

**DOUGLAS COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

140 19<sup>th</sup> Street NW  
East Wenatchee, WAS 98802-4109

**BEFORE THE DOUGLAS COUNTY HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
P-2019-01	)	<b>DECISION AND</b>
Springwater	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on August 15, 2019, 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 Springwater Home LLC, 7700 SW River Rd Hillsboro, OR 97123.
2. General Description: An application for a 35 Lot subdivision submitted by Springwater Homes LLC. The subject property is approximately 10 acres in size. The lots are proposed to range in size from approximately 6,590 square feet to 9,055 square feet. The property is located in the Residential Low Density (R-L) zoning district under East Wenatchee Municipal Code.
3. Location: The subject property is located at 2255 Fancher Field Rd - East Wenatchee. The lots are proposed to range in size from approximately 6,590 square feet to 9,055 square feet. The property is located in the Residential Low Density (R-L) zoning district under East Wenatchee Municipal Code and is further described as being located within Section 36, Township 23N, Range 20E, W.M.
4. The Assessor's Parcel Number is 9870000010.
5. Site Information:  
Total Project Size: 10 acres

No. of lots                    35  
Domestic Water:            East Wenatchee Water District  
Sewage Disposal:           Douglas County Sewer District  
Power/Electricity:         Douglas County PUD  
Fire Protection:           Douglas County Fire District #2  
Telephone Service:        Varied

6. Site Characteristics: The subject property is a vacant lot. The topography is relatively flat.
7. Surrounding Property:
  - North:    Multi-family Complex and ministorage.
  - South:   Single family homes and agriculture
  - East:     Single family homes
  - West:    Single family homes
8. The subject property is located within the Greater East Wenatchee Planning Area.
9. The subject property is located within the East Wenatchee Urban Growth Area.
10. The Comprehensive Plan Designation is Low Residential.
11. The subject property is located in the Low Density Residential (R-L) zoning district which allows for subdivisions as permitted uses.
12. On March 28, 2007, Douglas County adopted Ordinance No. 07-01H which adopted portions of Title 17 of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Area.
13. EWMC 17.72.210 requires residential lots to have not less than 40 feet of frontage on a public or private roadway, except when located within a cul-de-sac, or when the lot is accessed from a joint-use driveway or access easement meeting the requirements of Chapters 12.50 through 12.60 EWMC. A minimum of 20 feet of contiguous frontage is required for lots located on a cul-de-sac (road right-of-way) and lots located on the outside of a road curve with a radius between 50 and 75 feet.
14. The Greater East Wenatchee Area Comprehensive Plan and EWMC 17.73 establish the level of service and standards in order to mitigate any adverse impacts of new development on neighborhoods without adequate parks, open space and recreational facilities. The application triggers the requirement to provide parks/open space. Based on project size, the minimum required open space is 0.5 acre.
15. Eastmont School District #206 has determined that adequate school related facilities exist to accommodate increased student enrollment associated with increased residential development.
16. The Douglas County Fire Marshal responded that the preliminary plat was “approved with conditions.” Final coordination with the Douglas County Fire Marshal and final acceptance will be necessary prior to final plat approval.
17. The East Wenatchee Water District provided comment that public water is available per this request.

- 17.1 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 Marshal and all required improvements will be per current District Standards and Specifications.
- 17.2 35 Equivalent Residential Units (ERU) are available for this parcel. With 35 residential lots proposed, there is no additional water available to irrigate Tracts A, B and C.
- 17.3 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.
- 18. The Douglas County Sewer District provided comment that public sewer is available per this request.
  - 18.1 A DEA (developer line extension agreement) will be required prior to plan submittals to the District.
- 19. Initial application materials reviewed by Douglas County Transportation and Stormwater include:
  - 19.1 Alternate to Code prepared by Torrence Engineering, partially accepted July 30, 2019.
  - 19.2 Preliminary Engineering prepared by Torrence Engineering, received July 30, 2019.
  - 19.3 Stormwater Memorandum prepared by Torrence Engineering, received February 4, 2019.
  - 19.4 Traffic Impact Analysis prepared by TENW, received February 1, 2019.
  - 19.5 SEPA Checklist prepared by Northwest GeoDimensions, received February 1, 2019.
- 20. Alternate to Code Request: A request for an alternate to the East Wenatchee Municipal Code (EWMC) was reviewed and partially accepted on July 30, 2019. The alternate to code allows the applicant to: Utilize a design speed of 20 MPH for the radius directly adjacent to Lots 17-19 and Lot 29.
- 21. Preliminary Engineering: The plans depict the installation of a stormwater pipe within an existing 25' wide storm drainage easement (located on Tract B). There is not sufficient space within this easement to accommodate a pipe without impacting the existing facility.
- 22. Traffic Impact Analysis: The Traffic Impact Analysis has adequately addressed the impacts to the surrounding transportation system as scoped with Douglas County.
- 23. The following SEPA Checklist sections are hereby addressed:
  - 23.1 Section B Environmental Elements, Water, b. Ground, Question #1: "RESPONSE: No." The project proposes to mitigate stormwater runoff via stormwater infiltration (i.e. discharged to groundwater).
  - 23.2 Section B Environmental Elements, Water, c. Water runoff, Question #1: "RESPONSE: Stormwater runoff will be collected on-site and discharged at the pre-development discharge rates." The project proposal includes collection of stormwater runoff for infiltration in a community system.

- 23.3 Section B Environmental Elements, Water, c. Water runoff, Question #2: “RESPONSE: No.” The project will treat stormwater in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW).
- 23.4 Section B Environmental Elements, Water, d. Proposed measures to reduce or control surface, ground, and runoff water impacts: “RESPONSE: Landscaping by each lot owner will help reduce runoff.” The project proposal includes collection of stormwater runoff for infiltration in a community system. Construction stormwater will be managed in accordance with the Washington DOE and Douglas County requirements.
24. In order to meet the state requirements for Enhanced 911 service, all lots within this plat shall be addressed and internal roads shall be named prior to final plat approval.
25. Comments from reviewing agencies have been considered and addressed where appropriate.
26. Douglas County issued a Determination of Non-Significance on March 26, 2019 pursuant to WAC 197-11-355 (Optional DNS).
27. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
28. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
29. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
30. Section 17.24.150 of the Douglas County Code requires that every subdivision shall be served by a water supply system approved and installed to meet the requirements and standards of the Chelan Douglas Health District.
31. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
32. An open record public hearing after due legal notice was held on August 15, 2019.
33. The entire Planning Staff file was admitted into the record at the public hearing.
34. Appearing and testifying on behalf of the applicant was John Torrence. Mr. Torrence testified that he was the agent of the property owner and was authorized to appear and speak on their behalf. Mr. Torrence testified that the applicant concurred with the all of the representations set forth in the staff report and had no objections to any of the proposed conditions of approval.
35. Testifying from the public was the following individual:
  - 35.1 Carlo Narduzzi. Mr. Narduzzi testified primarily concerning air quality specifically related to dust from the project. His concern is that the county had no ability to mitigate dust. Mr. Narduzzi submitted Exhibit 3 that was admitted into the record. Exhibit 3 is a document dated August 15, 2019 which Mr. Narduzzi described as an administrative contractual agreement. Mr. Narduzzi asked that the hearing be continued or that Exhibit 3 be made a Condition of Approval.
36. Also admitted into the record were the following exhibits:
  - 36.1 Exhibit 1: Revised site plan.

36.2 Exhibit 2: August 9, 2019 memorandum from Zachary Horton, EIT to Mr. Pate.

36. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

## II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Greater East Wenatchee Area Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 17 Zoning of the East Wenatchee Municipal Code as adopted by Ordinance # 01-01H.
6. As conditioned, the proposal is consistent with Title 17 "Subdivision", Title 19 "Environment", and Title 20 "Development Standards", of the Douglas County Code.
7. Any Finding of Fact that is more correctly 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, Application P-2019-01 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 February 1, 2019, February 4, 2019, and July 30, 2019 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. A plat certificate showing parties of interest from a title company must be submitted with the blue-line drawings.
4. The final plat 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 has requested voluntary payment in lieu of dedication per EWMC 17.73.090. The applicant shall make payment of \$59,215 for the required open space.
10. Lots shall have not less than 40 feet of frontage on a public or private roadway, except when located within a cul-de-sac or when the lot is accessed from a joint-use driveway or access easement meeting the requirements of EWMC Chapters 12.50 through 12.60, comprehensive street standards, and any amendments.
11. A minimum of 20 feet of contiguous frontage is required for lots located on a cul-de-sac (road right-of-way) and lots located on the outside of a road curve with a radius between 50 and 75 feet, as per EWMC 17.72.210 *Lot Frontage*, except as may be amended.
12. An adequate building envelope for each lot must be established outside of all applicable setbacks and shown on the blue-line drawing. Maximum land coverage for all buildings on a proposed lot shall be 40%, as per EWMC 17.24.050 *Dimensional Standards*, except as may be amended.
13. The location of existing utilities (i.e. power, sewer, water and irrigation lines, etc.) and utility easements shall be depicted on the face of the final plat.
14. The developer shall install all utilities in accordance with the standards and specifications of the Chelan-Douglas Health District, Douglas County PUD, East Wenatchee Water District, Douglas County Sewer District, and Douglas County Fire District #2.
15. The developer shall prepare final plans for the development and installation of utilities for the approval of the respective purveyors prior to site development. Final "as-built" drawings shall be delivered to purveyors upon completion.
16. Written verification of the availability of public water and sanitary sewer to each lot must be submitted to the Chelan Douglas Health District prior to final plat approval.
17. The following language must appear with the Health District signature line:
  - 17.1 "The Health District has not reviewed the legal availability of water to this development."
18. Prior to final plat approval, Douglas County PUD shall provide written verification that all District requirements have been satisfied.
  - 18.1 Applicant must complete a Customer Service Request and provide site and proposed utility drawings. The District will coordinate the electrical and fiber design with the

Developer's engineer and provide a cost estimate to provide services to the proposal. Estimate must be paid prior to final approval.

- 18.2 Utility easements adjacent to roadways must be shown on plat.
19. Prior to final plat approval, written verification shall be provided from the Douglas County Fire Marshal that all requirements have been satisfied.
20. Prior to final plat approval, written verification shall be provided from the East Wenatchee Water District that all District requirements have been satisfied and that adequate water is provided to all lots within the project.
  - 20.1 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 Marshal and all required improvements will be per current District Standards and Specifications.
  - 20.2. 35 Equivalent Residential Units (ERU) are available for this parcel. With 35 residential lots proposed, there is no additional water available to irrigate Tracts A, B and C.
  - 20.3 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.
21. Prior to final plat approval, written verification shall be provided from the Douglas County Sewer District that all District requirements have been satisfied and certification of sewer availability is required.
  - 21.1 A DEA (developer line extension agreement) will be required prior to plan submittals to the District.
  - 21.2 The developer will assume all the District's costs for this proposal including inspections, testing and permits.
  - 21.3 After construction is completed and accepted by the District, a 2-year Maintenance/Warranty Bond will be required.
22. The applicant must coordinate with Douglas County Transportation and the US Postal Service to determine mailbox location(s).
23. Final construction plans designed by a Professional Engineer licensed in the State of Washington shall be submitted to and accepted by Douglas County prior to construction. Construction plans shall be prepared in accordance with the requirements of the East Wenatchee Municipal Code and Douglas County Code.
24. As described in the accepted alternate to code, the radius directly adjacent to Lots 17-19 and Lot 29 shall be designed utilizing a minimum design speed of 20 MPH. All other radii shall be designed utilizing a minimum design speed of 25 MPH.
25. Access to Fancher Field Road for individual lots created within this subdivision is prohibited. All access points are to come from the internal road system. A 1' non-vehicular easement shall be included along the Fancher Field Road frontage excluding the access point for the internal road system.

26. The paved cul-de-sac turnaround located at the end of the proposed road designated as "Road A" shall include a paved snow storage easement (20' x 30'). Signage restricting parking in order to accommodate emergency vehicles and the snow storage area shall be installed in the cul-de-sac.
27. Illumination shall be designed and installed consistent with East Wenatchee Municipal Code, Douglas County Code Section 12.57.100 Roadway Illumination, and meet Douglas County PUD Standards. The applicant shall be responsible for PUD charges for the connection of street lights to the transformer or hand hole. The type of light fixture to be installed shall be coordinated with Douglas County during construction plan review.
28. The location of cluster mailbox units for the subdivision shall be shown on the construction plans. A pullout / turnout shall be provided if the mailbox cluster is located on Fancher Field Road. Location to be accepted by the County Engineer and USPS Postmaster prior to plan acceptance. Additional Right of Way may be required.
29. Minimum five-foot wide utility easements are required along all lots or tracts with County road frontage in accordance with applicable road standards.
30. All existing and proposed easements shall be clearly delineated with the Auditor's File Number(s) noted as necessary on the final plat.
31. As applicable, 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.
32. Prior to final plat acceptance and/or release of financial security, the Engineer of Record shall provide written certification that the frontage improvements, internal roads, utility plans, stormwater systems, and site 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.
33. Final acceptance shall be processed in accordance with East Wenatchee Municipal Code (EWMC) Section 12.56.110 Performance Assurance Agreement and a warranty assurance agreement shall be completed per EWMC 12.50.110 prior to final plat acceptance.
34. All new or revised accesses onto a County road (including temporary) require an approved access permit. An access permit for the applicant's construction entrance(s) shall be obtained prior to any on-site grading or prior to construction plan acceptance (whichever comes first).
35. 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
36. A final site-specific stormwater plan and report prepared by a Professional Engineer (PE) licensed in the State of Washington that conforms to East Wenatchee Municipal Code, Douglas

County Code, and the Stormwater Management Manual for Eastern Washington (SWMMEW) shall be submitted to and accepted by Douglas County prior to construction.

37. Field infiltration tests shall be performed in the location of the proposed pond(s) in accordance with the guidance presented in the SWMMEW. The infiltration rate derived in this manner shall be utilized in the design process with an appropriate factor of safety/correction factor applied. This information shall be included as an appendix to the stormwater report and contain, at a minimum, the name of the testing agency, the methodology utilized, and the recorded time step information.
38. The drainage report and construction plans shall explain/depict how runoff is being retained on each lot or conveyed to a community storm system. This includes grading and/or storm drainage stubs as necessary. If storm stubs are utilized, a note will be required on the face of the final plat which states:
39. "At the time of building permit submittal, an engineered site specific stormwater plan and report shall be submitted that conforms to Douglas County Code and 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."
40. Stormwater facilities shall be designed to overflow to the public Right of Way or oversized by 125% of design capacity plus one-foot of freeboard. The volume used to determine that the system meets 125% of design capacity cannot include volume provided by the one-foot of freeboard. A downstream analysis of potential overflow impacts shall be included within the design report.
41. The plans depict the installation of a stormwater pipe within an existing 25' wide storm drainage easement (located on Tract B). There is not sufficient space within this easement to accommodate a pipe without impacting the existing facility. The pipe shall be centered within a 10' portion of Tract B (min.) as measured from the northerly edge of the 25' wide storm drainage easement.
42. The existing storm facility located within an easement on Tract B shall be preserved and protected. Direct access for inspection and maintenance shall be maintained.
43. Provisions to provide access for inspection and maintenance to the stormwater tract(s) shall be addressed within the design plans, report, and on the face of the final plat.
44. Prior to any on-site grading occurring or 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.
45. The applicant is responsible for preventing mud, dirt, debris, and stormwater runoff from being tracked or otherwise discharging onto the public right of way or adjacent properties.
46. Registration of facilities that are regulated under the Washington State Department of Ecology's Underground Injection Control Program shall be completed prior to construction.

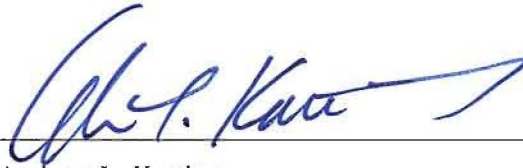
47. Stormwater facilities shall be located on a separate tract/tracts under the functional control of the Homeowners' Association (HOA) with each lot having an undivided ownership, interest, and responsibility for the tract(s).
48. The Engineer of Record shall monitor construction and shall provide as-built drawings and report as necessary along with certification that the improvements have been completed in accordance with the applicable codes, regulations, and accepted plans.
49. Prior to final plat acceptance, a Private Stormwater Operation and Maintenance Agreement shall be executed on standard Douglas County forms and recorded. 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.
50. Individual lots created within this development are subject to the Greater East Wenatchee Stormwater Utility annual service charge. This charge is per parcel and is triggered at the time of building permit issuance.
51. 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.
52. 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.
  - 52.1 The applicant shall follow the guidelines in DCC 12.04 (road naming) for naming the connection road to Fancher Field Road. Approval of final road naming is required.
  - 52.2 Addresses will be assigned during the blue line review.
  - 52.3 The applicant shall coordinate with the Transportation department and the US Postal Service for the location of community mailboxes.
53. The following note shall appear on the face of the final plat:
  - 53.1 “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.
54. Frontage improvements are required along Fancher Field Road in accordance with figure 3-8(UC) from the Douglas County Road Standards.

55. **Hearing Examiner**

- 55.1 The Applicant shall comply with the dust mitigation plan and shall take affirmative steps to ensure compliance with this plan by all contractors and sub-contractors working at the site or any lot within the site.

Dated this 20<sup>th</sup> day of August, 2019.

DOUGLAS COUNTY HEARING EXAMINER

A handwritten signature in blue ink, appearing to read "A. L. Kottkamp", is written over a horizontal line.

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.