

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

140 19th Street NW
East Wenatchee, WAS 98802-4109

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-2021-02)	DECISION AND
EAST WENATCHEE WATER DISTRICT)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on March 25, 2021, 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 property owner and applicant is the East Wenatchee Water District, 692 Eastmont Ave, East Wenatchee, WA 98802.
2. General Description: A Conditional Use Permit application for a domestic water booster pump station for the East Wenatchee Water District. The purpose of the station is to provide domestic water supply and fire protection for existing structures and future development. The subject property also includes an existing water reservoir and associated improvements. The subject property is approximately 2.21 acres in size and is located within the Residential Low Density (R-L) Zoning District.
3. Location: The subject property is addressed as 1711 10th St. N, East Wenatchee, WA. The subject property is further described as being located within Section 01, Township 22N, Range 20E, W.M. Douglas County Assessor's Parcel Number: 22210630000.
4. Site Characteristics: The site includes existing power distribution substation, switchyard facilities, control buildings, and power distribution equipment storage yard. The construction site is of relatively flat topography.
5. Site Access: The parcel is accessed via 10th Street NE, East Wenatchee.
6. Adjacent Land Uses: Adjacent parcels consist of residential and vacant lands. The property is bordered by the City limits of East Wenatchee and Residential Low Density (R-L) Zoning District.

7. Zoning and Development Standards: The subject property is located within the Low Density Residential (R-L) Zoning District under East Wenatchee Municipal Code, which allows municipal buildings/ public facilities and utilities through a conditional use permit (CUP). The Growth Management Act identifies that urban growth areas are lands intended for annexation by the adjacent city within 20 years. Based on this, Douglas County has adopted city development regulations within their urban growth areas in order to guide growth according to city standards and ease the transition during future annexations. On March 28, 2007, Douglas County adopted Ordinance 07-01H which adopted sections of Title 17 'Zoning' of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Boundary.
8. Pursuant to East Wenatchee Municipal Code (EWMC) 17.24.040 Conditional uses, the following uses shall be conditional uses in the R-L district under conditions set forth in Chapter 17.64 EWMC:
 - 8.1 D. Municipal buildings;
 - 8.2 E. Public facilities and utilities
9. According to EWMC 17.08.470 Municipal buildings, notwithstanding any contrary provisions found elsewhere in this title, "municipal buildings" means those structures owned and maintained by units of government and used exclusively for authorized governmental functions mandated by statute. Not included are structures whose primary use is that of public assembly.
10. According to EWMC 17.08.525 Public facilities, "Public facilities" means land or structures owned by or operated for the benefit of the public use and necessity, including but not limited to public facilities as defined in RCW 36.70A.030, as amended, and may include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.
11. According to EWMC 17.08.625 Utility or utility services, "Utility" or "utility services" means any water, gas, sanitary or storm sewer, electrical, telephone, irrigation, drainage way, natural gas, facility and/or service and all persons, companies or governmental agencies furnishing the same.
12. The Comprehensive Plan designates this property as Low Density Residential. The following goals and policies set forth in the comprehensive plan are relevant to this development:
 - 12.1 CHAPTER 6 - CAPITAL FACILITIES -DOMESTIC WATER. The East Wenatchee Water District provides domestic water service to the Greater East Wenatchee Area from north of Baker's Flat to past the Pangborn Memorial Airport including urban and rural areas. The East Wenatchee Water District's (EWWD) boundary currently includes most areas within the Urban Area Boundary. The service area of the District is comprised of both rural and urban areas. The service area extends outside the Urban Growth Area (UGA). For those areas outside of the UGA, the District has adopted a rural service standard which is to provide domestic water service without fire flow capability. Within the UGA, the District has adopted service policies consistent with the type and character of the land use. However, there are areas within the UGA that the District cannot currently meet the desired service levels for

both the existing and planned land uses without construction of additional water system improvements. There is a significant amount of land in the District that has very little domestic water use. Undeveloped or underdeveloped land accounts for 5,600 acres, or almost 40% of the total land area within the current service area. Much of this land is currently used for commercial agriculture, or is vacant. The future service area is set by contract with the Regional Water System and encompasses another 4,000 acres.

- 12.2 RECOMMENDED IMPROVEMENT - Pumping Improvements - Construct a new pump station to supply the 1592 and 1768. Preferred location would be adjacent to the 10th Street Reservoirs to maximize hydraulic balance and promote redundancy. It is expected that this station will be paid for by local development. Depending on development in the 1494 zone, it may be necessary to provide pumping capacity for fire supply, which is expected to be paid for by local development

12.3 GOALS AND POLICIES:

- 12.3.1 GOAL: Ensure that adequate capital facilities and services are planned, located, designed and maintained in an efficient manner that maximizes the use of existing facilities and promotes orderly compact urban growth and development that is served with a full-range of urban services.
- 12.3.2 CF 1: Promote the continuation of multi-jurisdictional coordination in facility planning.
- 12.3.3 CF 3: Encourage the location and expansion of public facilities in accordance with projections for growth and development.
- 12.3.4 CF 5: Ensure that capital facility planning is consistent with the comprehensive plan..
- 12.3.5 CF 6: Ensure that the location and design of capital facilities creates minimal adverse impacts on the surrounding land use..
- 12.3.6 CF 7: The phasing of growth & development within the Urban Growth Boundary should be consistent with the priorities and capital improvement budgets contained within the water and sewer plans.
- 12.3.7 CF-9: Plan for and provide capital facility improvements to correct existing deficiencies and to accommodate existing and future needs.

- 12.4 CHAPTER 7 – UTILITIES - WATER: Water service in the majority of the planning area is provided by the East Wenatchee Water District. Those properties outside of the district's service area receive their water from on-site wells. The District's water sources are the Regional Well Field, and wells at Kentucky St. and 19th St. The Regional Well Field is located in the planning area in the vicinity of Rocky Reach Dam. The water district is a partner in the regional water supply with the City of Wenatchee and the Chelan County Public Utility District. The regional water system has rights for 40 million gallons per day (mgd).

- 12.4.1 GOAL 1: Facilitate the development of all utilities at the appropriate levels of service to accommodate growth that is anticipated to occur in the Area, in a fair and timely manner.
- 12.4.2 UT 2: A full range of urban services shall be provided within the entire urban growth area by promoting utility extensions to those areas needing urban services.

- 12.4.3 UT 3: Encourage development of vacant properties adjacent to established utility systems, according to the appropriate zoning classification and/or land use designation.
 - 12.4.4 UT 4: Insure that development provides timely, adequate, and efficient utility systems.
 - 12.4.5 UT 7: facilitate the provision of urban services to all areas in the urban growth area by Sizing and locating new services that will efficiently accommodate future service Extensions.
 - 12.4.6 UT 8: future utility system planning shall be coordinated with the comprehensive plan Of the city, county and other planning efforts pertaining to land use, other utilities And other community facilities.
 - 12.4.7 UT 9: utility installations and system upgrades must be done in a manner sensitive to the surrounding land uses, as well as environmental and hazard area Considerations.
 - 12.4.8 UT 12: Utility structures (e.g. substations, equipment cabinets) in urban areas must design and screen their facilities to insure that they are compatible in bulk and scale with surrounding land uses.
 - 12.4.9 GOAL 2: Provide for the expansion of electric utility facilities to meet future load requirements. Support conservation measures to aid in meeting future growth needs.
 - 12.4.10 UT 13: Douglas County users shall be the top priority for electric power generated by Douglas County PUD.
 - 12.4.11 UT 14: Recognize energy facility needs and future demand in the Greater East Wenatchee Area. Ensure that facilities will be properly located to increase effectiveness of the resource, protect the public, health safety and welfare, address land use compatibility, and the environment.
 - 12.4.12 UT 15: Develop standards and criteria for consideration when locating major types of energy facilities in the County. Energy facilities and associated uses may include a variety of differing energy facilities and needs including: solar, wind, fuel cells, hydroelectric, thermal, waste energy, ethanol, methane, gasification, nuclear and petroleum based facilities. Standards and criteria should address, type, size or scale of development, classes of areas sensitive to differing energy facilities, general layout, principles for assessment of cumulative impacts and public input.
13. Pursuant to EWMC 17.24.040 Conditional uses, the following uses shall be conditional uses in the R-L district under conditions set forth in Chapter 17.64 EWMC: D. Municipal buildings; and E. Public facilities and utilities:
- 13.1 17.92.010 Generally:
 - 13.1.1 A. Permits for conditional property uses shall be signed by the secretary of the board of adjustment and shall stipulate restrictions or conditions which may include a definite time limit, provisions for a front, side or rear yard greater than the minimum requirements of the zoning ordinance, suitable landscaping, off-street parking and any other reasonable restrictions, conditions or safeguards that would uphold the spirit and intent of the zoning ordinance and mitigate any adverse effect upon the neighborhood properties by reason of the use extension, construction or alteration allowed.

- 13.1.2 D. If not otherwise specified by the board of adjustment, the conditional use permit shall expire at the end of a period of one year from the time it is granted if the use for which the permit is granted is not substantially established by that time. Any conditional use permit, if granted, shall pertain only to the specific use and specific property of the applicant. In the event of any use of the property not fully described as authorized in the permit which was granted, such permit is void and the use of the property shall immediately be restricted to those permissive uses of the zone in which the property is situated. Any applicant desiring an amendment to an existing conditional use permit must comply with the procedures for approval of a conditional use permit as set forth in this title.
- 13.1.3 F. Any conditional property use shall meet the minimum dimensional standards of the zone in which it is to be located as well as the minimum conditions listed in this chapter and in Chapter 17.64 EWMC for specific conditional uses identified therein.
- 13.2. 17.92.030 Approval or rejection of application – Standards. The board of adjustment may approve a conditional use permit application only upon finding that:
 - 13.2.1 A. The proposal is compatible with the intent of the Comprehensive Plan for the city;
 - 13.2.2 B. The proposal is compatible with the surrounding neighborhood;
 - 13.2.3 C. The surrounding neighborhood would not be negatively impacted by the size, arrangement or architectural design of the proposed use;
 - 13.2.4 D. Traffic patterns are not severely impacted;
 - 13.2.5 E. Public facilities are available to serve the proposed development;
 - 13.2.6 F. The proposal has no materially detrimental effects on neighboring properties due to excessive noise, lighting or other interference with the peaceful use and possession of said neighboring properties;
 - 13.2.7 G. The proposal has been designed to minimize adverse effects on neighboring properties;
 - 13.2.8 H. Landscaping materials are provided in sufficient quantities and locations to screen objectionable views, break up large parking areas, and present an aesthetically attractive appearance.
- 13.3 17.64.010 Purpose. This chapter describes the criteria or conditions to be applied to specific conditional uses listed in each individual zoning district in which the specific conditional uses are permitted. The uses may be approved by the board of adjustment through the conditional use permit process described in Chapter 17.92 EWMC if they meet the standards of this chapter and the criteria of Chapters 17.92 and 17.96 EWMC as presently enacted or hereafter amended of this code.
 - 13.3.1 17.64.080 Municipal buildings. Municipal buildings shall meet the following minimum standards:
 - 13.3.1.1 A. Maximum coverage: 65 percent for all buildings within residential districts; that of the district in which the structure is located within all other zones;
 - 13.3.1.2 B. Minimum setback distances: those of the district in which the structure is located;
 - 13.3.1.3 C. Maximum height: that of the district in which the structure is located;

- 13.3.1.4 D. Parking: the off-street parking requirements shall be as set forth in EWMC 17.72.010, as the same exists now or may hereafter be amended;
- 13.3.1.5 E. Landscaping requirements: that of the district in which the structures are located or additional as required by the planning commission.
- 13.4. 17.64.170 Increased building height:
 - 13.4.1 A. Applicable districts: R-L, R-M, R-H, CBD, and G-C.
 - 13.4.2 B. The maximum allowable building height may be increased up to 20 percent of the maximum height allowed in the applicable zoning district with approval of a conditional use permit if, in addition to the requirements of Chapter 17.92 EWMC, it is demonstrated that:
 - 13.4.2.1 View opportunities from lots within 100 feet of the subject property are not substantially reduced;
 - 13.4.2.2 Adequate provisions for fire protection are available at the time of construction (use of innovative construction techniques as approved by the fire marshal, fire flow, hydrant access, etc.);
 - 13.4.2.3 No unstable slopes or soils are on the building site; and
 - 13.2.4.4 Solar access of neighboring lots is not substantially (less than 50 percent) reduced.
- 13.5 17.24.050 Dimensional standards. The following are dimensional standards in the R-L district:
 - 13.5.1 D. Maximum building height: 35 feet;
 - 13.5.2 E. Maximum land coverage: 40 percent for all buildings;
 - 13.5.3 F. Minimum setback distances, except as provided in EWMC 17.72.040:
 - 13.5.3.1 Front yard: 15 feet, provided any garage or carport with vehicle entrances facing a street shall be set back at least 20 feet from the front lot line;
 - 13.5.3.2 Rear yard: 15 feet;
 - 13.5.3.3 Side yard: five feet.
- 13.6 17.24.060 Off-street parking requirements. Off-street parking requirements for the R-L district shall conform to the provisions in Chapter 17.72 EWMC, as the same exists now or may hereafter be amended. All required parking shall be located to the rear of the front yard setback.
- 13.7. 17.24.070 Landscaping requirements. All developments in this district shall be subject to the landscaping requirements in Chapter 17.72 EWMC, as the same exists now or may hereafter be amended.
- 13.8. 17.24.090 Design standards and guidelines. Development within this district shall comply with the applicable sections of the Greater East Wenatchee Urban Growth Area Design Standards and Guidelines which are adopted by this reference as if fully set forth herein.
- 14. Douglas County issued a Determination of Non-Significance on March 11, 2021 in accordance with WAC 197-11-355 (Optional DNS).
- 15. Applicable agencies have been given the opportunity to review this proposal. The following agencies have been sent copies of the proposal and have commented as indicated below:
 - 15.1 Date of Application: 01/20/2021

- 15.2 Date Letter of Completeness Issued: 02/04/2021
 15.3 Date Notice of Application Issued: 02/04/2021

Agency Notified	Response Received	Agency Notified	Response Received
WA State Dept. of Ecology	NR	Douglas County Fire District	02/05/2021
Douglas County Transportation	02/18/2021	Douglas County GIS	02/16/2021
Douglas County Land Services	02/22/2021	Douglas County PUD	02/10/2021
Chelan-Douglas Health District	02/12/2021	East Wenatchee Water District	02/04/2021
Douglas County Sewer District	02/08/2021		

16. No written public comments were received.
17. Pursuant to Douglas County Code 18.80.020 (A), the hearing examiner is authorized to approve, approve with conditions or deny permits for conditional uses.... Pursuant to East Wenatchee Municipal Code 17.92.030, the board of adjustment may approve a conditional use permit application. On March 28, 2007, Douglas County adopted Ordinance 07-01H which adopted sections of Title 17 ‘Zoning’ of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Boundary; and furthermore administers the actions of such adoption. Under the DCC, the equivalent of the board of adjustment is the hearing examiner. Upon review of the application materials, site plans, agency comments, the Comprehensive Plan, and applicable codes and requirements, planning staff offers the following analysis and recommendations for the subject application.
18. The project site is within the Low Density Residential designation and the proposal is consistent with the Goals and Policies identified above.
19. EWMC 17.92.030 Approval or rejection of application – Standards. The hearing examiner (board of adjustment) may approve a conditional use permit application only upon finding that:
- 19.1 The proposal is compatible with the intent of the Comprehensive Plan for the city:
 - 19.2 Hearing Examiner Finding: The applicable Goals and Policies are included within the Comprehensive Plan citations above and the proposal is consistent with the cited goals and policies.
 - 19.3 The proposal is compatible with the surrounding neighborhood:
 - 19.4 Hearing Examiner Finding: The properties are well established utility use site. The site includes existing water reservoir, stormwater facilities, and associated improvements. Improvements subject to this action will be for the purpose and function of the existing facility. Adjacent parcels consist of residential and vacant lands. The property is bordered by the City limits of East Wenatchee, the Residential Low Density (R-L) Zoning District, and the Mixed Use (MU) Zoning District.

- 19.5 The surrounding neighborhood would not be negatively impacted by the size, arrangement or architectural design of the proposed use.
- 19.6 Hearing Examiner Finding: The property is a well-established utility use site. The site includes existing water reservoir, stormwater facilities, and associated improvements. Improvements subject to this action will be for the purpose and function of the existing facility. Adjacent parcels consist of residential and vacant lands. The property is bordered by the City limits of East Wenatchee, the Residential Low Density (R-L) Zoning District, and the Mixed Use (MU) Zoning District.
- 19.7 Traffic patterns are not severely impacted:
- 19.8 Hearing Examiner Finding: Low or limited traffic generation is anticipated with the existing and new uses.
- 19.9 Public facilities are available to serve the proposed development:
- 19.10 Hearing Examiner Finding: The applicant shall comply with all standards and specifications to ensure service is provided to meet the need of the facilities.
- 19.11 The proposal has no materially detrimental effects on neighboring properties due to excessive noise, lighting or other interference with the peaceful use and possession of said neighboring properties:
- 19.12 Hearing Examiner Finding: Existing noise levels will increase.
- 19.13 The proposal has been designed to minimize adverse effects on neighboring properties:
- 19.14 Hearing Examiner Finding: Appropriate security fencing and screening is being provided.
- 19.15 Landscaping materials are provided in sufficient quantities and locations to screen objectionable views, break up large parking areas, and present an aesthetically attractive appearance:
- 19.16 Hearing Examiner Finding: The applicant has provided landscape plans. According to the applicant, The District will restore any disturbed landscaping to the original, County Approved state.
- 20. EWMC 17.64.080 Municipal buildings. Municipal buildings shall meet the following minimum standards:
 - 20.1 Maximum coverage: 65 percent for all buildings within residential districts; that of the district in which the structure is located within all other zones;
 - 20.2 Minimum setback distances: those of the district in which the structure is located;
 - 20.3 Maximum height: that of the district in which the structure is located;
 - 20.4 Parking: the off-street parking requirements shall be as set forth in EWMC 17.72.010, as the same exists now or may hereafter be amended;
 - 20.5 Landscaping requirements: that of the district in which the structures are located or additional as required by the planning commission;
 - 20.6 Hearing Examiner Finding: As conditioned, the above standards shall be met.
- 21. After due legal notice an open record public hearing was held via Zoom due to the Covid-19 pandemic on March 25, 2021.
- 22. The entire Planning Staff file was admitted into the record at the public hearing.
- 23. Appearing and testifying on behalf of the Applicant was Ryan Peterson. Mr. Peterson testified that he was an agent authorized to appear and speak on behalf of the Applicant and property owner. Mr. Peterson indicated that the Applicant had no objection to any of the

proposed Conditions of Approval. He did want to correct a representation in the staff report that there would be no additional noise. Mr. Peterson stated that there would be an increase in noise with the new pump station, but that the noise would be mitigated through the design and construction of the pump house.

24. No member of the public testified at this hearing.
25. 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 Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As conditioned, the proposal is consistent with East Wenatchee Municipal Code 17.92.030 Approval or rejection of application – Standards and 17.64.080 Municipal buildings.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with East Wenatchee Municipal Code Title 17, Douglas County Code Title 14 and Title 19, and the East Wenatchee Comprehensive Plan.
7. 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, review of all applicable files, including the Planning Department staff file, and after an open record public hearing, the Hearing Examiner has determined that CUP No. 2021-02 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. The project shall proceed in substantial conformance with the plans and application materials on file submitted on 01/20/2021b except as amended by the conditions herein.

2. The owners/operators shall be responsible to obtain and comply with any applicable federal, state, and local laws, and must obtain all necessary permits and approvals prior to operation.
3. As applicable, the development shall comply with the applicable sections of the Greater East Wenatchee Urban Growth Area Design Standards and Guidelines.
4. An Address Request Application needs to be submitted for the new building and the water tower for emergency services purposes.
5. The project shall receive approval from the Washington State Department of Health – Drinking Water Division, contact Jeff Johnson, (509) 329-2110 or jeff.johnson@doh.wa.gov, for further information.
6. Prior to any building being constructed, the applicant shall obtain a commercial building permit.

Dated this 26th day of March, 2021.

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.