

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-2020-02
Edgewater Estates Div. 2

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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 DD Vineyard LLC, 116 Orchard Place Orondo, WA 98843.
2. This application is for a 10 lot cluster major subdivision (“Edgewater Estates Div. 2”). The subject property is approximately 13.6 acres and zoned Rural Service Center (RSC). Proposed lot sizes range from 1.0. to 1.98 acres. Lots are proposed to be served by private water and on-site sewer.
3. Location: The proposal is located west of Edgewater Dr. and north of US Hwy 97. The property is further described as located within Section 12, Township 26 N., Range 21 EWM, Douglas County, WA. The Douglas County Assessors Number is 26211230004.
4. Site Characteristics: The topography is rolling.
5. Site Information:

Total Project Size:	13.6 acres
No. of lots	10
Domestic Water:	private water
Sewage Disposal:	on-site sewer
Power/Electricity:	Douglas County PUD
Fire Protection:	Douglas County Fire District #2
Telephone Service:	Varied

6. Surrounding Property:
North: Columbia River.
South: Vacant land /orchard.
East: Single family homes and vacant land /orchard.
West: Single family homes and vacant land /orchard
7. The subject property is designated as Rural Service Center (RSC) which allows for the division of property.
8. The purpose of the RSC district is to preserve the multi-use function and mixed land use pattern in the historic and unincorporated communities in Douglas County, as identified in the comprehensive plan. The RSC district is significant in that it provides support to the surrounding area by offering limited commercial services, lands for resource-based commercial and industrial activities, housing options primarily for persons employed in resource-based industries and services for the traveling public. Rural service centers also provide, to a much smaller degree, limited services such as rest areas, fuel, emergency services and convenience goods to the general public traveling on rural, federal, state and county roads between urban areas. Rural levels of service provide limits to the density and intensity of uses and constrain the size of rural service centers so that they do not adversely impact surrounding resource-based uses, transportation systems or the natural environment.
9. According to the Chelan-Douglas Health District, the District reviewed the development proposal to create a 10 lot major subdivision located at county tax parcel: 26211230004 consisting of 13.6 acres. The proposed lot sizes range from 1.0 acre to 1.98 acres and will be served by a new Group A public water system and individual onsite septic systems. The Chelan-Douglas Health District recommends further approval of the project with conditions.
10. The subject property is within the Shoreline Master Program – Shoreline Residential Environment.
11. The applicant has submitted a Riparian Buffer Assessment for 72 Edgewater Dr. (DD Vineyards, a LLC Property), Orondo, Douglas County dated December 5, 2019, prepared by Larry Lehman, Senior Biologist with Grette Associates. According to the Riparian Buffer Assessment, “Based on the results of the site assessment, site characteristics and the responses to the criteria presented above, 72 Edgewater Dr. does not warrant the establishment of a Zone 2 buffer. Figure 3 presents the existing conditions on the properties and the 100 ft. Zone 1 buffer.
12. The Douglas County Fire Marshal has reviewed the project, and subject to the recommended conditions, the proposal can be granted.
13. According to the WA State Department of Transportation, “WSDOT reviewed the development’s Traffic Impact Study and concur with its results. ... With the Friday heavy traffic preexisting and no history of accidents occurring on Fridays, I recommend the proposed development not be required to mitigate for this preexisting substandard condition

especially when there are no traffic accidents over the past 10 years that occurred on a Friday”.

14. According to the Confederated Tribes of the Colville Reservation, ... In light of the nearby TCPs and the high to very high probability for cultural resources, we recommend both projects be fully surveyed with systematic shovel probes prior to any ground disturbing activities commencing. Relying solely on an Inadvertent Discovery Plan to address cultural resource concerns, as suggested by the response to Section 13, subsection D of the Environmental Checklist, is not advisable in this instance. We would like to receive a copy of the resulting survey report for our review and comment.
15. According to the Cultural Resource Survey for the Edgewater Estates Project, Douglas County, Washington dated June 26, 2020 prepared by Adam Sackman, Brooke J. Cohen, and David A. Harder with Plateau Archaeological Investigations, “Plateau recommends that the proposed undertaking will result in No Historic Properties Affected, and no further archaeological investigations are recommended prior to, or during, execution of this project.”
16. The applicant for P-2020-01, Edgewater Estates Division 1 and P-2020-02, Edgewater Estates Division 2, has proposed to utilize shared transportation and stormwater infrastructure. The applicant has stated that the infrastructure for each plat is intended to be built concurrently with each plat being recorded concurrently. The findings of fact and recommended conditions of approval have been prepared under one cover for the two plats as the plats are dependent upon each other. Each plat shall have reciprocal easements granted to the HOA(s) and/or Lot Owner’s, as applicable, for the transportation and stormwater infrastructure.
17. Initial application materials reviewed by Douglas County Transportation and Stormwater include:
 - 17.1. Civil Plans prepared by Pacific Engineering, received January 22, 2020.
 - 17.2. Preliminary Plats prepared by Northwest Geodimensions, received January 22, 2020.
 - 17.3. Preliminary Stormwater Report prepared by Pacific Engineering, received January 22, 2020.
 - 17.4. Traffic Impact Analysis prepared by TENW, received January 22, 2020.
 - 17.5. SEPA Checklists prepared by Northwest Geodimensions, received January 22, 2020.
18. The civil plans depict dedication of additional public right of way to accommodate and construct a cul-desac as required for dead-end County roads per DCC 12.52.040L. Additionally, the plans depict the location of the proposed private roads. The roads appear to be designed to support the traffic generated by the proposed subdivisions. Possible locations have been identified within the plans for stormwater management facilities.
19. The stormwater report adequately addresses stormwater management feasibility through a discussion of on-site soil types, existing conditions, upstream runoff impacts, and rainfall depth for the 100-year storm. The site has sufficient space for drainage facilities and well-draining soils.

20. The traffic impact study utilizes a full-time resident to part-time resident ratio of 1:4 (20% full-time) and assumes full buildout of Sun Cove and the proposed development. Both developments ultimately access WSDOT right of way through use of Sun Cove Road. Using the ratio described above, the applicant's consultant applied the ITE's land use code 210 for Single-Family Detached Housing to the full-time residents and land use code 260 for Recreational Homes to the part-time residents. The results in the study indicated an ADT approximately three times higher than the 2019 traffic count performed on Sun Cove Road by Douglas County. Upon further investigation it appears that the traffic count was performed in the middle of July over a three-day period beginning on a Monday. The most recent iteration of the ITE indicates that Recreational Home communities, such as this, experience the highest volume of traffic over a weekend (i.e. Friday/Sunday). The critical time being the PM peak hour on a Friday. Comments received from WSDOT (attached) indicated the same but they also agreed with the study's recommendation that no additional mitigation is necessary at this time.
21. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will need to be addressed and internal roads named prior to final plat approval.
22. Comments from reviewing agencies have been considered and addressed where appropriate.
23. Douglas County issued a Determination of Non-Significance on May 7, 2020 pursuant to WAC 197-11-355 (Optional DNS).
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. Douglas County Code Section 17.24.015 engineering plan and technical report review requirements:
 - 27.1. Engineering plans and technical information reports shall be prepared consistent with the applicable requirements of the plans, policies and codes in DCC Section 17.04.050 as they now exist or may hereafter be amended, and the conditions of preliminary approval. Each plan set or document shall be stamped, signed and dated by an engineer and other qualified professionals as appropriate to the plan and information.
 - 27.2. Plans for roads, controls and other proposed or conditioned improvements proposed to be located within a public right-of-way shall be submitted for review and acceptance by the county engineer.
 - 27.3. Plans for proposed sanitary sewer and water systems shall be submitted for review and approval by the Chelan-Douglas Health District and/or the appropriate utility purveyor.

- 27.4. Plans and soils reports must document site development conformance with DCC Chapter 15.36, Grading and Excavation.
 - 27.5. No improvement work shall be undertaken until preliminary approval has been issued and the plans have been approved by the county engineer and other agencies as applicable. The county engineer shall be notified before any improvement work is begun.
 - 27.6. The subdivider, upon completion of improvements, shall file maps and documents with the department that shall show all improvements as-built.
 - 27.7. Plans accepted by the county engineer in accordance with subsection A of this section shall be valid for a period of thirty-six months following acceptance unless an extension of time has been granted by the county engineer.
- 28. The Washington State Department of Ecology provided comments regarding NPDES permitting and historic soils.
 - 29. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
 - 30. Comments from reviewing agencies have been considered and addressed where appropriate.

Agency Notified	Response Received	Agency Notified	Response Received
Chelan-Douglas Health District	05/11/2020	Chelan County PUD	02/27/2020
Douglas County PUD	04/21/2020	Douglas County GIS/Addressing	04/29/2020
WA State Dept. of Ecology	02/18/2020	Douglas County Assessor	02/11/2020
Douglas County Fire Marshal	05/04/2020	Colville Confederated Tribes	02/20/2020
Dept. of Arch. & Historical Preservation	N/R	Douglas County Transportation & Storm Water	04/27/2020
Douglas County Land Services	02/26/2020	WA State DOT	02/06/2020

- 31. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
- 32. No public comments were received.
- 33. After due legal notice and open record public hearing was held on July 16, 2020.
- 34. The entire Planning Staff file was admitted into the record at the public hearing.

35. Admitted into the record were the following exhibits
- 35.1 Ex. 1 Cultural Resources Survey dated July 2020, submitted Plateau Archeological Investigations, LLC.
 - 35.2 Ex. 2 Memorandum from Zachary Horton to Nathan Pate.
36. Appearing and testifying on behalf of the applicant was Martin Davy. Mr. Davy testified that he was an agent authorized to appear and speak on behalf of the property owner and applicant. Mr. Davy indicated that all of the proposed conditions of approval were acceptable, including new condition No. 32.
37. 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 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 "Subdivision", Title 18 "Zoning," Title 19 "Environment", and Title 20 "Development Standards", of the Douglas County Code.
6. 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-2020-02 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 of file dated 01/22/2020, 04/06/2020 and 07/01/2020 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. The applicant shall include legend that reflects the annotations within the subdivision.
10. The applicant shall adhere to the Shoreline Master Program, to include but not limited to:
 - 10.1 Utilities serving new development shall be located underground.
 - 10.2 The shoreline buffer shall be clearly annotated.
 - 10.3 New residential developments shall contain a restriction on the face of the plat and restrictive covenants prohibiting individual docks and requiring joint use or community dock facilities.
 - 10.4 The applicant/proponent shall file at the time of permit submittal for the dock a legally enforceable joint use agreement or other legal instrument that, at minimum, addresses the following:
 - 10.4.1 Provisions for maintenance and operation;
 - 10.4.2 Easements or tracts for community access; and
 - 10.4.3 Provisions for joint or community use for all benefiting parties.
 - 10.5 The existing access road within the Shoreline Jurisdiction shall be removed, or converted to a compliant access trail with permits and mitigation.
 - 10.6 All structures within the Shoreline Jurisdiction shall be removed. This excludes the agricultural operations pump and access. All applicants shall document that the facility cannot be feasibly located outside of shoreline jurisdiction due to the uses served or the need to cross shorelands to connect specific end points. An analysis of alternatives may be required.

- 10.7 New or expanded public or private utilities should be located inland from the water, preferably out of shoreline jurisdiction.
11. The location of existing 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 Chelan-Douglas Health District, Douglas County PUD, and Douglas County Fire District #2.
13. The developer shall prepare final plans for the development and installation of infrastructure for the approval of the respective purveyors prior to site development. Final "as-built" drawings shall be delivered to purveyors upon completion.
14. Prior to final plat approval, Douglas County PUD shall provide written verification that all District requirements have been satisfied.
- 14.2 Additional easements on lots 4 and 20 required. Payment to provide service to the plat must be received prior to final approval.
15. According to the Chelan County PUD, the following items need to be corrected:
- 15.2 On page 2/4 on the plat, the label for the District's Exhibit G line has three AFNs listed. None of those documents apply to the subject property. Delete those three AFNs and replace with the correct one: 288376.
- 15.3 The same correction as above needs to be made on page 4/4.
16. Lots greater than one (1) acre are EXEMPT from fire flow requirements, PROVIDED all structures maintain no less than 50 feet of separation.
17. Access greater than 150 feet in length must terminate in an approved turn around. The turn around must not be counted as parking, must not be a part of a garage approach, must account for seasonal snow accumulation, and must be capable of supporting the weight of emergency apparatus in all weather conditions.
18. Access greater than 150 feet in length (where applicable) must provide turn outs every 300-450 feet. The turn out must be no less than 20 feet wide, fifty feet long, not be counted as parking, must account for seasonal snow accumulation, and must be capable of supporting the weight of emergency apparatus in all weather conditions.
19. Grades between 10%-12% must be paved. Grades beyond 12% are approved by the Fire Marshal on a case-by-case basis.
20. The final plats for Edgewater Estates Divisions 1 & 2 (P-2020-01 & P-2020-02) shall be recorded concurrently based on the proposed shared transportation and stormwater infrastructure. Each final plat shall include reciprocal easements for the transportation and stormwater infrastructure. A plat amendment and revised conditions of approval will be required should the applicant chose to separate P-2020-01 and P-2020-02.

21. 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 Douglas County Code.
22. Off-site transportation improvements are required to be completed to the public portion of Edgewater Drive. This includes right of way dedication to accommodate extension of the road and construction of a permanent 96' diameter cul-de-sac (min. 55' ROW radius). Paved snow storage (20' x 20') is required at the end of the cul-de-sac.
 - 22.2 Access easements shall be a minimum of 30' in width. Access easements for the private roads shall be reciprocal between the two plats as necessary.
23. The location of any cluster mailbox units proposed for the subdivision shall be shown on the construction plans. Location to be accepted by the County Engineer and USPS Postmaster prior to plan acceptance. Additional right of way may be required.
24. 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.
25. All existing and proposed easements shall be clearly delineated with the Auditor's File Number(s) noted as necessary on the final plat.
26. 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.
27. 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.
28. 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.
29. Per DCC Chapter 12.24, all new or revised accesses onto a County road (including temporary accesses) require an approved access permit.
30. 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.

31. 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.
32. Site specific stormwater design for some or all of the individual lots may be deferred until time of building permit submittal. If this option is chosen, a note shall be included on the face of the final plat which states:
 - 32.1 "At the time of building permit submittal for lots x, y, and z, an engineered site specific stormwater plan and report shall be submitted that conforms to Douglas County Code and the current edition of the Stormwater Management Manual for Eastern Washington. The Engineer of Record shall provide certification that the private on-site stormwater system has been completed in accordance with the accepted plans. A Private Stormwater Operation and Maintenance Agreement, prepared with standard Douglas County forms, shall be executed and recorded with the Douglas County Auditor's Office."
33. Stormwater facilities shall be located on a separate tract(s) or easement(s) under the functional control of the Homeowners' Association(s) (HOAs) and/or Lot Owner's, as applicable, with each lot owner having an undivided interest and responsibility for the stormwater facilities. Storm drainage easements shall be reciprocal between the two plats as necessary.
34. 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.
35. 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.
36. 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.
37. 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.
38. 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:

38.1 "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 Covenants recorded under AFN _____."

39 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.

40 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.

40.1 The applicant shall work with the GIS office in naming the 2 private cross roads to Edgewater Drive.

41 Domestic water service shall be by a new public supply that has yet to be developed. Individual service shall be available to each lot. This system must be reviewed and approved by the Health District/State Department of Health, and construction of the system certified as per State Board of Health Regulations prior to final plat approval.

42 Group A and B public water systems using a well point must show and describe the sanitary control area/radius around the well. All necessary easements and covenants for access and protection of the public water supply must be shown or described on the final plat drawing. The Washington State Dept. of Health has more information and examples of the following protective covenants (DOH publication 331-048b). A Restrictive Covenant is necessary for that part of the 100' sanitary control radius that falls outside the well owner's property and is recorded to the neighboring property owner's parcel(s). A Declaration of Covenant is necessary for that part of the 100' sanitary control radius that falls completely within the well owner's property and is owned in fee simple by the well owner. Some wells will have both protective covenants. The Health District recommends the plat developer consult an attorney about these covenants. Protective covenants for each public well point must be declared in the dedicatory language on the plat as follows:

42.1 "A Declaration of Covenant recorded as a notice to title with [name of county] as AFN: _____ establishes a sanitary control area with a 100' radius around the public well shown [as well tag #_____]. No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the specific recorded permission of the well owner(s) and the Washington State Dept. of Health."

42.2 "The Declaration of Covenant and Restrictive Covenant(s) recorded as a notice to title with [name of county here] as AFN: _____ establishes a sanitary control area with a 100' radius around the public well shown [as well tag #_____]."

_____]. No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the specific recorded permission of the well owner(s) and the Washington State Dept. of Health.”

- 43 The dedicatory language on the final plat shall carry these notes:
- 43.1 “The Health District has not reviewed the legal availability of water to this development.”
- 43.2 “The combined water use by all the wells in this development may not exceed 5000 gallons per day or be used to irrigate more than ½ acre unless a ground water withdrawal permit is obtained from the Department of Ecology (RCW 90.44.050).”
- 44 Subject to specific application approval and issuance of permits by the Health Officer, the property is generally suitable for placement of individual on-site sewage disposal systems.
- 45 Test holes have been examined on the subject property by Tower Designs via a report dated 12/20/19.
- 46 The dedicatory language on the final plat shall contain this statement:
- 46.1 “Site evaluations may be required at the time of application for individual septic system.”
- 47 The following notes shall be placed on the final plat:
- 47.1 The subject property is located within or near designated agricultural lands, forest lands or mineral resource lands on which a variety of activities may occur that are not compatible with residential or other type of development for certain periods of limited duration. Such activities may include but are not limited to noise, dust, smoke, odors and hours of operations resulting from harvesting, planting, fertilizing, pest control and other resource-related activities associated with usual and normal resource management practices which, when performed in accordance with county, state and/or federal law, shall not be subject to legal action as public nuisances.
- 48 Should ground-disturbing activities reveal any cultural materials (e.g., structural remains, European American artifacts, or Native American artifacts), activity will cease and the Washington State Historic Preservation Officer should be notified immediately. The results and recommendations in this document concern the specified APE. The proponent is advised that the results and recommendations reported herein do not apply to areas of potential effect altered or expanded after the cultural resource survey. A supplementary cultural resource review will be necessary should the APE be altered or changed, as per 36 CFR 800.4.
- 49 If ground-disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the State provides notice to proceed. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a

determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the DAHP who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or NonIndian and report that finding to any appropriate cemeteries and affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

50 According to the Washington State Department of Ecology, the proponent shall obtain a NPDES Construction Stormwater General Permit. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. The permit also requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction. In the event that an unpermitted stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action. Any and all monitoring and compliance complaints shall be with the Washington State Department of Ecology.

51 According to the Washington State Department of Ecology, Based upon the historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. The following note shall appear on the face of the final plat:

“Based upon the historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. Ecology recommends that the soils be sampled and analyzed for lead and arsenic, and for organochlorine pesticides. If these contaminants are found at concentrations above the Model Toxics Control Act cleanup levels, Ecology recommends that potential buyers be notified of their occurrence.”

This note shall not be required to be placed on the final plat if a professional with adequate credentials samples the soils and verifies that the site does not contain lead and arsenic and organochlorine pesticides at concentrations above the MTCA cleanup levels.

Dated this 11 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.