) and EWMC 12.16 (Undergrounding of Utilities) and DCC 12.20.060, Specific requirements – Underground utilities.
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. The entire site must be designed to retain all runoff in accordance with Douglas County Code 20.34 (Stormwater Drainage) & 20.36 (Construction and Post Construction Stormwater) and EWMC Chapter 13.20 (Surface and Stormwater Management) and address the provisions of EWMC 13.30 (Construction and Post-construction Stormwater), together with applicable local, state and federal regulations. Construction and post-construction stormwater shall be addressed in accordance with East Wenatchee Municipal Code and the recommendations contained within the Stormwater Management Manual for Eastern Washington (Ecology). 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 analyzed by the engineer and the results provided to demonstrate the constructed stormwater facilities meet the conditions of approval. Recommendation and/or requirements contained within the Final Drainage Analysis shall be incorporated into final project approval, including but not limited to including plat notes and recording of operation and maintenance agreements and/or easements.



34. Registration of facilities regulated under the Washington State Department of Ecology Underground Injection Control (UIC) Program shall be completed prior to construction.
35. 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 tracts.
36. 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 Storm Water Utility Management Team, stormwater facilities shall be above ground facilities, located on a separate tract(s) which is adjacent to and provides an emergency overflow to 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.
37. 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. Said agreement shall be executed on standard forms approved by Douglas County. It shall be clearly noted on the face of the 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.
38. The Preliminary Drainage Report indicates that stormwater is proposed to be infiltrated on site. Infiltration testing shall be performed in accordance with the guidance provided in the Stormwater Management Manual for Eastern Washington 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.
39. 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.
40. 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.
41. 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 the 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.

42. Appropriate measures to prevent sediment from leaving the site shall be maintained until such time as all on-site soils are stabilized. Prior to any on-site grading taking place, temporary erosion/sedimentation control plan (SWPPP- Stormwater Pollution Prevention Plan), showing the location and control measures intended to minimize the effects of erosion and siltation due to construction operations shall be submitted and accepted by the County. This plan shall be maintained on-site at all times and modified as necessary to address erosion issues as they arise. Additional erosion controls shall be implemented as necessary to prevent sediment from leaving the site.
43. One access point for construction activities shall be approved from S Iowa 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.
44. 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.**