

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

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

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-2020-05)	DECISION AND
DCPUD Switchyard & Hydrogen Generation Facility)	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 property owner is Public Utility District No. 1 of Douglas County, 1151 Valley Mall Pkwy East Wenatchee, WA 98802.
2. The applicant is RH2 Engineering, Inc., 300 Simon St. SE, Ste. 5, East Wenatchee, WA 98802.
3. General Description: A Condition Use Permit (CUP) application for a proposed power switchyard complex hydrogen generation facility with several permanent storage facilities, control buildings, storm and septic facilities, fueling station facility, and asphalt surfacing for truck access and circulation. The District intends to build in phases.
4. Location: The subject property is approximately 39.92 acres in size, and is located at 13210/13226 US Hwy 2. The property is located in the General Industrial (I-G) zoning district under Douglas County Code and is further described as being located within Section 02, Township 23N, Range 20 E.W.M. The Assessor's tax parcel numbers are 23200210006 and 23200210005.
5. Site Characteristics: The property abuts Lucky's Mini Mart LLC and includes an existing Single Family Residence (to be remodeled). The subject property is approximately 39.92 acres in size. The construction site is of relatively flat topography with orchards.
6. Site Access: The parcel is accessed by vehicles from US 2 which is regulated by the Washington State Department of Transportation.

7. **Adjacent Land Uses:** Adjacent parcels consist of agricultural and industrial uses. The property is bordered by US 2, General Industrial zoning, and Rural Resource 20 to the east.
8. **Zoning and Development Standards:** The subject properties are located within the General Industrial (I-G) zoning district under the Douglas County Code. The purpose of the I-G general industrial district is to promote a broad range of industrial activities, and subordinate commercial uses of a light intensity. The I-G district shall be located and implemented consistent with the goals, policies, and criteria of the comprehensive plan. Development and performance standards are intended to provide compatibility with and protection to surrounding properties; and more specifically airport related activities, residential and agricultural uses by minimizing traffic congestion, noise, glare, vibration, odors, airborne particulates, and toxic substances. The district shall be located near major transportation corridors and be served by an interior road corridor to minimize traffic impacts, impacts to adjacent land uses, and to provide safe and convenient access. The interior road corridor shall be served by a limited number of major intersections from highways and arterial roads. The interior road corridor shall provide unlimited access to all activities or users located within a designated industrial classification.
9. The district provides for uses that present a positive development image to business travelers and shall be characterized by attractive buildings and an aesthetically pleasing working environment. General characteristics of these areas include roads capable of supporting heavy traffic loads year-round, stormwater retention, domestic water, fire protection, landscaped features, and public transit accessibility. Further, it is the intent of this district to encourage the master planning of the entire industrial site, ensuring compatibility between industrial operations, the environment, and transportation systems, as well as the existing and future character of adjacent areas.
10. The applicant has provided a detailed narrative regarding Code Compliance, 18.60.060 Development standards. Prior to the issuance of any permit, the applicant shall meet the provisions and requirements of this title and the following:
 - 10.1 **Area Requirements:**
 - 10.1.1 **Minimum lot size:** The minimum lot size in the I-G district shall be of sufficient size to accommodate the use(s), in accordance with applicable provisions of the DCC.
 - 10.1.2 **According to the Applicant and Analysis:** Standard is met. The site will adequately accommodate the proposed uses.
 - 10.2. **Minimum lot width:** The minimum lot width in the I-G district shall be at least seventy-five feet. Lot width may be reduced as provided for in the application of DCC Section 18.16.040, Lot frontage, for cut-de-sacs and lots located on the outside curve with a radius between fifty feet and seventy-five feet.
 - 10.2.1 **According to the Applicant and Analysis:** Standard is met. The width of the proposed lot is approximately 330 feet.
 - 10.3 **Maximum building coverage:** The maximum building coverage is determined by compliance with all applicable provisions of county code, including without limitation landscaping, parking, stormwater, setbacks, and building/fire and life safety requirements.

- 10.3.1 According to the Applicant and Analysis: Standard is met. The project has been designed in accordance with relevant provisions of DCC and will not exceed the maximum building coverage.
- 10.4. Maximum building height: The maximum building height shall not exceed forty feet, except that an additional one foot increase in height is allowed for each one foot increase in the required front yard setback area up to eighty feet high. Additional building height restrictions may apply if within an airport overlay zone.
- 10.4.1 According to the Applicant and Analysis: Standard is met. The proposed maximum building height is 50 feet. A minimum of 10- feet of additional setback areas have been included.
- 10.5 Minimum Yard and Setbacks. -The minimum yards and setbacks for permitted, accessory and conditional uses in the I-G district shall be:
- 10.5.1 Front yard: No buildings or structures other than fences shall be erected closer than fifty-five feet from the centerline of a public right-of-way designated as an arterial or twenty-five feet from the front lot line, whichever is greater. The front yard setback on any other right-of-way shall be fifty feet from the monumented centerline or twenty feet from the front lot line, whichever is greater.
- 10.5.2 According to the Applicant and Analysis: Standard is met. The proposed improvements will occur a minimum of 150 feet from US 2/97 and will be even further from the front lot line.
- 10.6 Side and rear yard: No building or structure shall be erected closer than ten feet from any side or rear lot line, except when property abuts a residential district then the setback shall be increased to thirty feet.
- 10.6.1 According to the Applicant and Analysis: Standard is met. Proposed side yards are a minimum of 60 feet.
- 10.7. Flanking private driveway yard: A minimum ten-foot setback shall be maintained from the edge of any private driveway or access easement for all buildings, structures, parking, or storage areas.
- 10.7.1 According to the Applicant and Analysis: Standard is met.
- 10.8. Setback from state highway: No building or structure, except fences, shall be erected closer than one hundred feet from the centerline of a state highway right-of-way.
- 10.8.1 According to the Applicant and Analysis: all buildings are further than 150 feet from US 2/97.
- 10.9 Due to the unique nature of master planned airport facilities and related ancillary uses, setback standards within the airport properties shall not be subject to subsections (B)(2) through (4) of this section.
- 10.9.1 According to the Applicant and Analysis: Not applicable.
- 10.10 Development Standards. Landscaping, off-street parking and loading, and stormwater drainage shall be provided in accordance with DCC Title 20. Signs shall be in conformance with DCC Chapter 20.44.

- 10.10.1 According to the Applicant and Analysis: Landscaping will be developed in accordance with DCC Chapter 20.44 and any applicable conditions from the Conditional Use Permit (CUP) decision. As Currently Conceptualized, the site design includes six parking spots on the west side of the electrolyzer building in addition to two fueling stations for transport vehicles to load the fuel produced by the facility. Stormwater management is proposed in the form of three stormwater ponds in the western portion of the parcel that will provide detention and treatment. Stormwater management will be designed in accordance with the latest Stormwater Management Manual for Eastern Washington (Washington State Department of Ecology).
- 10.11 Storage Standards. All storage shall be within a site obscuring fence and/or a combination of fencing and landscaping or an entirely closed building.
- 10.11.1 According to the Applicant and Analysis: A 6-foot-tall fence will be provided along the entire site perimeter and landscaping will be provided along the northern and western parcel boundaries.
- 10.12 Refuse Storage. Refuse storage shall be in accordance with DCC Section 18.16.120(C).
- 10.12.1 According to the Applicant and Analysis: Standard is met.
- 10.13 Pedestrian/Bicycle Circulation. Development shall be designed to ensure that provisions are made for a safe and convenient pedestrian circulation system in accordance with DCC Chapter 18.16.
- 10.13.1 According to the Applicant and Analysis: The project is outside of city limits and currently does not have any bicycle or pedestrian infrastructure. The project does not propose to install bicycle or pedestrian infrastructure.
- 10.14 Display/Exhibits. The display of products or outdoor exhibits for public view or show may be permitted; provided, that products for sale or rent may be stored or displayed outdoors and that such products are not located within any pedestrian walkway, parking areas, or rights-of-way. All displays/exhibits are restricted to business hours only. Tractors, cars, boats, trailers, or other similar type uses are exempt from this provision provided they are located within an approved display area.
- 10.14.1 According to the Applicant and Analysis: Not applicable.
- 10.15 Fences. Fences located within the I-G district shall not exceed a height of eight feet, and may be located in a required front yard provided they are set back a minimum of ten feet and meet DCC Section 12.28.040, Clear view triangle. Fences on properties located in the Baker Flats industrial area shall be located no closer than twenty-five feet from the front lot line adjacent to SR 2/97 Highway.
- 10.15.1 According to the Applicant and Analysis: Standard is met.
- 10.16 Site preparation, grading, excavation, filling, and mineral extraction associated with building site preparation shall comply with the following:
- 10.16.1 The project site shall have received binding site plan approval, conditional use permit approval, building permit approval or site preparation under DCC Section 18.60.060(J)(4)(c) for uses permitted within the I-G district.

- 10.16.2 According to the Applicant and Analysis: This document has been supplied to the County to facilitate CUP approval. Final project design and construction will be in accordance with permit conditions and will be reviewed and approved by the County under the building permit process prior to construction.
- 10.17 Site grading and all associated activities may be conducted in phases, provided each phase is a phase of the approved binding site plan or associated with an approved building permit.
- 10.17.1 According to the Applicant and Analysis: The project will comply with this requirement.
- 10.18 A phasing schedule shall be submitted with the binding site plan or building permit application for the site grading and associated activities, including the removal of equipment, stockpiles, and restoration of the site. The phasing schedule shall be approved by the review authority.
- 10.18.1 According to the Applicant and Analysis: This requirement will be submitted with the project's building permit application.
- 10.19 Duration of Site Preparation.
- 10.19.1 For commercial building permits, site grading and all associated activities shall be completed within one year after authorization to start by the director. All equipment, stockpiles, and materials shall be removed from the site prior to the final inspection and issuance of final occupancy.
- 10.19.2 According to the Applicant and Analysis: The project will comply with this requirement.
- 10.20 For binding site plans or conditional use permits, site grading and all associated activities shall be completed and all equipment, stockpiles, and materials removed from the site within two years after authorization to start by the director. The director may authorize an extension of time up to a maximum of one additional year following a fourteen-day notice to surrounding property owners and agencies with jurisdiction and demonstration by the applicant that the project is in compliance with all conditions of approval.
- 19.20.1 According to the Applicant and Analysis: The project will comply with this requirement.
- 10.21 For site grading associated with the marketing/facilitation of development for an industrial site, an application must be submitted for full administrative review, DCC Section 14.10.030, to determine conformance with the provisions of this chapter and Douglas County Code prior to site operations commencing. The application must demonstrate that the purpose of the site work is to prepare a site for industrial uses permitted by this chapter. Site grading and all associated activities shall be completed and all equipment, stockpiles, and materials removed from the site within two years after authorization to start by the director. The director may authorize an extension of time up to a maximum of one additional year following a fourteen-day notice to surrounding property owners and agencies with jurisdiction and demonstration by the applicant that the project is in compliance with all conditions of approval.

- 10.21.1 According to the Applicant and Analysis: The project will comply with this requirement.
- 10.22 Prior to the commencement of site preparation, an approved Washington State Department of Ecology air quality permit shall be submitted to the county.
- 10.22.1 According to the Applicant and Analysis: If required, this will be submitted with the project's building permit application.
- 10.23 The applicant shall submit with the binding site plan, conditional use permit application, building permit application or site preparation under subsection (J)(4)(c) of this section documentation that the operation(s) will not create hazardous conditions; adversely impact lands in the vicinity and access to those lands; impair the stability of the site; or cause lateral movements such as slump, creep, landslide, erosion or sedimentation.
- 10.23.1 According to the Applicant and Analysis: A report documenting geologically hazardous areas has been prepared for the site and is included as an appendix.
- 10.24 A water supply management plan that discloses the source and volume of water necessary and available for dust control and associated site preparation shall be submitted with the binding site plan, conditional use permit application, building permit application, or site preparation under subsections (J)(4)(c) of this section. The water supply and management plan shall detail how wastewater from operations and temporary stormwater retention will be managed.
- 10.24.1 According to the Applicant and Analysis: A Stormwater Pollution Prevention Plan (SWPPP] will be prepared for the project and submitted with the project's building permit.
- 10.25 A haul route agreement may be required by the county engineer.
- 10.25.1 According to the Applicant and Analysis: The applicant understands that a haul route agreement may be required.
- 10.26 A reclamation plan that discloses final proposed topography, measures to retain slopes as appropriate, methods for reserving topsoil for final grading, revegetation of the site, and phases of reclamation shall be submitted for approval by the review authority. Final topography of the site shall be consistent with the surrounding area.
- 10.26.1 According to the Applicant and Analysis: The project will comply with this requirement.
- 10.27 Appropriate buffering measures such as landscaping, use of topographic features, etc., may be required as deemed necessary by the review authority to visually screen the project site.
- 10.27.1 According to the Applicant and Analysis: Landscaping per provisions in DCC and the decision will be provided. The applicant understands that additional buffering measures may be required.

- 10.28 Authorized hours of equipment operation during the site preparation may be established by the review authority, but in no case shall operations occur beyond the hours of six a.m. to nine p.m., Monday through Saturday.
- 10.28.1 According to the Applicant and Analysis: The applicant understands this requirement.
- 10.29 Temporary site illumination shall be designed and located so that lighting sources are not directly visible from residential uses or public roads with a classification of, or greater than, an arterial. Lighting shall not create glare on off-site properties.
- 10.29.1 According to the Applicant and Analysis: The project will comply with this requirement.
- 10.30 Stockpiles shall not exceed thirty feet in height.
- 10.30.1 According to the Applicant and Analysis: The project will comply with this requirement.
- 10.31 The review authority may require financial assurance in accordance with DCC Chapter 14.90 to guarantee/warranty compliance with permit conditions, completion of the reclamation, protection of public facilities, and conformance with other applicable requirements of the DCC.
- 10.31.1 According to the Applicant and Analysis: The applicant understands that a financial assurance may be required.
- 10.32 Site grading associated with subsections (.I)(4)(b) and (c) of this section shall submit a site maintenance plan which identifies measures to address weed and litter control during the period of site preparation and prior to industrial use of the site.
- 10.32.1 According to the Applicant and Analysis: The project will comply with this requirement.
- 10.33 Inert Debris Disposal Sites in the East Wenatchee Urban Growth Area.
- 10.33.1 According to the Applicant and Analysis: Not applicable.
11. 18.60.070 Performance standards.
- 11.1. General Character. Development in this district shall be designed as an integrated center of intense use which is served by an interior road network. When located along a highway or arterial road, the site shall be improved with a berm as set forth in subsection B of this section.
- 11.1.1 According to the Applicant and Analysis: The proposed site is set back more than 100 feet from US 2/97 and is separated from the right-of-way by an adjacent parcel.
- 11.2. Landscape Berm/Buffering. When a use, lot, or parcel within an I-G district is located adjacent to a state highway or arterial, a landscaping berm shall be constructed parallel to the right-of-way.
- 11.3 Baker Flat Areas. The landscape berm shall have a minimum width of thirty feet and a height of eight feet as measured above the grade of, and along, the centerline of SR 2/97. The berm shall be landscaped with a combination of trees, shrubs, and

groundcover meeting or exceeding the requirements for Type III landscaping pursuant to DCC Chapter 20.40.

11.3.1 According to the Applicant and Analysis: Landscaping will be developed in accordance with DCC Chapter 20.44 and any applicable conditions from the CUP decision. A landscape plan will be submitted with the project's building permit application.

11.4. Pangborn Industrial Area and Other I-G District

11.4.1 According to the Applicant and Analysis: Not applicable.

11.5. Environmental. There shall be no off-site release of waterborne or liquid pollutants to soil or surface drainage ways. It shall be the responsibility of the operator and/or the proprietor of any permitted use to make adequate provision for the transportation, use, storage, containment, and disposal of all chemicals and materials used on the site. A complete list of all chemicals to be used or stored on the property shall be provided at the time of application. All storage handling methods shall conform to the hazardous material laws administered by Douglas County and the Washington Department of Ecology.

11.5.1 According to the Applicant and Analysis: The applicant understands these requirements. The following chemicals may be stored on the site. hydrogen gas, 1-percent hydrogen in oxygen span gas, oxygen gas, nitrogen gas, propylene glycol mixture, water, calcium sulfate (desiccant), and motor oil.

11.6 Groundwater. Development located within an aquifer recharge area shall be evaluated for potential impact on groundwater quality and may be limited in intensity or location, or prohibited if found to measurably degrade groundwater quality.

11.6.1 According to the Applicant and Analysis: Not applicable.

11.7 Odor, Dust and Smoke. Development within an I-G district shall meet the air quality standards of the Washington State Department of Ecology.

11.7.1 According to the Applicant and Analysis: The project will comply with this requirement.

11.8. Glare, Heat, and Vibration. There shall be no production of heat, glare, or vibration from any property line of the premises upon which such heat, glare, or vibration is being generated.

11.8.1 According to the Applicant and Analysis: The project has been designed to avoid generation of excess heat, glare, or vibration from the facility.

11.9 Noise. No use in this district shall exceed the maximum environmental noise level established by DCC Chapter 8.04 or Chapter 73-60 WAC.

11.9.1 According to the Applicant and Analysis: The project will comply with this requirement.

11.10 Pedestrian/Bicycle Circulation. The property owner/developer shall ensure that provisions are made for safe and convenient pedestrian circulation systems between all land uses and buildings and shall provide continuity of public access to adjoining properties and other pedestrian systems as set forth in DCC Chapter 18.16.

11.10.1 According to the Applicant and Analysis: The project is outside of city limits and currently does not have any bicycle or pedestrian infrastructure. The project does not propose to install bicycles or pedestrian infrastructure.

11.11 Interior Road and Access. Ingress and egress from a state highway or a major arterial is prohibited to lots, parcels or tracts of property located within an industrial district except as provided by a public road intersection approved by the county engineer and WSDOT as appropriate. Access to parcels, tracts or lots in the I-G district shall be provided by an interior road right-of-way. The interior road right-of-way shall be designed to facilitate traffic circulation through the entire industrial district. Development of the interior road system may also include local, private, or public roads connecting to the interior road to ensure efficient access to all areas of the industrial district. All roads shall be designed and constructed to the specifications of the DCC and the county engineer.

11.11.1 According to the Applicant and Analysis: Standard is met.

11.12. Development within the general industrial district in the Pangborn industrial service area must provide verification that the applicant has satisfied the provisions of a notice of proposed construction to the FAA, 7460-1, prior to permit issuance.

11.12.1 According to the Applicant and Analysis: Not applicable.

11.13. Usage of Cargo Containers.

11.13.1 According to the Applicant and Analysis: Not applicable. No cargo containers proposed.

12. The Comprehensive Plan designates this property as General Industrial. The following goals and policies set forth in the comprehensive plan are relevant to this development:

12.1 EAST WENATCHEE INDUSTRIAL

12.1.1. Like commercial lands, industrial lands within the greater East Wenatchee area are in great need. There is a total of 544 acres allocated for industrial purposes inside the urban growth area. The industrially designated land uses are currently not served by a full range of urban services. Major water system improvements have been completed providing domestic water and fire-flow to the industrial area. However, public sewer service is not available to the area.

12.1.2 The Baker Flats industrial area is located east of SR2/97 and west of the Douglas county 115 KV transmission line. It exhibits some topographical changes, sloping from east to west. The basalt cliffs serve as its eastern boundary while state route 2/97 highway serves as the western boundary. This site consists of some industrial activities, orchards, and unimproved properties. This site makes an ideal location for industrial activities due to its proximity to a major highway system, availability of domestic water and location to service centers. In addition the area is buffered on three sides by topographical features. Factors considered ranged for the location of major orchards and agricultural activities to the north (Bray's Landing, Bridgeport, Chelan, and the Okanogan valley), lack of appropriately zoned industrial properties and the need to preserve other prime agricultural lands.

12.1.3 This site should be developed as an industrial park. Design features should include provisions for perimeter landscaping with a buffer strip adjacent to SR 2/97 and other land uses. The buffer strip consists of a berm measuring a minimum of 30 feet wide, 10 feet high, and landscaped with trees, shrubs, and ground cover. Additionally, an interim 100 foot buffer will be required adjacent to designated agricultural uses, incumbent upon the industrial user. Access from SR 2/97 is limited with connection to interior roadways. Ingress and egress along the designated industrial area is limited to the interior roadway which connects to SR 28 in at a new roundabout that was constructed to improve access. Special site plan approval is required for all uses to ensure proper linkages to the internal road network, intersection improvement, extensions to existing roadways, adequate parking, landscaping, protection of sensitive area, and continuity in overall project design.

12.2 INDUSTRIAL --- GOALS AND POLICIES

12.2.1 Goal: promote industrial development which contributes to economic diversification, growth and stability of the community without degrading its natural systems or residential living environment.

12.2.2 Policies:

12.2.2.1. Encourage industrial development to locate in industrial/business park areas adjacent to major street arterials, preferably on lands not suited for residential uses or agricultural uses.

12.2.2.3. Encourage variety and innovative design in industrial site development and encourage an attractive and high quality environment for industrial activities through good landscaping, parking and building design where land uses of distinct character or intensity adjoin.

12.2.2.4. Actively support economic development measures that serve to revitalize and promote the growth of existing industrial locations.

12.2.2.5. Encourage, whenever possible, the extension of support facilities and services for industrial activity.

12.2.2.6. Potential impacts on nearby properties and public facilities and services shall be identified and mitigated when evaluating industrial development proposals.

12.3 DOUGLAS COUNTY 12.1.1 INDUSTRIAL --- GOALS AND POLICIES

12.3.1 GOAL: Promote industrial development which contributes to economic diversification, growth and stability of the community without degrading its natural systems or residential living environment.

12.3.1.1 Encourage industrial development to locate in industrial/business park areas adjacent to major street arterials, preferably on lands not suited for residential uses or agricultural uses.

- 12.3.1.2 Encourage variety and innovative design in industrial site development and encourage an attractive and high quality environment for industrial activities.
 - 12.3.1.3 Actively support economic development measures that serve to revitalize and promote the growth of existing industrial locations.
 - 12.3.1.4 Encourage, whenever possible, the extension of support facilities and services for industrial activity.
 - 12.3.1.5 Potential impacts on nearby properties and public facilities and services shall be identified and mitigated when evaluating industrial development proposals.
13. Pursuant to Douglas County Code 18.60.040 Conditional, Those uses designated in DCC Section 18.80.320, and as listed below approved pursuant to DCC Chapter 18.80; provided, that the development standards of this chapter are met: E. Energy generation facilities;
- 13.1. 18.80.030 Evaluation criteria.
 - 13.1.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
 - 13.1.2 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.
 - 13.1.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
 - 13.1.4 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 shall provide adequate services.
 - 13.1.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
 - 13.1.6 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.
 - 13.1.7 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to Douglas County Code Title 20 and to the satisfaction of the county engineer.
 - 13.1.8 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. (Refer to Douglas County Code Chapter 20.40, Landscaping standards, for specific requirements.)

13.1.9 Conditional use permits shall comply with the Douglas County Code and all applicable local, state, or federal regulations.

13.1.10 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 Douglas County Code Title 17 and RCW Chapter 58.17.

13.1.11 An enhanced SEPA Checklist was received with the application materials, signed and dated May 13, 2020. A revised version was submitted on July 22, 2020.

14. Douglas County completed an Environmental Planned Action for the Baker Flats in which the subject property is located. The project proposal is consistent with Douglas County Ordinance No TLS-12-07-08D Planned Action for the Baker Flats and Pangborn Industrial UGA's, thus there will be no further SEPA review for the project proposal.

15. Applicable agencies have been given the opportunity to review this proposal. The following agencies have been sent copies of the proposal and have commented as indicated below:

15.1 Date of Application: 09/23/2020

15.2 Date Letter of Completeness Issued: 09/25/2020

15.3 Date Notice of Application Issued: 9/28/2020

15.4 Comment Period: 9/28/2020 - 10/13/2020

Agency Notified	Response Received	Agency Notified	Response Received
WA State Dept. of Ecology	N/R	Douglas County Fire District	10/13/2020
Douglas County Transportation	10/14/2020	Douglas County GIS	10/06/2020
WA State Dept. of Transportation	10/20/2020	Douglas County Assessor	N/R
Douglas County Land Services	10/27/2020	Douglas County PUD	10/12/2020
Chelan-Douglas Health District	10/21/2020	East Wenatchee Water District	10/13/2020
Chelan County PUD	10/13/2020	Colville Confederated Tribes	10/20/2020
WA State Dept. of Fish & Wildlife	10/20/2020	WA State Dept. of Arch. & Historical Preservations	N/R

16. No written public comments were received.
17. Pursuant to Douglas County Code 18.80.020 (A), the hearing examiner is authorized to approve, approve with conditions or deny permits for conditional uses as specified in this chapter. Uses designated in this title as conditional shall be permitted, enlarged or altered only upon approval of the hearing examiner or zoning adjustor in accordance with the standards and procedures specified in this title and other applicable provisions of the Douglas County Code.
18. The project site is within the General Industrial designation; and the proposal is consistent with the Goals and Policies identified above.
19. The application materials include responses to the criteria. Pursuant to Douglas County Code 18.80.030, each conditional use permit application must be reviewed to ensure compliance with the evaluation criteria established in the DC Code. Below is a review and compliance analysis with the established standards:
 - 19.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
 - 19.2 The proposed project is in the General Industrial zoning district. Per DCC 18.60.10, the purpose of the /-G district is to promote diverse industrial activities and light commercial uses. The project is compatible with the purpose of the /-G district since it is a power generation facility that can be categorized as an industrial use.
 - 19.3 As conditioned the proposal appears consistent with the requirements of this section.
 - 19.4 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.
20. The use of the project site for generating hydrogen fuel cells is consistent with surrounding land uses that include industrial (i.e., McDougal & Sons North Baker Flats facility), agricultural, utilities (i.e., Bonneville Power Administration), and commercial (i.e., Shell station). The site will be designed and constructed to be visually consistent with the general aesthetic character of the area. A 6-foot tall fence will be constructed along the entire perimeter of the site, and a landscaped buffer will be maintained on the northern and western boundaries of the site to provide a visual screen and improve aesthetic character of the site.
 - 20.1 As conditioned the proposal appears consistent with the requirements of this section.
 - 20.2 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
21. The proposed project is not anticipated to significantly impact the volume of traffic on public roads. An estimated 60 trips per month (average of 2 trips per day) will be generated by the project. Trucks will access the site via the proposed access roadway from us 2/97. There is a two-way left-turn lane along us 2/97 at the proposed private access location.
 - 21.1 According to Bill Gould, Washington State Department of Transportation, DCPUD is in communication with WSDOT regarding bringing the access to the parcel up to current standards for this new development.
 - 21.2 As conditioned the proposal appears consistent with the requirements of this section.

- 21.3 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 shall provide adequate services.
22. No additional services will be required for the proposed project. Water services will be supplied to the site by the East Wenatchee Water District and refuse services will be supplied by Waste Management. An on-site septic system will be constructed to serve the site.
- 22.1 As conditioned the proposal appears consistent with the requirements of this section.
- 22.2 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
23. Emergency services were provided an opportunity to comment. See agencies and department comments. The project is fully District funded. The project is intended to facilitate use of excess power generation from the District-operated dams, which is currently uncaptured. Once constructed, the facility will primarily be available for commercial use. The project does not create additional District services, and as such, there is no additional public cost associated with the project.
- 23.1 As conditioned the proposal appears consistent with the requirements of this section.
- 23.2 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.
24. The use of the site for a hydrogen fuel production facility will not produce significant additional traffic, smoke, fumes, vibration, glare, or odors. The proposed project does not involve a risk of toxicity, spills, or other pollution. As previously discussed, traffic is not anticipated to significantly increase due to the project. The facility will carry a slight risk of explosion; however, proper protocols will be in place to minimize this risk. The measures discussed below would minimize the potential impacts of noise and vibration on adjacent properties.
25. Noise. During construction, heavy equipment used in site clearing, grading, and excavation and trucks Used for transport would result in temporary elevated noise. Construction noise would only occur during daytime working hours per DCC.
- 25.1 During operation of the facility, the compressors and transport vehicles will produce intermittent noise, but this is not anticipated to be louder than existing traffic noise associated with US 2/97. In general, noise levels associated with the proposed project are expected to be below limits set forth in DCC 8.04.090. During operation of the facility, noise levels of less than 85 dB(A) (A-weighted decibels) are anticipated at a 1 meter distance without hearing protection in the process room.
26. Vibration. The equipment will be supported by skids to decrease vibration. Vibration generated by the facility is not anticipated to reach nuisance levels.
- 26.1 Overall, nearby land uses would not be adversely impacted by or incompatible with the use of the proposed project.
- 26.2 As conditioned the proposal appears consistent with the requirements of this section.

27. Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to Douglas County Code Title 20 and to the satisfaction of the county engineer.
 - 27.1 The site layout design has been prepared to meet applicable requirements set forth in DCC Title 20.
 - 27.2 As conditioned the proposal appears consistent with the requirements of this section.
28. 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. (Refer to Douglas County Code Chapter 20.40, Landscaping standards, for specific requirements.)
 - 28.1 Buffering will be provided in the form of fencing and landscaping. A 6-foot-tall fence will be implemented along the perimeter of the site. Landscaping is proposed on the northern and western boundaries of the project site and will be designed in accordance with DCC Chapter 20.40 and any applicable conditions of the CUP decision. No landscaping is proposed on the eastern and southern boundaries of the site because the project is not anticipated to have adverse impacts to adjacent properties in these locations.
 - 28.2 As conditioned the proposal appears consistent with the requirements of this section.
 - 28.3 Conditional use permits shall comply with the Douglas County Code and all applicable local, state, or federal regulations.
29. The applicant has provided a detailed site plan that address compliance with zoning code and applicable regulations. The project will follow zoning regulations and comply with requirements of the Douglas County Code.
 - 29.2 As conditioned the proposal appears consistent with the requirements of this section.
 - 29.3 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 Douglas County Code Title 17 and RCW Chapter 58.17
 - 29.4 No change in the size of the subject parcel is proposed by the project.
30. 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 14 and 19 of the Douglas County Code and the Comprehensive Plan. Staff recommends approval of CUP No. 2020-05, subject to the following suggested findings of fact and conditions.
31. The preliminary civil plans depict a phased development of the proposed switchyard and hydrogen generation facility. Phase 1 includes one 125-foot by 75-foot electrolyzer building, an 8,200 square pad for gas compressors, two drive through hydrogen filling stations, and an area for trailers to back in and fill. Future build out is shown to include up to five additional electrolyzer buildings, three compressor pads and two additional fill stations. The proposed 220,800 sf switchyard is includes room for future expansion.

32. Access to the facility is proposed via a private road connection to the state highway and includes a proposed extension to the north to facilitate future development of approximately 70 acres of industrial zoned land to the north.
33. The traffic impact analysis estimates eight daily truck trips at initial buildout and up to 40 daily truck trips at full build out. One daily trip is estimated for personnel.
34. According to the Preliminary Geotechnical Report, infiltration testing yielded infiltration rates of 0.6 inches per hour in the northern portion of the property (TP 1) and 26 inches per hour in the southern portion of the property (TP2).
35. The Preliminary Storm Report adequately demonstrates stormwater management feasibility for the subject property through the use of qualitative analysis, sub-basin delineation, and calculations.
36. The design infiltration rate of 0.4 inches per hour is based on a total correction factor of 0.67. The engineer shall demonstrate in the final drainage report to be submitted with the building permit application how this total correction factor was derived in accordance the Table 6.4 in the 2019 SWMMEW. In addition, the site variability is significant based on the two tests that were conducted. A new test shall be performed in accordance with the 2019 SWMMEW in the location of the proposed infiltration ponds prior to building permit approval or an appropriate site variability correction factor shall be utilized.
37. Upstream runoff from significant drainages to the east of the project site are proposed to be routed around the development and dispersed on areas of the project site that are to remain undeveloped.
38. According to the Colville Confederated Tribes “We have completed our review of the proposed DCPUD Switchyard & Hydrogen Generation Facility CUP-2020-05 project. We concur with the APE as presented. We concur with the findings in the SEPA Checklist, particular Section 13. We concur with the methods used to identify potential cultural resources. We concur with the proposed Inadvertent Discovery Plan for use during project implementation. As the cultural resource report did not specifically state a finding of effect or no effect in regards to the five recommended eligible historic properties, we are unable to provide a concurrence on project effects to these properties. However, we do concur with the recommendation for consultation with DAHP regarding potential impacts and mitigation options for these properties.”
39. According to the Land Services Division, deferred final landscaping plans can be accommodated with Building Permit Submittal.
40. Pursuant to DCC 18.16.150 (I) Pedestrian/bicycle access corridors shall be discouraged in areas designated as agricultural lands of long-term commercial significance. Due to the nature of the industrial use and need to secure the site, it is hereby determined that the DCPUD Switchyard & Hydrogen Generation Facility shall receive the same restrictive access of that of agricultural lands of long-term commercial significance (discouraging pedestrian and bicycle access).
41. According to the Washington State Dept. of Fish & Wildlife, “From aerial photos, it appears that the eastern edge of parcel 23200210005 has not previously been converted to farming practices and still contains native sagebrush steppe habitat. This area is also contained in a Priority Habitats and Species (PHS) Map polygon for mule deer that provides potential winter

range for a regular concentration of mule deer belonging to the Badger Mountain population. If the area still in native habitat is projected to be disturbed by the proposed project, then requirements of the Chelan County Critical Areas Ordinance should be met.”

42. According to the applicant, “DCPUD understands the concern from Dept. of Fish & Wildlife. Please refer to the letter provided as an attachment to the SEPA checklist that was included in the CUP submittal. The following is an excerpt from the letter:
 - 42.1 “A small portion of the District’s project site is mapped by the Washington Department of Fish and Wildlife as mule deer habitat and is considered a Fish and Wildlife Habitat Conservation Area (HCA) by Douglas County Code (DCC) 19.18C.020.B(2). This HCA occurs primarily on the steep slopes east of the industrial district in undisturbed areas. The project does not propose impacts to the HCA. Consequently, the project is not anticipated to require additional documentation for compliance with Chapter 19.18C DCC. The District understands that if development is proposed in those areas, or in more direct proximity to those areas, a habitat study is likely to be required.” (Supplemental Wildlife Impacts prepared by Alicia Pettibone, Environmental Project Manager)
43. Douglas County completed an Environmental Planned Action for the Baker Flats in which the subject property is located. The project proposal is consistent with Douglas County Ordinance No TLS-12-07-08D Planned Action for the Baker Flats and Pangborn Industrial UGA’s, thus there was no further SEPA review for the project proposal.
44. 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 Douglas County Code Title 14.
45. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
46. As conditioned, the development will not adversely affect the general public, health, safety and general welfare
47. After due legal notice an open record public hearing was held via Zoom due to the Covid-19 pandemic on November 19, 2020.
48. 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.
49. No member of the public submitted any written comments before 5:00 p.m., November 24, 2020.
50. The entire Planning Staff file was admitted into the record at the public hearing.
51. Appearing and testifying on behalf of the Applicant was Leonard Anderson. Mr. Anderson testified that he was an agent authorized to appear and speak on behalf of the Applicant and property owner. Mr. Anderson testified that all of the proposed Conditions of Approval were acceptable.

52. 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 Douglas County Code Chapter 18.80 conditional use permits general evaluation criteria.
6. As conditioned, the proposal is consistent with Title 18, Title 14, Title 19, the Douglas County Comprehensive Plan, and the East Wenatchee Comprehensive Plan
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, review of all applicable files, including the Planning Department staff file, and after an open record public hearing, the Hearing Examiner has determined that CUP No. 2020-05 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

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

1. The project shall proceed in substantial conformance with the plans and application materials on file submitted on 09/23/2020 and 10/02/2020 except as amended by the conditions herein.
2. The owners/operators shall be responsible to obtain and comply with any applicable federal, state, and local laws, and must obtain all necessary permits and approvals prior to operation.
3. This Conditional Use Permit is for the "DCPUD Switchyard & Hydrogen Generation Facility." At no time does any portion or part of the application materials, support information, and/or submitted plans allow the permitted activity and/or use beyond that of a Switchyard & Hydrogen Generation Facility.

4. Excepting the provisions for the installation of bicycle facilities and limited pedestrian facilities, the development shall comply with the dimensional standards of the General Industrial (I-G) zoning district (Chapter 18.60), as amended.
5. Prior to operations and as applicable, the applicant shall obtain all appropriate permits and/or approvals from the Washington State Department of Ecology, Douglas County PUD, and Washington State Department of Transportation.
6. Adequate provisions, verified in writing by the Chelan-Douglas Health District, shall be made for sanitary sewer and domestic water.
7. 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 the lot(s) is required. All water system improvements must be designed, constructed, and placed in accordance with the purveyor's requirements.
 - 7.1 A DEA (developer line extension agreement) will be required prior to plan submittals to the District. 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.
 - 7.2 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.
8. The property line may be adjusted to accommodate the water mainline connection and expand the project boundary administratively upon satisfaction of necessary permitting for the Boundary Line Adjustment.
9. A soil/site evaluation for placement of onsite sewage systems is needed for the proposed restroom facility and any other facilities that may generate residential wastewater. This requirement can be found in WAC 246-272A-0320 subsection (2) (c). This evaluation can be completed by the Chelan-Douglas Health District or a state licensed septic system designer or professional engineer. Soil information gleaned from a Geotechnical Report is not acceptable.
10. The applicant shall be responsible for obtaining all appropriate permits and/or approvals from the Washington State Department of Transportation.
 - 10.1 Any complaints regarding amounts of traffic, traffic safety, or related vehicular activity surrounding or a part of access via US 2 shall be addressed by the Washington State Department of Transportation.
11. Final Landscaping Plans shall be submitted with building permit application. The applicant shall provide Douglas County written verification from the landscape designer certifying completion in compliance with the approved landscape plans prior to operations. Landscaping shall meet the minimum provision as set forth in Douglas County Code Chapter 20.40, and maintained throughout the life of the project.
12. Any outdoor lighting shall be directed towards the site and/or shielded in accordance with Douglas County Code Chapter 18.16.

13. Recommendations within the Cultural Resources Assessment prepared by Margaret Berger, Principal Investigator with Cultural Resources Consultants shall hereby be conditions of approval.
 - 13.1 “It is recommended that Douglas PUD consult with DAHP regarding potential impacts to these resources (*identified with the report*) and mitigation options.”
 - 13.2 A proposed inadvertent discovery protocol is attached (Attachment D of the report).
 - 13.3 In the event that ground disturbing or other activities do result in the inadvertent discovery of archaeological deposits, work should be halted in the immediate area and contact made with DAHP in Olympia. Work should be halted until such time as further investigation and appropriate consultation is concluded. In the unlikely event of the inadvertent discovery of human remains, work should be immediately halted in the area, the discovery covered and secured against further disturbance, and contact effected with law enforcement personnel, consistent with the provisions set forth in RCW 27.44.055 and RCW 68.60.055.
14. Recommendations within the Safety Plan dated September 18, 2020 prepared by HATCH shall hereby be conditions of approval.
15. All signs placed and/or displayed in conjunction with the proposed use shall meet the minimum provisions of Douglas County Code Chapter 20.44.
16. Uses and activities shall not exceed the maximum environmental noise level established by Douglas County Code Chapter 8.04 or WAC 173-60 as administered by the Douglas County Sheriff.
17. Prior to construction, the applicant shall obtain a Douglas County Building Permit.
18. 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 building permit issuance.
19. The access to the facility is proposed via a private road connection to the state highway and includes a proposed extension to facilitate future development of approximately 70 acres of industrial zoned land to the north. The easement for this private road shall include provisions for emergency access to and from the properties to the north and allow for dedication as a public road if deemed necessary by the County Engineer.
20. 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.
21. 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.

22. 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.
23. 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.
24. 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.
25. The Chelan County Public Utility District requires that its ability to access its transmission line infrastructure is not hindered, nor any clearances reduced. Should the applicant wish to discuss this or has any questions, the applicant may contact the Districts transmission department engineer.
26. The applicant shall obtain and complete a Road Name Application for the internal road.

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.