

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,
CUP-2020-04)	DECISION AND
Douglas County Fire District #4.)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on November 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 applicant is Douglas County Fire District #4, Chief Jim Oatey, P.O. Box 258, Orondo, WA 98843.
2. General Description: An application for a Conditional Use Permit for a new Fire Station and associated living quarters. The main building is a 4800 sq. ft. pre-manufactured steel building and will house four (4) apparatus bays, an office area and a meeting room. A manufactured home, and two RV hook ups will also be provided for resident fire fighters. Permit #: CUP-2020-04.
3. Location: The site is located along US 97, across from Beebe Bridge Park. The property is located in the Rural Resource (RR-20) zoning district under the Douglas County Code and is further described as being located within Section 29, Township 27N, Range 23, E.W.M. The Assessor's Parcel Number is 27232910007.
4. The subject property is a part of the Rural Resource 20 (RR-20) zoning district.
5. The Comprehensive Plan designation is Rural Resource 20.
6. The following goals and policies set forth in the comprehensive plan are relevant to this development:

7. CAPITAL FACILITIES:

- 7.1 GOAL: Ensure that adequate capital facilities and services are planned, located, designed and maintained in an economical and efficient manner in order to meet existing and future needs of Douglas County as demonstrated in the comprehensive plan.
- 7.2 POLICY CF-2: Assure that capital improvements which are necessary to serve public and private projects are provided when they are needed.
- 7.3 POLICY CF-3 Ensure that public facilities are provided for in a manner that protects investments and maximizes the use of existing facilities.
- 7.4 POLICY CF-6: Plan for and provide capital improvements to correct existing deficiencies and accommodate existing and future needs.
- 7.5 POLICY CF-12: Support the maintenance of a fire prevention, control, and public safety program that will protect the public from fire and other life safety hazards.

8. GENERAL LAND USE:

- 8.1 POLICY G-9: Rural developments should only occur where adequate access to transportation systems, rural levels of utilities and facilities are available. Appropriate facilities/services may include domestic water, sewage disposal, fire and police protection, schools, and power, etc. depending on the scale and impact of the development.

9. RURAL LANDS:

- 9.1 GOAL: Provide a balance between maintaining the existing, traditional pattern of uses in the rural areas of Douglas County, including agricultural activities, while still providing opportunities for future, compatible development.
- 9.2 POLICY R-3: Establish land use designations that represent rural character and that protect the integrity of rural areas.
- 9.3 POLICY R-6: Encourage development in rural areas to be served by rural levels of service.

10. RURAL DEVELOPMENT:

- 10.1 GOAL: Provide opportunities for continued smaller scale developments outside UGAs that will be compatible with and continue to preserve, maintain and enhance the vital agricultural uses in the County.
- 10.2 POLICY RD-4: Rural developments will not impact existing public facilities/services to the extent that the level of service for that facility is reduced below the adopted threshold and/or an acceptable operation capacity.
- 10.3 POLICY RD-5: The costs associated with implementing a rural development and providing the necessary utilities, facilities and/or services will be borne by the developer.

11. CRITICAL AREAS – GEOLOGICALLY HAZARDOUS AREAS
 - 11.1 POLICY CA-42: Potential impacts and alternative mitigation measures to eliminate or minimize the impacts in identified geologic hazard areas shall be documented during the review of development applications.
 - 11.2 POLICY CA-43: Development proposals should be evaluated to determine 1) whether the proposal is located in a geologic hazard area, 2) the project’s potential impact on geologic hazard areas, and 3) the potential impact of geologic hazards on the proposed project.
12. Applicable provisions of DCC 18.80.030 “Evaluation Criteria”:
 - 12.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
 - 12.2 The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.
 - 12.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
 - 12.4 The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use will provide adequate services.
 - 12.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
 - 12.6 The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
 - 12.7 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to DCC Title 20 and to the satisfaction of the county engineer.
 - 12.8 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate, and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects.
 - 12.9 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
 - 12.10 The hearing examiner is the review authority and may approve, conditionally approve or deny a request for changing the minimum lot size of a conditional use. Any waiver of minimum lot size shall not be construed as an exemption from the requirements of DCC Title 17 and RCW Chapter 58.17.
13. Douglas County issued a Determination of Non-Significance on October 19, 2020 in accordance with WAC 197-11-355 (Optional DNS).

14. Applicable agencies have been given the opportunity to review this proposal. These agencies have identified mitigation or project design requirements for the project that have been included as conditions of approval where appropriate.

Agency Notified	Response Received	Agency Notified	Response Received
WSDOT	4/29/2020	Douglas County Transportation	10/13/2020
Douglas County Fire Marshal	10/08/2020	Douglas County PUD	10/12/2020
Douglas County Planning	10/13/2020	WA State Dept. of Ecology	10/02/2020
DAHP	6/2/2020	WA Department of Fish and Wildlife	10/13/2020
Chelan Douglas Health District	N/R	Douglas County Assessor	N/R
Douglas County Treasurer	N/R	Douglas County GIS	9/24/2020

15. No public comments were received on the proposal..
16. 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. Identified below is planning staff's analysis and consistency review for the subject application.
17. Comprehensive Plan consistency: The project is located within designated Rural Resource 20 designation and is consistent with Section 4.1 "Rural Land Use", section 4.3 "Rural Development", section 7.1 "Capital Facilities" and section 10.6 "Geologically Hazardous Areas" of the Douglas County Comprehensive Plan.
18. Consistency with DCC Chapter 18.80.030 "Conditional Uses – Evaluation Criteria" - RR-20 zoning authorizes this land use as a Conditional Use. The required operational conditions will sufficiently mitigate associated impacts for the duration of permit approval. The project will not create excessive demands on public services. Noise impacts, dust control, and adequate buffering must fall within the parameters of Douglas County Code, as well as State standards. As conditioned, the proposal appears consistent with the requirements of this section
19. Consistency with DCC 18.31 RR-20: The Rural Resource 20 (RR-20) zoning district allows governmental uses and structures with a Conditional Use Permit (CUP). The proposal appears consistent with the requirements of the zoning district.
20. Douglas County Transportation Department has evaluated the proposal and recommended approval of the project with applicable conditions.

21. Douglas County Land Services: The application materials demonstrate compliance with adopted codes, standards, and specifications applicable to this project. As conditioned, the proposal is consistent with the provisions of Douglas County Code.
22. A Determination of Non-Significance was issued by Douglas County on October 19, 2020.
23. A Cultural Resource Survey Report, conducted by Susan Ellis with Columbia Historical Consulting, dated May 2020 was submitted in the application materials. The Report states: “This survey did not locate any archaeological sites or other cultural resources. Consequently, Columbia Historical Consulting recommends that the project proceed without an archaeological disturbance permit from the DAHP. . . If any archaeological materials are discovered during project implementation, all work should be halted within 200 feet of the find and the Washington State Historic Preservation Officer should be contacted. . .”
24. On June 2, 2020 The Department of Archaeology and Historic Preservation (DAHP) concurred with the findings and recommendations presented in the Cultural Resource Report.
25. Priority Habitat for Mule Deer exist on the eastern portion of the property. The applicant has submitted a Habitat Management and Mitigation Plan, dated October 2020, addressing potential impacts caused by the project.
26. Initial application materials reviewed by Douglas County Transportation and Land Services include:
 - 26.1 Narrative prepared by the applicant, received Sep. 3, 2020.
 - 26.2 Site plan prepared by MJ Neal Associates, received September 3, 2020.
 - 26.3 Preliminary Landscaping plan prepared by Tom Vetter, received September 4, 2020.
 - 26.4 Geotechnical Engineering Evaluation prepared by Nelson Geotechnical, received September 3, 2020.
 - 26.5 Cultural Resource Report, prepared by Susan Ellis with Columbia Historical Consulting, received September 3, 2020.
 - 26.6 Habitat Management and Mitigation Plan prepared by Larry Lehman with Grette Associates, received November 3, 2020.
 - 26.7 Preliminary Civil Plans prepared by Torrence Engineering, received September 3, 2020.
 - 26.8 Preliminary Storm Report prepared by Torrence Engineering, received September 3, 2020.
 - 26.9 SEPA Checklists prepared by the applicant, received September 3, 2020.
27. Preliminary Storm Report: The report adequately demonstrates stormwater management feasibility for the subject property through the use of qualitative analysis, sub-basin delineation, and calculations. However, runoff from the improvements will not be allowed to sheet flow through WSDOT right of way to the proposed pond. Runoff shall be routed to the proposed pond completely within the subject property.
28. Geologically hazardous soils exist on the eastern portion of the subject property. The applicant submitted a Geologic Hazard Risk Assessment, dated April 2020, addressing potential impacts caused by the project.

29. As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 18, 19 and 20 of the Douglas County Code, and the Douglas County Countywide Comprehensive Plan.
30. After due legal notice an open record public hearing was held via Zoom due to the Covid-19 pandemic on November 19, 2020.
31. Unfortunately, due to technical difficulties, the public was not able to attend the meeting by Zoom. Accordingly, the Hearing Examiner left the record open until 5:00 p.m. Tuesday, November 24, 2020 for any written public comments to be submitted.
32. No member of the public submitted any written comments before 5:00 p.m., November 24, 2020.
31. The entire Planning Staff file was admitted into the record at the public hearing.
32. Appearing and testifying on behalf of the applicant was Luis Rodriguez. Mr. Rodriguez testified that he was an agent authorized to appear and speak on behalf of the Applicant and property owner. Mr. Rodriguez indicated that he concurred with all the representations set forth within the staff report and that the Applicant had no objection to any of the proposed Conditions of Approval.
33. Also testifying for the Applicant was Jim Oatey, Fire Chief for Douglas County Fire District No. 4. He testified that there is a significant need for a fire station in this particular area.
34. 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 18 "Zoning", Title 19 "Environment", and Title 20 "Developments of the Douglas County Code.
6. 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. 2020-04 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

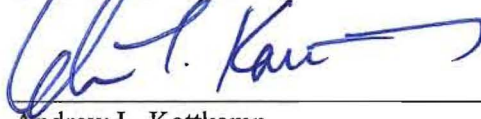
1. The project shall proceed in substantial conformance with the plans and application materials of file except as amended by the conditions herein.
2. The applicant, and site operators, are responsible for compliance with all applicable local, state and federal rules and regulations and shall acquire all applicable permits including but not limited to:
 - 2.1 NPDES Construction Stormwater General Permit.
 - 2.2 Douglas County Building Permit
3. The project shall proceed in conformance with the findings and recommendations presented within the Habitat Management and Mitigation Plan prepared by Grette Associates.
4. The project shall proceed in conformance with the findings and recommendations presented within the Cultural Resource Report prepared by Columbia Historic Consulting.
5. The project shall proceed in conformance with the findings and recommendations presented within the Geotechnical Evaluation prepared by Nelson Geotechnical Associates.
6. Proposed landscaping shall be maintained for the life of the project.
7. Due to limited fire flow availability, NFPA 1142 and performance-based standards will be utilized to establish fire flow as per the discretion of the Fire Marshal.
8. Access to the property is from US 97. Coordinate access requirements and associated permit directly with the Washington State Department of Transportation. Provide written verification from WSDOT that the proposed approach is acceptable prior to permit issuance.
9. 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 building permit issuance.
10. Prior to any on-site grading occurring or prior to building permit issuance (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.

11. 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.
12. Prior to occupancy, 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.
13. Individual/common plan development for this proposal may exceed 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.
14. Applicant shall obtain all applicable WSDOT permits.
15. Applicant shall obtain written approval from the Chelan Douglas Health District prior to building permit approval.

Dated this 25th day of November, 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.