

**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-15-04	)	<b>DECISION AND</b>
Braeburn Estates	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on September 10, 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 Prime Properties LLC, PO Box 119, Wenatchee WA.
2. General Description: A major subdivision application for a 161 lot subdivision. Lot sizes range from 5,202 sq ft to 15,201 sq ft. Average lot size is 7,183 sq ft. Lots are proposed to be served by public water and sewer.
3. The project is proposed to be constructed in 8 phases.
4. Location: The subject property is located between Grant Rd and 4th St SE in the vicinity of the intersection of S Nevada and 4th St SE. Further described as being located within Section 18, Township 22N, Range 21 EWM, Douglas County WA. The Assessors Parcel Number is 22211810019.
5. Site Information:

Total Project Size:	39.61 acres
No. of lots	161
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
6. Surrounding Property: To the north, Vacant; to the south, Orchard; to the east, Orchard; to the west, Single Family Home on large lot, residential subdivision

7. The subject property is located within the Greater East Wenatchee Urban Growth Area.
8. The Comprehensive Plan Designation is Medium Residential and Low Residential.
9. The subject property is located in the R-M and R-L zoning districts which allow for subdivisions as permitted uses.
10. On March 28, 2007, Douglas County adopted sections of Title 17 'Zoning' of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Boundary. The most recent update occurred on July 28, 2015 where the County adopted Ordinance TLS 15-11-31B.
11. RCW 58.17.110 requires that local governments make appropriate provision for the establishment of parks, open space and recreational areas at the time it considers approval of a proposed subdivision.
12. A preliminary stormwater drainage overview dated May 22, 2015 from Torrence Engineering was provided for the project.
13. The subdivision will access 4<sup>th</sup> St. SE initially and after phase 4 a connection to Grant Rd, both public roads. The proposal includes new public local access streets through the property and along the eastern boundary.
14. RCW 58.17.110(2) and DCC 17.16.100(A) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
15. A Traffic Impact Study from Transportation Engineering NorthWest LLC., dated May 25, 2015 was submitted for the proposal. The analysis notes that a secondary full access would be required beyond development of 80 lots. The traffic impact analysis analyzed the intersection Levels of Service (LOS) for 10 intersections, all of which currently perform within the adopted parameters of LOS. Transportation improvements will be required at these locations regardless of the proposed subdivision. Traffic signal installation and/or turning movement restrictions will be required to provide transportation facilities necessary to support the proposed development.
16. Off-site frontage improvements are addressed in Chapter 12.50.150 *Transportation System and Frontage Improvements*, of the Douglas County Road Standards. Mitigation conditions agreed to by the applicant requires that the applicant enter into an agreement to contribute a proportionate share contribution towards transportation improvements at the intersection of Grant Rd. and Nevada Ave., including but not limited to signalization addressing LOS deficiencies at that location as development progresses. The agreement shall address and include proportionate share contribution associated with all lots within each phase of the development and shall run with the project.
17. Frontage improvements are addressed in Chapter 12.50.150 *Transportation System and Frontage Improvements*, of the Douglas County Road Standards. 4<sup>th</sup> Street SE is designated as

an Urban Arterial. Douglas County Road Standard Figure 3-8, Urban Arterial Roadway is the applicable road standard.

18. Clovis Point intermediate school is located to the west of the project.
19. 4<sup>th</sup> Street SE is a 2 lane arterial approximately 24 feet in width, with unimproved shoulders. 4<sup>th</sup> Street SE does not currently meet the applicable standard for an Urban Arterial (44 feet of asphalt with curb, gutter and sidewalk).
20. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
21. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will be addressed prior to final plat approval.
22. Comments from reviewing agencies have been considered and addressed where appropriate.
23. The applicants and Douglas County signed a mitigation agreement establishing the mitigation conditions relative to the environmental impact of the project. Douglas County issued a Mitigated Determination of Nonsignificance on August 25, 2015 pursuant to WAC 197-11-355.
24. 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.
25. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
26. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
27. 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.
28. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
29. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
30. An open record public hearing after due legal notice was held on September 10, 2015.
31. The entire Planning Staff file was admitted into the record at the public hearing.
32. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.

33. Appearing and testifying on behalf of the applicant was Gary Bates. Mr. Bates testified that he was an agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Bates testified that all of the proposed Conditions of Approval were acceptable to the applicant, including all conditions set forth within the mitigation agreement signed by the applicant. Mr. Bates testified that 10% of the gross property size will be placed into open space. This means that approximately 3.9 acres will be in open space. Finally, Mr. Bates testified that no variances would be required for the development of any of the proposed lots.
34. There was testimony regarding this project. The following persons testified:
  - 34.1 Brenda Jackson. Mrs. Jackson testified as to her concerns regarding the added traffic onto Grant Road, and the resulting congestion, traffic noise and trash from this added traffic. She testified regarding her concern for impacts on her quality of life and the quality of air in the project area.
  - 34.2 Al Sherman. Mr. Sherman testified generally in favor of the project. He testified that there is much development occurring in this area and that orchards are being removed because it is difficult to farm next to residential developments.
35. 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.
36. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
37. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
38. 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 Ordinance TLS 15-11-31B.

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-15-04, is hereby **APPROVED** subject to the following Conditions of Approval.

### **IV. CONDITIONS OF APPROVAL**

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 on file 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. Prior to final plat approval for each phase, Douglas County Land Services must find that the conditions of approval contained within the Mitigated Determination of Non-Significance, issued on August 25, 2015 for the Braeburn Estates Subdivision, have been met.

8. Preliminary approval of Phase 1 shall expire 5 years from the date of Notice of Action by the Douglas County Hearing Examiner. Preliminary approval of each subsequent phase shall expire 5 years from the date of final approval of the previous phase. 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 14<sup>th</sup> day of September, 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.**