

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

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

BEFORE THE DOUGLAS COUNTY HEARING EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
PA-05-014)	DECISION AND
Columbia View Estates Plat Amendment)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on March 19, 2020, 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 Ronald W. and Elizabeth Bundy, 1800 Carl St. N.E., East Wenatchee, WA 98802.
2. The agent is Erlandsen & Associates, 250 Simon St., East Wenatchee, WA 98802.
3. The application is for a plat amendment to change stormwater infrastructure located on Lot 6 and Lot 8 of the Columbia View Estates Plat #05-14. The change includes removal of a stormwater swale and the 20' Drainage Easement and subsequent construction of an engineered stormwater infiltration pond constructed.
4. Location: The property is located in the Rural Recreation (RR-5) zoning district under Douglas County Code and is further described as being located within Section 28, Township 26N, Range 21, E.W.M. The Assessor's Parcel Numbers are 47700000800 and 47700000600.
5. Site Characteristics: The subject properties are located within a cluster subdivision.
6. Access: The subdivision accesses Bundy Place, a private road.
7. The Douglas County Countywide Comprehensive Plan designates this property as Rural Resource 5 acres. The following goals and policies set forth in the comprehensive plan are relevant to this development:

7.1 RURAL

7.1.1 POLICY RD-4: Development and recreational opportunities in rural shoreline and other rural areas shall minimize potential adverse impacts to water quality, slope stability, vegetation, wildlife and aquatic life.

7.1.2 POLICY RD-7: Rural developments should consider and comply with the spirit, intent and requirements of all the chapters and section of this comprehensive plan, including but not limited to, the Resource Lands Element and resource and Critical Areas Conservation Element.

8. The subject property is located in the RR-5 zoning district which allows for subdivisions as permitted uses. The requirements of Title 17, "Subdivisions", Douglas County Code, apply to plat amendments.
9. The shoreline environment designation is Rural Conservancy.
10. The Columbia View Estates was recorded on November 28, 2007. Columbia View Estates includes easements and stormwater control facilities.
11. The applicant is requesting that the stormwater swale and the 20' Drainage Easement be removed and an engineered stormwater infiltration pond be constructed.
12. The modification of plat elements must be approved via a plat amendment process.
13. Pursuant to DCC 17.42.030 - Alteration of final plat, or final short plat or final binding site plan, Alteration of a final plat, final short plat or final binding site plan or any portion thereof shall meet all requirements of this chapter, as applicable, Chapter 58.09 RCW, RCW 58.17.035, 58.17.060, 58.17.215 through 58.17.218 and WAC 332-130-050(3), as applicable, except that alterations subject to the provisions of DCC Chapter 17.34, Boundary Line Adjustments, are exempt from the requirements of this section.
14. Pursuant to RCW 64.04.175- Easements established by dedication—Extinguishing or altering, Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.
15. The applicant has provided signatures of owners for the processing of the plat amendment application.
16. The date of application was December 30, 2019.
17. The Letter of Completeness was issued on December 30, 2019.
18. The Notice of Application was issued on December 30, 2019.
19. The Notice of Second Additional Information was issued on February 19, 2020.

20. The comment period was from January 9, 2020 to January 24, 2020.
21. The applicant submitted a Storm Drainage Report dated February 28, 2020, prepared by Jeff Sutton, PE, Project Engineer, with Erlandsen Engineering.
22. The applicant submitted Civil Plans prepared by Erlandsen, received February 28, 2020.
23. The civil plans provided adequately depict the stormwater facilities intended to replace the dispersion trenches located on Lots 6 and 8.
24. The Preliminary Stormwater Report adequately addresses the feasibility of the proposed amendment. The dispersion trenches located on Lots 6 and 8 are to be removed and replaced with an infiltration pond located on the eastern side of Lot 8. The report demonstrates that the pond is capable of providing runoff treatment and flow control for the basins tributary to the system.
25. Douglas County issued a Determination of Non-significance on March 3, 2020, pursuant to WAC 197-11-355 (Optional DNS).
26. In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements
27. Comprehensive plan consistency:
 - 27.1 The proposal is consistent with the goals and policies of the Douglas County Countywide Comprehensive Plan as stated in Finding of Fact 7.1 above.
28. Consistency with the provisions of Title 17, "Subdivision", DCC:
 - 28.1 The Columbia View Estates established stormwater control facilities on Lot 6 and Lot 8. The application materials for the plat included a Stormwater Management Report.
 - 28.2 The plat was recorded on November 28, 2007.
 - 28.3 The modification of plat elements must be approved via a plat amendment process. The applicant is requesting that the stormwater swale and the 20' Drainage Easement be removed and an engineered stormwater infiltration pond be constructed.
 - 28.4 Pursuant to DCC 17.42.030 Alteration of final plat, or final short plat or final binding site plan, Alteration of a final plat, final short plat or final binding site plan or any portion thereof shall meet all requirements of this chapter, as applicable, Chapter 58.09 RCW, RCW 58.17.035, 58.17.060, 58.17.215 through 58.17.218 and WAC 332-130-050(3), as applicable, except that alterations subject to the provisions of DCC Chapter 17.34, Boundary Line Adjustments, are exempt from the requirements of this section.
 - 28.5 Pursuant to RCW 58.17.215 Alteration of subdivision—Procedure.
 - 28.6 When any person is interested in the alteration of any subdivision or the altering of any portion thereof, except as provided in RCW 58.17.040(6), that person shall submit an application to request the alteration to the legislative authority of the city, town, or county

where the subdivision is located. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

- 28.7 Upon receipt of an application for alteration, the legislative body shall provide notice of the application to all owners of property within the subdivision, and as provided for in RCW 58.17.080 and 58.17.090. The notice shall either establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.
 - 28.8 The legislative body shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.
 - 28.9 After approval of the alteration, the legislative body shall order the applicant to produce a revised drawing of the approved alteration of the final plat or short plat, which after signature of the legislative authority, shall be filed with the county auditor to become the lawful plat of the property.
 - 28.10 This section shall not be construed as applying to the alteration or replatting of any plat of state-granted tide or shore lands.
 - 28.11 Pursuant to RCW 64.04.175 Easements established by dedication—Extinguishing or altering.
 - 28.12 Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.
 - 28.13 The applicant submitted a Storm Drainage Report dated February 28, 2020 prepared by Jeff Sutton, PE, Project Engineer, with Erlandsen Engineering.
 - 28.14 The applicant has provided signatures of owners from the processing of the plat amendment. As conditioned, the proposed plat amendment is consistent with the provision of this title.
29. Consistency with the provisions of the RR-5 Zoning District, Chapter 18.30, DCC:
- 29.1 The proposal is consistent with the provisions of this chapter. Residential use of the property is permitted by the district.

30. Consistency with the provisions of DCC Chapter 20.34, Stormwater Drainage:

- 30.1 The applicant submitted a Storm Drainage Report dated February 28, 2020 prepared by Jeff Sutton, PE, Project Engineer, with Erlandsen Engineering. The civil plans provided adequately depict the stormwater facilities intended to replace the dispersion trenches located on Lots 6 & 8. The Preliminary Stormwater Report adequately addresses the feasibility of the proposed amendment. The dispersion trenches located on Lots 6 & 8 are to be removed and replaced with an infiltration pond located on the eastern side of Lot 8. The report demonstrates that the pond is capable of providing runoff treatment and flow control for the basins tributary to the system
- 30.2 As conditioned, the proposal is consistent with the provisions of this chapter.
31. Consistency with the provisions of DCC Title 12 Road Standards:
 - 31.1 The civil plans provided adequately depict the stormwater facilities intended to replace the dispersion trenches located on Lots 6 & 8. As conditioned, the proposal is consistent with the provisions of this chapter.
32. Surrounding property owners were given the opportunity to comment on the proposals, and can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
33. Applicable agencies have been given the opportunity to review this proposal. Agency comments are as follows:
 - 33.1 WA State Dept. of Ecology – No response
 - 33.2 Douglas County Land Services – Response received March 3, 2020
 - 33.3 Chelan-Douglas Health District – January 15, 2020.
 - 33.4 Douglas County Fire Marshall – Response received January 28, 2020
 - 33.5 Douglas County GIS – Response received January 22, 2020
 - 33.6 Douglas County Transportation and Stormwater – Response received March 3, 2020
 - 33.7 Colville Confederated Tribes – No response
 - 33.8 Dept. of Architecture and Historical Preservation – No response.
34. No public comments were received.
35. After due legal notice and open record public hearing was held on March 19, 2020.
36. The entire Planning Staff file was admitted into the record at the public hearing.
37. Appearing and testifying on behalf of the applicant were Ron Bundy and Jeff Sutton. Mr. Bundy is the property owner and applicant, and Mr. Sutton is the project engineer and applicant's agents. Mr. Sutton testified that the stormwater system is designed to contain a 100 year storm event. Mr. Bundy indicated that he had no objection to any of the proposed Conditions of Approval.
38. No member of the public appeared at the hearing.
39. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.

40. Any finding of fact that is more correctly a conclusion of law 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.
2. Public use and interests will be served by approval of this proposal.
3. As conditioned, the proposal is consistent with Title 18 "Zoning", Title 17 "Subdivision", and Title 19 "Environment", of the Douglas County Code.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Any Conclusion of Law that is more correctly a Finding of Fact 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 PA-05-014 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 30, 2014 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. A plat certificate showing parties of interest from a title company must be submitted with the blue-line drawings.
4. 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.
5. All parties having an ownership interest in the subject property shall acknowledge the plat.

6. 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.
7. Per WA 332-130-050 (3Ciii) A prominent note itemizing the changes to the original document needs to be included on the mylar.
8. Lots greater than one (1) acre in size are EXEMPT from fire flow requirements PROVIDED that all structures maintain no less than 50 feet of separation
9. Any and all plat notes that conflict with the relocation of the stormwater control facilities shall be revised to accurately reflect the new location, size and function, as applicable.
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. All easements shall be clearly delineated with the Auditor's File Number(s) noted as necessary on the final plat
13. Final construction plans designed by a Professional Engineer licensed in the State of Washington shall be submitted to and accepted by Douglas County prior to construction.
14. A final site-specific stormwater plan and report prepared by a Professional Engineer (PE) licensed in the State of Washington that conforms to Douglas County Code and the 2019 Stormwater Management Manual for Eastern Washington (SWMMEW) shall be submitted to and accepted by Douglas County prior to construction.
15. Stormwater facilities shall be located within an easement(s) under the functional control of the Lot Owner's, with each lot having an undivided interest, and responsibility for the facilities.
16. Provisions to provide access for inspection and maintenance of the stormwater tract(s) shall be addressed within the design plans, report, and on the face of the final plat.
17. As applicable, registration of facilities that are regulated under the Washington State Department of Ecology's Underground Injection Control Program shall be completed prior to construction.
18. The Engineer of Record shall monitor construction and shall provide as-built drawings and report as necessary along with certification that the improvements have been completed in accordance with the applicable codes, regulations, and accepted plans. UIC registration shall be provided as applicable.

19. Prior to final plat acceptance, a Private Stormwater Operation and Maintenance Agreement shall be executed on standard Douglas County forms. The site plan, details, certification, and operation and maintenance recommendations are provided to the County. County staff then prepares the agreement for signature and recording by the applicant. A note shall be included on the face of the final plat which states:

19.1 "Douglas County will not maintain the private stormwater facilities located within this subdivision. Responsibility for the long term maintenance of the private stormwater facilities is described within the Declaration of Stormwater System Maintenance

Dated this 23rd day of March, 2020.

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.