

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,
P-2019-05)	DECISION AND
Mary Hill Estates II)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on December 19, 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 Prime Properties LLC / Maryhill Estates LLC, PO Box 119 Wenatchee, WA 98807.
2. General Description: An application for a two phased 36-lot major subdivision ("Maryhill Estates II"). The subject property is approximately 10.46 acres. Proposed lot sizes range from 6,439 sq. ft. to 11,419 sq. ft. Lots are proposed to be served by public water and sewer.
3. Location: The proposal is located South of 2nd St. SE and East of Mary Avenue. The property is further described as located within Section 18, Township 22 N., Range 21 EWM, Douglas County, WA. The Douglas County Assessors Numbers are 22211810009 and 22211810004.
4. Site Information:

Total Project Size:	10.46 acres
No. of lots	36
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
5. Site Characteristics: The topography is relatively flat and is vacant.
6. Surrounding Property:

<u>North:</u>	Single family homes and vacant land.
<u>South:</u>	Single family homes

East: Single family homes
West: Single family homes

7. The subject property is located within the Greater East Wenatchee Planning Area.
8. The subject property is located within the East Wenatchee Urban Growth Area.
9. The Comprehensive Plan designation is Low Residential.
10. The subject property is located in the Low Density Residential (R-L) zoning district which allows for subdivisions as permitted uses.
11. On March 28, 2007, Douglas County adopted Ordinance No. 07-01H which adopted portions of Title 17 of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Area.
12. EWMC 17.72.210 requires residential lots to have not less than 40 feet of frontage on a public or private roadway, except when located within a cul-de-sac, or when the lot is accessed from a joint-use driveway or access easement meeting the requirements of Chapters 12.50 through 12.60 EWMC. A minimum of 20 feet of contiguous frontage is required for lots located on a cul-de-sac (road right-of-way) and lots located on the outside of a road curve with a radius between 50 and 75 feet.
13. The Douglas County Fire Marshal has reviewed the project, and subject to the recommended conditions, the proposal can be granted.
14. The application triggers the requirement to provide parks/open space. Based on project size, the minimum required open space is 0.52 acre. 0.85 acres are shown as part of the open space / recreation conceptual plan. The application proposes area for conceptual and future placement of both active and passive recreation. Final designs have not been completed.
15. According to the WA State Department of Archaeology & Historic Preservation, "A desktop review using our statewide predictive model has identified the proposed project area as having a very high sensitivity for archaeological resources. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Therefore, we recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities."
16. According to the Cultural Resources Assessment for Maryhill Estates II Project, Douglas County, Washington dated October 28, 2019 (DAHP Project #: 2019-08-06567) prepared by Margaret Berger, Principal Investigator, "Background research and field investigations did not identify any recorded or as yet unrecorded historic-era or precontact cultural resources within the project. No further cultural resources investigations are recommended. An inadvertent discovery protocol is attached."
17. The East Wenatchee Water District provided comment that public water is available per this request upon completion of necessary conditions.
18. The Douglas County Sewer District provided comment that the District and Selland Construction are negotiating in good faith to address the downstream sewer capacity issues from the proposed Maryhill II development in 4th Street SE; and upon completion of necessary conditions. The prior comment stated: Under existing conditions there is inadequate capacity in the public sewer collection system to accommodate the wastewater volumes of the proposed

subdivision while remaining compliant with WDOE guidelines. DCSD is in discussion with the applicant about downstream remedies but no formal agreement has been reached as of this date.

19. Initial application materials reviewed by Douglas County Transportation and Stormwater include:
 - 19.1 Alternate to Code prepared by Selland Construction, partially accepted November 19, 2019.
 - 19.2 Preliminary Engineering prepared by Torrence Engineering, received November 4, 2019.
 - 19.3 Preliminary Plat prepared by 48° North, received November 4, 2019.
 - 19.4 Preliminary Stormwater Report prepared by Torrence Engineering, received November 4, 2019.
 - 19.5 Traffic Impact Analysis prepared by TENW, received November 4, 2019.
 - 19.6 SEPA Checklist prepared by Maryhill Estates LLC, received August 15, 2019.
20. Requests for an alternate to the East Wenatchee Municipal Code (EWMC) were reviewed and partially accepted on November 19, 2019. The alternate to code allows the applicant to:
 - 20.1 Utilize a design speed of 20 MPH for the radii directly adjacent to Lots 6/8/34 and Lots 12/14/31.
21. Preliminary Engineering: The plans depict frontage improvements on South Mary Avenue and provide connectivity between South Mary Avenue and South Nevada Avenue through construction of 2nd Street SE half-street improvements. Full width improvements are required on 2nd Street from the intersection with South Mary Avenue heading east to approximate station 2+15.
22. An easement was established for the hammerhead turnaround intended to serve Maryhill Estates Division 6. This easement shall be relinquished/terminated prior to final plat acceptance.
23. Stormwater: The Preliminary Plat includes phasing lines which indicate the possibility that this subdivision could consist of two phases. The phasing lines depicted appear to be acceptable.
24. Traffic Impact Analysis. The Traffic Impact Analysis (TIA) has identified the need for the development to provide a proportional share contribution for improvements located at the intersection of Mary Avenue & Grant Road and Nevada Avenue & Grant Road. It should be noted that the Planned Transportation Improvements section does not display the appropriate information and requires correction. The TIA has also identified or stated the following:
 - 24.1 “[...] total site trip generation of the proposed Maryhill Estates II project is estimated to generate approximately 349 weekday daily trips, 28 a.m. peak hour trips (7 entering and 21 exiting), and 37 p.m. peak hour trips (23 entering and 14 exiting).”
25. 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.
26. Irrigation water is available from Meter E94 (which is being replaced and relocated as part of Maryhill Division 6. Developer must fill out an application for the proposed development with GWID.
27. Comments from reviewing agencies have been considered and addressed where appropriate.

28. Douglas County issued a Determination of Non-Significance on December 3, 2019 pursuant to WAC 197-11-355 (Optional DNS).
29. 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.
30. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
31. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
32. Douglas County Code Section 17.24.015 engineering plan and technical report review requirements:
 - 32.1 Engineering plans and technical information reports shall be prepared consistent with the applicable requirements of the plans, policies and codes in DCC Section 17.04.050 as they now exist or may hereafter be amended, and the conditions of preliminary approval. Each plan set or document shall be stamped, signed and dated by an engineer and other qualified professionals as appropriate to the plan and information.
 - 32.2 Plans for roads, controls and other proposed or conditioned improvements proposed to be located within a public right-of-way shall be submitted for review and acceptance by the county engineer.
 - 32.3 Plans for proposed sanitary sewer and water systems shall be submitted for review and approval by the Chelan-Douglas Health District and/or the appropriate utility purveyor.
 - 32.4 Plans and soils reports must document site development conformance with DCC Chapter 15.36, Grading and Excavation.
 - 32.5 No improvement work shall be undertaken until preliminary approval has been issued and the plans have been approved by the county engineer and other agencies as applicable. The county engineer shall be notified before any improvement work is begun.
 - 32.6 The subdivider, upon completion of improvements, shall file maps and documents with the department that shall show all improvements as-built.
 - 32.7 Plans accepted by the county engineer in accordance with subsection A of this section shall be valid for a period of thirty-six months following acceptance unless an extension of time has been granted by the county engineer.
33. According to the Washington State Department of Ecology, Due to the dry conditions of our region, we are reminding people that extra efforts are needed to control blowing dust and fill. The proponent should create a site-specific Fugitive Dust Control Plan (FDCP) before starting this project, and then follow the plan for construction of the project and duration of activity on property
34. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
35. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.

37. An open record public hearing after due legal notice was held on December 19, 2019.
38. The entire Planning Staff file was admitted into the record at the public hearing.
39. Appearing and testifying on behalf of the applicant was Charley Underwood. Mr. Underwood testified that he was an agent authorized to appear and speak on behalf of the property owner and applicant. Mr. Underwood indicated that stormwater would be contained 100% on site. Mr. Underwood indicated that the applicant had no objection to any of the proposed Conditions of Approval.
40. No member of the public appeared at the hearing.
41. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
42. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
43. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
44. 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-2019-05 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 of file dated 08/15/2019, 11/01/2019 and 11/04/2019 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 shall adhere to Cultural Resources Assessment for Maryhill Estates II Project, Douglas County, Washington dated October 28, 2019 (DAHP Project #: 2019-08-06567) Attachment C - Inadvertent discovery protocol including, but not limited to: Inadvertent Discoveries (43 CFR 10.4) – In the event that human remains, burials, funerary items, sacred objects, or objects of cultural patrimony are found during project implementation, the proponent or his authorized agent shall cease work immediately within 200 feet of the find. They shall then take steps to protect the find from further damage or disruption. Then they shall contact the THPO at (509) 634-2695 (desk) to report the find. The THPO shall contact the appropriate law enforcement authority if human remains are found. The THPO shall then contact BPA. No further work shall be allowed on the project until the THPO has approved the plan for managing or preserving the remains or items. Post-Review Discoveries (36 CFR 800.13) – In the event that prehistoric artifacts (i.e. arrowheads, spear points, mortars, pestles, other ground stone tools, knives, scrapers, or flakes from the manufacturing of tools, fire pits, peeled trees, etc.) or historic-period artifacts or features (i.e. fragments of old plates or ceramic vessels, weathered glass, dumps of old cans, cabins, root cellars, etc.) are found during the project implementation, the proponent or his authorized agent shall cease work immediately within 200 feet of the find. They shall then contact the THPO at (509) 634-2695 to report the find. The THPO shall then contact BPA. No further work shall be allowed on the project until the THPO has approved a plan for managing or preserving the artifacts or features.

10. 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.
11. 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.
12. 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.
13. 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.
14. Prior to final plat approval, written verification shall be provided from the Douglas County Sewer District that all District requirements have been satisfied and that adequate sewer is provided to all lots within the project.
 - 14.1 Selland Construction shall address the downstream sewer capacity issues from the proposed Maryhill II and Maryhill East developments in 4th Street SE.
15. Prior to final plat approval, Douglas County PUD shall provide written verification that all District requirements have been satisfied.
 - 15.1 Applicant must complete a Customer Service Request and submit a proposed electrical plan. A cost estimate to provide service to the project will be provided and must be paid for prior to final approval.
16. A Hydrant plan shall be submitted to the Fire Marshal for approval. Hydrants to be spaced no greater than 500 feet with preference given to intersections. The nearest frontage access to all lots must be within 250 feet from a hydrant. Prior to final plat approval, written verification shall be provided from the Douglas County Fire Marshal that all requirements have been satisfied.
17. 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.
 - 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 Marshall and all required improvements will be per current District Design Standards and Specifications.
 - 17.2 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.
18. 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.
19. A final Traffic Impact Analysis shall be submitted to and accepted by Douglas County prior to construction plan acceptance. Coordinate with Douglas County regarding the necessary revisions.

20. Frontage improvements are required along South Mary Avenue in accordance with Figure 3-7b (Urban Local Access) from the Douglas County Road Standards.
21. Right of way dedication along the northern property line to accommodate construction of half-street improvements is required (i.e. 30 feet). Full width improvements are required on 2nd Street SE from the intersection with South Mary Avenue heading east to approximate station 2+15 to align with the ADA ramp on the southeast corner of the intersection with proposed Road H.
22. Turnaround, curb, gutter, sidewalk, and associated improvements shown on the Maryhill Division 6 construction plans shall be constructed and accepted by Douglas County prior to occupancy for Lots 19-21.
23. The temporary easements recorded under AFN #3224530 shall be relinquished/terminated concurrently with final plat acceptance.
24. As described in the accepted alternate to code, the radii directly adjacent to Lots 6/8/34 and Lots 12/14/31 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. 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.
26. The location of cluster mailbox units for the subdivision shall be shown on the construction plans. Location to be accepted by the County Engineer and USPS Postmaster prior to plan acceptance; additional right of way may be required.
27. Five-foot utility easements (min.) are required along all lots or tracts with County road frontage in accordance with applicable road standards. Utility purveyors may require easements in excess of five feet.
28. All existing and proposed easements shall be clearly delineated with the Auditor's File Number(s) noted as necessary on the final plat.
29. The applicant shall enter into a Deferred Improvements Agreement to contribute a proportionate share contribution towards transportation improvements at the intersection of Grant Road & Mary Avenue and Grant Road & Nevada Avenue prior to final plat acceptance. The agreement shall be drafted in accordance with the recommendations identified within the Traffic Impact Analysis performed by TENW.
30. As applicable, Private Access Operation and Maintenance Agreements shall be prepared, executed, and recorded by the applicant; the Auditor's File Number(s) shall be noted on the final plat map.
31. The applicant shall specify the type of WSDOT standard driveway approach to be used throughout the development. If the applicant elects to utilize the WSDOT Type II approach throughout the development additional right of way will be required. A note will be required on the face of the final plat which states:
 - 31.1 "All driveways shall be constructed using a WSDOT Type ___ driveway approach."

32. A Franchise Agreement for private utility infrastructure within Douglas County right of way shall be executed and recorded prior to issuance of a final Certificate of Occupancy for any structure. The Franchise Agreement shall be between Douglas County and the Homeowner's Association.
33. 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 infrastructure, stormwater systems, and grading have been constructed/completed in accordance with the Conditions of Approval, applicable codes, and the accepted construction plans. Monitoring shall be required as determined appropriate by the Engineer of Record and in accordance with the Road Standards, with final reports submitted to Douglas County along with the certification.
34. 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.
35. 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 shall be obtained prior to any onsite grading or prior to construction plan acceptance (whichever comes first).
36. 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.
37. 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 2019 Stormwater Management Manual for Eastern Washington (SWMMEW) shall be submitted to and accepted by Douglas County prior to construction.
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:
 - 38.1 "At the time of building permit submittal, an engineered site specific stormwater plan shall be submitted that conforms to Douglas County Code and the current edition of the Stormwater Management Manual for Eastern Washington. The Engineer of Record shall provide certification that the private on-site stormwater system has been connected to the stub provided. A Private Stormwater Operation and Maintenance Agreement, prepared with standard Douglas County forms, shall be executed and recorded with the Douglas County Auditor."
39. 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.

40. 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.
41. Prior to any on-site grading occurring or prior to construction plan acceptance (whichever comes first), a Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment Control Plan (TESC Plan) shall be submitted to and accepted by Douglas County. The SWPPP and TESC Plan shall be kept on-site at all times and updated as necessary to address and prevent sediment and sediment laden water from leaving the project site.
42. 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.
43. Registration of facilities that are regulated under the Washington State Department of Ecology's Underground Injection Control Program shall be completed prior to construction.
44. 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).
45. 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.
46. Prior to final plat acceptance, a Private Stormwater Operation and Maintenance Agreement shall be executed on standard Douglas County forms. The site plan, details, certification, and operation and maintenance recommendations are provided to the County. County staff then prepares the agreement for signature and recording by the applicant.
47. 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.
48. 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.
49. The applicant shall terminate the temporary access and utility easement (AFN # 3224530) with and upon the 2nd Street SE right-of-way dedication via the final plat.
50. Coordinate directly with Link Transit to determine if additional transit stops or any other form of mitigation is required as a result of this project. Provide written verification from Link Transit confirming that the existing facilities or proposed mitigation is adequate. Include a signature block for Link Transit on the cover sheet of the construction plans.
51. Prior to final plat approval, written verification from the Greater Wenatchee Irrigation District that the requirements of the District have been satisfied is required. These specifically include, but are not limited to:

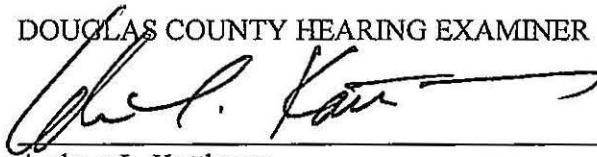
- 51.1 The requirements to show the new location of the irrigation main within 2nd Street SE and describe its associated irrigation easement on the final plat
 - 51.2 The requirement to provide an irrigation easement to each lot created by the subdivision and identify these irrigation easements on the final plat,
 - 51.3 The requirements of the District's Rules and Regulations, and
 - 51.4 The requirements listed in the District's Subdivision Requirements.
52. An infrastructure agreement between the Greater Wenatchee Irrigation District and the applicant will be required prior to beginning construction on irrigation improvements for this proposed subdivision
 53. 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.
 - 53.1 The applicant shall follow the guidelines in DCC 12.04 (road naming) for naming. Approval of final road naming is required.
 - 53.2 Final addresses will be assigned during the blue line review.
 54. With construction plan set submittal, the applicant shall provide revised open space / recreation plans and a cost estimate. A final design of the recreation spaces or agreed payment must be included with the construction drawings. Design detail such as safety fencing, active and passive recreation areas, pedestrian access (include connection to existing Tract A – Maryhill Estates Division I - to the South with clear circulation – linking to the trail), irrigation and landscaping shall be included. The open space plans must comply with EWMC 17.73 Open Space Standards.
 55. According to the Washington State Department of Ecology, the proponent shall create a site-specific Fugitive Dust Control Plan (FDCP) before starting this project, and then follow the plan for construction of the project and duration of activity on property. Control and monitoring complaints shall be reported to the Washington State Department of Ecology. Washington Administrative Code (WAC) 173-400-040 requires that reasonable precautions be taken to prevent dust from leaving the site. Also, dust is prohibited from interfering unreasonably with the use and enjoyment of property, causing health impacts, or damaging property or business. Any and all monitoring and compliance complaints shall be with the Washington State Department of Ecology.
 56. According to the Washington State Department of Ecology, the proponent shall obtain a NPDES Construction Stormwater General Permit. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. The permit also requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction. In the event that an unpermitted stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action. Any and all monitoring and compliance complaints shall be with the Washington State Department of Ecology.
 57. According to the Washington State Department of Ecology Based upon the historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. The following note shall appear on the face of the final plat:

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

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

Dated this 20th day of December, 2019.

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.