

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

P-2020-03
Chinook Meadows

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**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND
CONDITIONS OF APPROVAL**

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on July 30, 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 applicant and owner is Nathan Harmon, 2651 Semolina Loop, East Wenatchee, WA 98802.
2. This application is for an 18 lot Major Subdivision (“Chinook Meadows”). The subject property is approximately 5.03 acres in size. The lots are proposed to range in size from approximately 5,161 square feet to 17,259 square feet.
3. Location: The property is located at NE Columbia Ave near the corner of 29th Street in the Residential Medium (R-M) zoning district under East Wenatchee Municipal Code and is further described as being located within Section 34, Township 23N, Range 20 E.W.M. The Assessor’s Parcel Number is 48600000101.
4. Site Characteristics: The topography is rolling.
5. Site Information:

Total Project Size:	5.03 acres
No. of lots	18
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:	Varies

6. Surrounding Property:
North: Single family homes and vacant land.
South: Single family homes and vacant land.
East: Single family homes.
West: 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 Residential Medium (R-M).
10. The subject property is located in the Residential Medium (R-M) zoning district.
11. On March 28, 2007, Douglas County adopted Ordinance No. 07-01H which adopted portions of Title 17 of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Area.
12. EWMC 17.72.210 requires residential lots to have not less than 40 feet of frontage on a public or private roadway, except when located within a cul-de-sac, or when the lot is accessed from a joint-use driveway or access easement meeting the requirements of Chapters 12.50 through 12.60 EWMC. A minimum of 20 feet of contiguous frontage is required for lots located on a cul-de-sac (road right-of-way) and lots located on the outside of a road curve with a radius between 50 and 75 feet.
13. The project utilizes elements of EWMC 17.72.045 Lot size averaging.
14. The narrative submitted for the project references a “PRD” in multiple areas. This project is not a Planned Residential Development, nor Planned Unit Development District, and is being processed as a major subdivision.
15. The SEPA checklist submitted mentions a max lot coverage of 80%, this standard is not applicable to this subdivision. All lots created through this subdivision will abide by the development standards of the Residential Medium Density Zoning District.
16. The Douglas County Fire Marshal has reviewed the project, and subject to the recommended conditions, state that the proposal can be granted.
17. The application triggers the requirement to provide parks/open space. Based on project size, the minimum required open space is .25 acres. .89 acres are shown as part of the open space / recreation conceptual plan. The application proposes area for conceptual and future placement of both active and passive recreation. Final designs have not been completed.
18. According to the WA State Department of Archaeology & Historic Preservation, “A desktop review of our Statewide Predictive Model has identified the proposed project area as having

high potential for archaeological resources. . . Therefore, we recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities.”

19. According to the Cultural Resources Assessment for Chinook Meadows, Douglas County, Washington dated June 26, 2020 prepared by Margaret Berger, Principal Investigator, “Background research and field investigations did not result in the identification of archaeological resources. No further cultural resources investigations are recommended for the project location and it is recommended that the project proceed as planned. An inadvertent discovery protocol is provided.”
20. The East Wenatchee Water District provided comment that public water is available per this request upon completion of necessary conditions.
21. According to the Douglas County Sewer District, public sewer is available at this time. An extension of public sewer will be required to serve the subdivision, and the developer will need to initiate the Developer Extension Application/ Agreement (DEA) process with the Sewer District .The District anticipates there will be adequate capacity and availability to serve this subdivision, given that the conditions below are met.
22. Initial application materials reviewed by Douglas County Transportation and Stormwater include:
 - 22.1 Alternate to Code Request prepared by SCJ Alliance, accepted May 12, 2020.
 - 22.2 Project Narrative prepared by the applicant, received March 24, 2020.
 - 22.3 Civil Plans prepared by SCJ Alliance, received March 24, 2020.
 - 22.4 Preliminary Plat prepared by Erik Garhinger, received April 3, 2020.
 - 22.5 Preliminary Stormwater Report prepared by SCJ Alliance, received March 24, 2020.
 - 22.6 SEPA Checklists prepared by Charity Duffy, received March 24, 2020.
 - 22.7 Cultural Resource Assessment, prepared by Margret Berger, received June 30, 2020.
 - 22.8 Geologic Risk Assessment prepared by Nelson Geotech, received March 24, 2020.
23. A request for an alternate to the East Wenatchee Municipal Code (EWMC) was reviewed and accepted on May 12, 2020. The alternate to code allows the applicant to:
 - 23.1 Construct the internal private road utilizing parking and sidewalk on one side only (Figure 3-7a).
 - 23.2 Construct rolled curb on all internal private roads.
 - 23.3 Construct a private cul-de-sac with a landscape island in the center.
24. In order to meet the state requirements for Enhanced 911 service, all lots within this plat shall be addressed and internal roads shall be named prior to final plat approval.
25. Comments from reviewing agencies have been considered and addressed where appropriate.
26. Douglas County issued a Determination of Non-Significance on July 8, 2020 pursuant to WAC 197-11-355 (Optional DNS).

27. 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.
28. During the comment period three public comments were received regarding the proposal.
29. On June 30, 2020, the applicant provided a response to the public/ agency comments.
30. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
31. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
32. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
33. Comments from reviewing agencies have been considered and addressed where appropriate.

Agency Notified	Response Received	Agency Notified	Response Received
Chelan-Douglas Health District	05/8/2020	Douglas County Treasurer	5/18/2020
Douglas County PUD	05/6/2020	Douglas County GIS/Addressing	04/29/2020
WA State Dept. of Ecology	N/R	Douglas County Assessor	N/R
Douglas County Fire Marshal	05/14/2020	East Wenatchee Water District	05/11/2020
Douglas County Sewer District	05/13/2020	Douglas County Transportation & Storm Water	05/12/2020
Douglas County Land Services	07/06/2020	Wenatchee Reclamation Irrigation District	05/05/2020
Colville Confederated Tribes	N/R	Link Transit Service	N/R
Dept. of Arch. & Historical Preservation	05/15/2020		

34. After due legal notice an open record public hearing was held on July 30, 2020.
35. At this hearing, the entire Planning Staff file was admitted into the record at the public hearing.
36. Appearing and testifying on behalf of the applicant was Nathan Harmon. Mr. Harmon testified that he was the property owner and applicant. He testified that all the proposed conditions of approval were acceptable. He stated that he was planning to construct an engineered irrigation system holding tank for his subdivision. He indicated that he was not aware of the exact location of any irrigation lines through his property, but he will relocate lines as necessary within his subdivision and will create easements as necessary. He indicated that it was his intent to set all home building sites low on the proposed lots.
37. Testifying from the public were the following individuals:
 - 37.1 Chris Stark. Mr. Stark testified consistent with his written comments. He testified to his belief there is a “prescriptive easement” for the irrigation line on the east side of the lot. He reiterated that this irrigation line is gravity fed and cannot be pressurized. Regarding the irrigation box in the northeast corner by the applicant’s property, he stated that there are pipes for various irrigation lines and he requested that the gravity fed lines be moved to the lower portion of the box. Mr. Stark also testified it is his belief that the irrigation system needs new lines to improve irrigation service.
 - 37.2 Patricia Smith. Ms. Smith stated that her understanding was that no improvements were to be made on Cascade Avenue and that improvements were needed.
 - 37.3 Stacey Collins-Dukette. Ms. Collins-Dukette testified regarding the irrigation box between the Sherrill and Poage properties. She asked who was going to maintain this irrigation box. She had concerns regarding erosion and the need for retaining walls. She was concerned her property values if her views are impacted.
 - 37.4 Barbara Pippel. Ms. Pippel testified that while she pays for irrigation water, there is not sufficient pressure once the water reaches her property. This has been the case for many years.
38. Admitted into the record as Exhibit 1 were questions submitted by Barbara Pippel on a notecard with the name Kelly Makus.
39. 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 # 01-01H.
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. Any Finding of Fact that is more correctly 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 P-2020-03 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. The project shall proceed in substantial conformance with the plans and application materials of file dated 3/24/2020 and 06/30/2020 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 blueline drawings.
4. The final plat 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. 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.
8. The final plat shall show the location of all easements serving or encumbering the subject property.

9. In the event that any cultural resources (Burial sites, human remains, historical artifacts, etc.) are discovered, the applicant shall adhere to the inadvertent discovery protocol provided by Margret Berger.
10. Any reference within the application materials to a Planned Residential Development (PRD), Planned Unit Development District, or standards deviating from what is allowed under code, is hereby null and void. The application is being processed as a major subdivision and shall abide by the regulations of the underlying Zoning District, applicable East Wenatchee Municipal Code, applicable Douglas County Code, and any applicable state or federal regulations.
11. The location of existing utilities (i.e. power, sewer, water and irrigation lines, etc.) and utility easements shall be depicted on the face of the final plat.
12. 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, and Douglas County Fire District #2.
13. The developer shall prepare final plans for the development and installation of utilities for the approval of the respective purveyors prior to site development. Final "as-built" drawings shall be delivered to purveyors upon completion.
14. 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.
15. Domestic water service shall be by expansion of the East Wenatchee Water District public water system. Written confirmation from the utility agreeing to provide individual service to each lot is required. All water system improvements must be designed, constructed, and placed in accordance with the purveyor's requirements. Completion of the improvements, including necessary easements, must be accepted in writing from the utility prior to final plat approval.
16. The dedicatory language on the plat shall carry this note: "The Health District has not reviewed the legal availability of water to this development."
17. Sanitary sewer service shall be by expansion of the Douglas County Sewer District public sewer system. All sewer system improvements must be designed, constructed, and placed in accordance with the purveyor's and the Dept. of Ecology's standards and requirements. Completion of the improvements, including necessary easements, must be accepted in writing from the utility prior to final plat approval.
18. Written approval from the Chelan Douglas Health District is required prior to final plat approval.
19. Prior to final approval of this development, applicant must obtain a release from Wenatchee Reclamation District which states that irrigation shares have been segregated. The applicant shall provide easements to allow access to irrigation lines serving adjacent properties. The

- applicant shall not disrupt irrigation service, and install connection lines to ensure continued service.
20. Written approval from the Douglas County PUD is required prior to final plat approval.
 21. The applicant shall add the directional marker “NW” to the proposed “Chinook Way” road name.
 22. The applicant shall pay all applicable property taxes prior to final plat approval.
 23. Written approval from the Douglas County Treasurer is required prior to final plat approval.
 24. Minimum required fire flow is 1000 gpm. Hydrants needed at entrance of subdivision and at cul-de-sac. Hydrants to be spaced no more than 500 feet. Each lot should have a hydrant within 250 feet of the nearest frontage access.
 25. A DEA (developer line extension agreement) will be required with the East Wenatchee Water District prior to plan submittals. Requirements for fire flow will meet the standards of the Douglas County Fire Marshall and all required improvements will be per current District Design Standards and Specifications.
 26. The Developer will assume all the District's costs for this proposal including inspections, testing and permits. After construction is completed and accepted by the District, a 2-year Maintenance/Warranty Bond will be required.
 27. Written approval from the East Wenatchee Water District is required prior to final plat approval.
 28. An extension of public sewer will be required to serve the subdivision, and the developer will need to initiate the Developer Extension Application/Agreement (DEA) process with the Sewer District. All sewer improvements must be constructed and accepted by the Sewer District, or a Performance Bind for 125% of the total value of all sewer improvements must be provided to the Sewer District, prior to final plat approval.
 29. Written approval from the Douglas County Sewer district is required prior to final plat approval.
 30. 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. Construction plans shall be prepared in accordance with the requirements of the East Wenatchee Municipal Code and Douglas County Code.
 31. Frontage improvements are required along Northwest Columbia Avenue in accordance with Figure 3-8 (Urban Arterial) from the Douglas County Road Standards. Frontage improvements shall extend across Lots 1 & 2 of the Jim Sherrell Short Plat (SS-14-01) AFN 3177512. Coordinate fence relocation and driveway approach construction with the property owner of Lot #2 (Parcel No. 48600000102) to accommodate Northwest Columbia Avenue frontage improvements.

32. Internal private roads shall be constructed to meet the roadway section for parking on one side presented on Figure 3-7a of the Douglas County Road Standards. The applicant is allowed to construct rolled curb on both sides and sidewalk only on one side of the private road per the accepted alternate to code.
33. As described in the accepted alternate to code, it is acceptable to construct a cul-de-sac with a landscape island in the center so long as the final design is accompanied with a vehicle tracking analysis that demonstrates that a fire truck can adequately maneuver around the cul-de-sac.
34. Access to Northwest Columbia Avenue for individual lots created within this subdivision is prohibited. A 1' non-vehicular easement shall be included along the Northwest Columbia Avenue frontage excluding the location designated for the private road connection and any possible locations necessary for pond access/maintenance.
35. Illumination shall be designed and installed consistent with East Wenatchee Municipal Code, Douglas County Code Section 12.57.100 Roadway Illumination, and meet Douglas County PUD Standards. The applicant shall be responsible for PUD charges for the connection of street lights to the transformer or hand hole. The type of light fixture to be installed within the public right of way shall be coordinated with Douglas County during construction plan review.
36. The location of any cluster mailbox units proposed for the subdivision shall be shown on the construction plans. A pullout / turnout shall be provided if the mailbox cluster is located on Northwest Columbia Avenue. Location to be accepted by the County Engineer and USPS Postmaster prior to plan acceptance. Cluster mailbox units shall be located within the public right of way or covered within an easement dedicated for such use.
37. Five-foot utility easements (min.) are required along all lots or tracts with County road frontage in accordance with applicable road standards. Utility purveyors may require easements in excess of five feet.
38. All existing and proposed easements shall be clearly delineated with the Auditor's File Number(s) noted as necessary on the final plat.
39. A Private Access Operation and Maintenance Agreement shall be prepared, executed, and recorded by the applicant. The Auditor's File Number(s) shall be noted on the final plat map.
40. Prior to final plat acceptance and/or release of financial security, the Engineer of Record shall provide written certification that the frontage improvements, off-site improvements, internal roads, utility infrastructure, stormwater systems, and grading have been constructed/completed in accordance with the Conditions of Approval, applicable codes, and the accepted construction plans. Monitoring shall be required as determined appropriate by the Engineer of Record and in accordance with the Road Standards, with final reports submitted to Douglas County along with the certification.

41. Final acceptance shall be processed in accordance with Douglas County Code (DCC) Section 12.56.110 Final Acceptance and a Warranty Assurance Agreement shall be completed per DCC 12.50.110 prior to final plat acceptance.
42. Per DCC Chapter 12.24, all new or revised accesses onto a County road (including temporary accesses) require an approved access permit.
43. Utility installation/replacement/upgrade within the Douglas County right-of-way 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 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, by the applicant. 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.
44. 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.
45. Stormwater facilities shall be designed to overflow to the public Right of Way or oversized by 125% of design capacity plus one-foot of freeboard. The volume used to determine that the system meets 125% of design capacity cannot include volume provided by the one-foot of freeboard. A downstream analysis of potential overflow impacts shall be included within the design report.
46. Stormwater facilities shall be located on a separate tract(s) under the functional control of the Homeowners' Association with each lot having an undivided ownership, interest, and responsibility for the tract(s).
47. 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.
48. Prior to any on-site grading occurring or prior to construction plan acceptance (whichever comes first), a Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment Control Plan (TESC Plan) shall be submitted to and accepted by Douglas County. The SWPPP and TESC Plan shall be kept on-site at all times and updated as necessary to address and prevent sediment and sediment laden water from leaving the project site.
49. The applicant is responsible for preventing mud, dirt, debris, and stormwater runoff from being tracked or otherwise discharging onto the public Right of Way or adjacent properties.
50. 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.
51. 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.

52. 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:
“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 Covenants recorded under AFN _____.”
53. Individual lots created within this development are subject to the Douglas County Stormwater Utility annual service charge. This charge is per parcel and is triggered at the time of building permit issuance.
54. Individual/common plan development for this proposal exceeds 1-acre of disturbed ground. This would meet the threshold by the Washington State Department of Ecology (WSDOE) in administering their general permit to discharge stormwater associated with construction activity. The applicant is responsible for acquisition of all applicable permits prior to beginning ground breaking activities, including but not limited to: Construction Stormwater General Permit, Sand & Gravel Stormwater General Permit, and/or Industrial Stormwater General Permit. Compliance with the Washington State Department of Ecology’s regulations is the responsibility of the applicant.
55. A final design of the recreation spaces must be included with the construction drawings. Design detail such as safety fencing, active and passive recreation areas, access, pedestrian circulation, and landscaping shall be included. The open space plans must comply with EWMC 17.73 Open Space Standards.

Dated this 10th day of August, 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.