

**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, AND</b>
CUP-2018-04	)	<b>DECISION AND</b>
Positive Tails Dog Training	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on June 28th, 2018, 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 Jennifer Frese, 2820 4<sup>th</sup> Street SE, East Wenatchee, WA.
2. General Description: A conditional use permit application for a dog training facility.
3. The subject property is located at 2820 4th St. SE within Section 17, Township 22 N., Range 21 E.W.M., Douglas County WA. The Douglas County Tax Parcel Number is 75000003602.
4. The Comprehensive Plan designation is Commercial Agriculture 10 acres.
5. The zoning district is Commercial Agriculture 10 acres (AC-10).
6. The applicant has submitted a Stormwater Drainage Report dated March 26, 2018 from Pace Engineers.
7. Comments from reviewing agencies have been considered and addressed where appropriate.
8. One public comment was received during the public comment period.
  - 8.1 Ed and Bev Baugh, 2800 4<sup>th</sup> Street SE, East Wenatchee. Mr. and Mrs Baugh state that they have no objections to the application.
9. Douglas County issued a Determination of Non-significance on June 18, 2018 in accordance with WAC 197-11-355 (Optional DNS).
10. The Chelan Douglas Health District has identified that the site was an orchard and may contain area-wide or localized contaminated soils from lead arsenate and other pesticides and/or petroleum. Presence of these contaminants may affect the health of on-site construction workers and neighbors when the soil is disturbed by equipment and weather.

11. Existing transportation facilities currently do not meet the minimum standard as identified in the Douglas County Code. Frontage improvements are required for all development projects that have frontage on a public road that does not meet current standards. 4<sup>th</sup> Street SE is classified as an Urban Minor Arterial. Half-street improvements are required including, but not limited to, curb, gutter, sidewalk and asphalt widening.
12. Existing right-of-way for 4<sup>th</sup> Street SE is approximately 25 feet from centerline. Given the classification of Urban Minor Arterial, the right-of-way required for this road standard is 35 feet from centerline.
13. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
14. Per Douglas County Code 12.50.150 (C), the County Engineer has the authority to defer frontage improvements.
15. Douglas County Code 12.50.150 and 12.52.030 addresses construction of frontage and off-site frontage improvements as well as general principles associated with Road Network Circulation required to provide for the long term health, welfare and safety of the traveling public in an efficient manner. This includes but is not limited to minimizing access points to collectors and arterials, and planning for access to adjacent undeveloped properties. The requested 25 foot right-of-way dedication along the southern property line, secures the right-of-way necessary for future connectivity of the 5<sup>th</sup> street SE corridor as outlined in the Goals and Policies of the Comprehensive Plan and Douglas County Code Title 12.
16. 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.
17. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
18. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
19. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
20. The entire Planning Staff file was admitted into the record at the public hearing.
21. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
22. An open record public hearing after due legal notice was held on June 28, 2018.
23. Appearing and testifying on behalf of the applicant was Jennifer Frese. Ms. Frese testified that she was the applicant and the property owner. Ms. Frese testified that the purpose for this Conditional Use Permit was to allow her to add small group dog training classes during the week. Training more than four (4) dogs at one time triggers the need for a Conditional Use Permit. Ms. Frese testified that all the proposed conditions of approval were acceptable. Admitted into the record was Exhibit 1 which were the written comments prepared by Ms. Frese.

24. Testifying from the public were the following individuals:
  - 24.1 Ed Baugh. Mr. Baugh testified consistent with his written comments. He is an adjacent property owner and has no objection to the project.
25. 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.
26. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
27. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
28. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
29. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use will not unreasonably interfere with allowable development or use of neighboring properties.
30. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
31. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
32. 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 Douglas County Countywide 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 18 "Zoning" and Title 19 "Environment" and Title 20 "Development Standards" of the Douglas County Code.
6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
8. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.

9. 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.
10. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. 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 CUP-2018-04 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 April 13, 2018 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations.
3. The Chelan Douglas Health District recommends dust control be maintained during any earth disturbing activities. The district further recommends regular dust control, including dust suppressants, mulching, hydro-seeding, gravel, sod and/or other ground cover, for any bare earth left after construction including landscaped areas, paths, unpaved parking areas and roads.
4. Within 30 days of CUP approval, the applicant has the choice to either provide construction plans to Douglas County with the intent to construct the required frontage improvements OR submit a written request to Douglas County for consideration of entering onto a Deferred Improvement Agreement for the 4<sup>th</sup> Street SE road improvements per DCC 12.50.150(C). The construction of frontage improvements or execution/recording of a Deferred Improvement agreement shall be completed within 120 days of CUP approval. Failure to comply shall result in suspension of CUP approval until compliance is achieved.
5. Within 60 days of CUP approval, the applicant shall address the right-of-way deficiency by preparing and executing a Statutory Warranty Deed dedicating approximately 10 feet of right-of-way to Douglas County. Failure to comply shall result in suspension of CUP approval until compliance is achieved.
6. A 25 foot right-of-way dedication is required along the southern property line for a 5<sup>th</sup> Street SE corridor (Urban Local Access, Fig 3-7b). Within 60 days of CUP approval, the applicant shall dedicate 25 feet of right-of-way along the southern property line by preparing and executing a Statutory Warranty Deed. In lieu of an immediate dedication of right-of-way for the future 5<sup>th</sup> Street SE alignment, the property owner may choose to enter into an agreement with Douglas County to dedicate 25 feet of right-of-way at the time of the construction of 5<sup>th</sup> Street SE with no compensation from Douglas County. This agreement shall be drafted by Douglas County,

- signed by the applicant, and recorded. Failure to comply shall result in suspension of CUP approval until compliance is achieved.
7. Private access shall conform to Douglas County Code (DCC) Section 12.52.020 (B)(9) (Chapter 5/Appendix D of the International Fire Code). Coordinate design, review/acceptance with the County Fire Marshal.
  8. Per Douglas County Code 20.34.010, all stormwater runoff shall be retained and disposed of on-site or disposed of in a system designed for such runoff and which does not flood or damage other properties.
  9. Within 120 days of CUP approval, the engineer of Record shall provide as-builts and stamped certification that the drainage system has been constructed in accordance with the accepted plans, as well as applicable Douglas County Codes and the Stormwater Management Manual for Eastern Washington. Once certification and asbuilts are received, a private stormwater operation and maintenance agreement shall be executed and recorded. Said agreement shall be executed on standard forms prepared by Douglas County. The agreement shall specify the owner of the property as having responsibility for the long-term maintenance of the private stormwater drainage system within the development. Failure to comply shall result in suspension of CUP approval until compliance is achieved.
  10. The applicant shall be responsible for preventing dirt, mud and debris from leaving the site, including stormwater runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
  11. 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 Stormwater Associated with Construction Activity. If required, the permit shall be obtained prior to beginning groundbreaking activities. Acquisition of this permit is the responsibility of the applicant.
  12. This permit shall be granted for a period of not to exceed two years. At the end of such period an inspection shall be made of the premises and a review conducted by the hearing examiner to determine compliance with all the conditions of approval. The applicant/owner shall be responsible for scheduling inspection and reviews with the department.

Dated this 5th day of July, 2018.

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.