

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

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

BEFORE THE DOUGLAS COUNTY HEARING EXAMINER

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|--------------------------------|---|-------------------------------|
| IN THE MATTER OF |) | FINDINGS OF FACT, |
| |) | CONCLUSIONS OF LAW, |
| P-2017-03 |) | DECISION AND |
| Fourth Street Development, LLC |) | CONDITIONS OF APPROVAL |

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on May 17, 2018, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. The applicant is Fourth Street Development LLC, 630 Valley Mall Parkway #411, East Wenatchee WA.
2. General Description: This is an application for a 66 lot planned unit development/major subdivision. Proposed lot sizes range from 3,500 sq. ft. to 4,823 sq. ft. Lots are proposed to be served by public water and sewer.
3. Location: The subject property is located on the SE corner of 4th St. SE and S. Kansas Ave within Section 13, Township 22 N., Range 20 EWM, Douglas County, WA. The Douglas County Assessor's number is 73400010202.
4. Site Information:

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|---------------------|--------------------------------------|
| Total Project Size: | 8.15 acres |
| No. of lots | 66 (65 residential and 1 open space) |
| 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: | Frontier |
5. Site Characteristics: The site is vacant, formerly in orchard.
6. The subject property is located within the East Wenatchee Urban Growth Area.
7. The Comprehensive Plan Designation is Residential Medium.
8. The subject property is located in the R-M zoning district which allows for subdivisions as permitted uses.

9. On March 28, 2007, Douglas County adopted sections of Title 17 'Zoning' of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Boundary. The most recent update occurred on July 28, 2015 where the County adopted Ordinance TLS 15-11-31B.
10. Comments from reviewing agencies have been considered and addressed where appropriate.
11. Douglas County issued a Determination of Nonsignificance on May 3, 2018 pursuant to WAC 197-11-355 (Optional DNS).
12. 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.
13. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
14. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
15. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
16. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will be addressed prior to final plat approval.
17. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
18. The subdivision will access 4th St. SE. An emergency access is proposed to connect to Jean St. SE. All roadway improvements would be the responsibility of the developer.
19. A preliminary engineering plan (received 1/3/2018) and stormwater drainage overview (received 12/28/2017) prepared by Torrence Engineering was submitted with the application materials associated with this project. The preliminary engineering documents suggest that topography and soil conditions are suitable for the proposed development. Revised preliminary engineering was submitted on March 20, 2018.
20. Frontage Improvements are addressed in Chapter 12.50.150 Transportation System and Frontage Improvements, of the Douglas County Road Standards and EWMC. 4th Street SE is designated as an Urban Arterial. Pursuant to EWMC Figure 3-8, Urban Arterial is the applicable street standard.
21. Off-site frontage improvements are addressed in Chapter 12.50.150 Transportation System and Frontage Improvements, of the EWMC.
22. A Traffic Impact Analysis, dated December 27, 2017 prepared by Transportation Engineering NorthWest was submitted for the proposed development. A Response to Request for Additional Information from TENW was submitted on March 20, 2018 and a Clarification on Mitigation Recommendations was submitted on April 26, 2018.
23. 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.

24. RCW 58.17.110 requires that local governments make appropriate provision for the establishment of parks, open space and recreational areas at the time it considers approval of a proposed subdivision.
25. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
26. The entire Planning Staff file was admitted into the record at the public hearing.
27. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.
28. An open record public hearing after due legal notice was held on May 17, 2018.
29. Appearing and testifying on behalf of the applicant was John Torrence. Mr. Torrence testified that he was an agent authorized to appear and speak on behalf of the applicant and property owner. Mr. Torrence testified that all of the proposed conditions of approval were acceptable to the applicant and property owner.
30. The following individuals testified from the public:
 - 30.1 Brain Addleman. Mr. Addleman is President of the Summerhill Homeowner's Association which includes 80 residences. Mr. Addleman indicated that his homeowners association was not opposed to the development but wanted all Conditions of Approval being followed.
31. 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.
32. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
33. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
34. Any conclusion of law that is more correctly a finding of fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the 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 Douglas County.
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. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
8. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
9. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
10. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Douglas County Code or the Comprehensive Plan.
11. 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-2017-03 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 December 28, 2017, January 3, 2018, and March 20, 2018 except as amended by the conditions herein.
2. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. A plat certificate showing parties of interest from a title company must be submitted with the blueline drawings.
4. The final plat map 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. All improvements shall be in place prior to plat finalization or a subdivision agreement must be entered into between the applicant and the County. The subdivision agreement shall specify surety, time frames, etc. If the developer elects to enter into a subdivision improvement agreement, an appropriate financial security such as a surety bond or irrevocable standby letter of credit shall accompany said agreement in conformance with D.C.C. 14.90.
8. 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.

9. The final plat shall show the location of all easements serving or encumbering the subject property.
10. To facilitate efficient emergency response affecting public health and safety, an addressing plan shall be assigned by the Douglas County Geographic Information System Coordinator during blue line review of the final plat. Addresses for each lot shall be shown on the face of the final plat mylar prior to final plat approval.
11. The following notes shall appear on the face of the plat:
 - 11.1 Based on historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. The Washington State Department of 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 MTCA cleanup levels, the Washington State Department of Ecology recommends that potential buyers be notified of their occurrence. This note shall not be required to be placed on the final plat, if the soils are sampled by a professional with adequate credentials to verify that the site does not contain lead and arsenic and organochlorine pesticides at concentrations above the MTCA cleanup levels.
12. The location of existing utilities (i.e. power, sewer, water and irrigation lines, etc.) and utility and private access road easements shall be depicted on the face of the final plat.
13. The developer shall install all utilities in accordance with the standards and specifications of the Douglas County PUD, East Wenatchee Water District, Douglas County Sewer District #1, and Douglas County Fire Marshal. All utilities shall be located underground.
14. Written verification from the Douglas County PUD that easements and improvements have been addressed to their satisfaction, shall be required prior to final plat approval. Utility easements along roadways and through the SE corner of this division will be required.
15. Prior to final plat approval, written verification from the East Wenatchee Water District that the requirements of the District have been satisfied and certifying water availability is required.
16. Written verification from the Douglas County Fire Marshal that adequate fire protection measures meeting the International Fire Code and DCC 15.28 and International Fire Code Appendices B and C are in place. Roadways shall meet Chapter 15.24.030 Fire Apparatus Access and International Fire Code Appendix D, Fire Apparatus Access Roads for emergency access. A paved secondary egress point is required.
17. Prior to final plat approval, written verification from the Douglas County Sewer District No. 1 that the requirements of the District have been satisfied is required.
18. Prior to final plat approval, written verification from the Wenatchee Reclamation District that the requirements of the District have been satisfied is required.
19. The application proposes that a recreation tract overlay and the emergency egress route in the southeast corner of the property. The two uses are not acceptable together. The recreation space will need to be relocated to another place.
20. A more detailed design of the recreation spaces must be included with the final PRD plans and construction drawings. Design details such as safety fencing for the basketball and pickle ball courts shall be completed.
21. Prior to final plat approval the required open space shall be built/installed.

22. 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.
23. The following language must appear with the Health District signature line:
 - 23.1 “The Health District makes no representation as to the legal availability of water to this plat.”
24. Final plans designed by a professional engineer licensed in the State of Washington shall be submitted to and approved by Douglas County and the City of East Wenatchee (4th Street SE) prior to construction. Construction plans shall be prepared in accordance with the requirements of East Wenatchee Municipal Code, Douglas County Code, AASHTO Policy of Geometric Design of Highways and Streets, the current Douglas County Road Standards and East Wenatchee Road Standards (4th Street SE) as updated at the time of final plat approval and all other applicable code requirements.
25. Approval signatures from utilities and service providers, including the US Postmaster, Wenatchee Reclamation District, and Link Transit shall be acquired prior to acceptance of the plans by the County Engineer.
26. Prior to final plat approval, a 1-foot non-vehicular access easement shall be depicted along the project’s northern boundary with 4th Street SE. A note on the plat shall indicate that the 1-foot non-vehicular access easement limits access to the internal road system.
27. On-site transportation improvements associated shall include the following:
 - 27.1 The intersection of S. Kansas Avenue and 4th Street SE shall be constructed as a full width intersection in accordance with Figure 3-7b. The full width intersection shall include a minimum of 50 feet of right-of-way to accommodate a minimum of 36 feet of ACP, with curb, gutter and sidewalk on both sides.
 - 27.2 Intersections of Local Access Roads and Arterials/Collectors shall include a minimum radius at the face of the curb of 35 feet. Local Access Road intersections shall include a minimum radius of 25 feet.
 - 27.3 All internal roads shall be constructed full width road including parking both sides in accordance with the applicable standard for Urban Local Access Roads (Figure 3-7b).
 - 27.4 Concrete curb and gutter per the WSDOT Standard Plans shall be installed on all internal roads. Rolled curb is not allowed on roads dedicated to the County.
 - 27.5 Joint Use Driveways shall be utilized for each lot with zero lot line setback garages. The driveway approaches shall be shown on the construction plans.
 - 27.6 Joint use Driveways for Lots 14, 15, 16, 17, 25, 26, 27 and the open space tract shall be located in a minimum 30-foot wide easement with a minimum surfacing width of 20 feet.
 - 27.7 The designer shall identify the applicable WSDOT Standard Driveway detail to be utilized throughout the development. The sidewalk and 40-foot wide joint use driveway approaches shall be constructed to final plat approval for each phase.
 - 27.8 The design shall conform with the requirements of the International Fire Code. The applicant shall coordinate the road layout and secondary emergency vehicle access/easement requirements with the fire marshal.
 - 27.9 The applicant shall revise the layout prior to construction plan submittal to meet the minimum horizontal radii requirements in the EWMC. Alternately, the applicant can

process an alternate to code request to reduce the design speed to 20 mph. The alternate to code request shall be processed prior to construction plan submittal.

28. 4th Street SE road improvements associated with this development shall be designed, reviewed and constructed in accordance with the City of East Wenatchee requirements.
29. The traffic impact analysis identifies the need for a left turn lane at the intersection of S. Kansas Street and 4th Street SE. The left turn lane shall be installed in accordance with the City of East Wenatchee requirements. Additional right-of-way dedication and widening beyond the limits of this project may be required to accommodate the left turn lane. The applicant shall coordinate plan review and approval with the City of East Wenatchee.
30. The traffic impact analysis identified the potential need for proportionate share contribution to mitigate project related offsite impacts at the intersection of 3rd Street SE and S. Highline Dr. The applicant shall coordinate with the City of East Wenatchee and provide documentation to Douglas County prior to plat approval of Phase 1 confirming this impact is mitigated.
31. The revised preliminary plat and preliminary improvement plans indicate that the project will be constructed in 2 phases. Temporary paved cul-de-sac turnarounds will be required at the end of the public right-of-way that exceeds 150 feet in length. The turnarounds shall be placed in an easement and shall meet fire marshal and EWMC requirements. Provisions for snow storage at the end of the public right-of-way shall be provided and shall consist of a 20 foot by 30 foot parking area located in an easement. The cul-de-sac and snow storage area shall be signed NO PARKING.
32. Construction easements and permanent easements shall be acquired prior to plan approval for any proposed grading or improvements on the adjacent property to the east and south.
33. Illumination shall conform to East Wenatchee Municipal Code and Douglas County Code Section 12.57.100 *Roadway Illumination* with the exception that the City of East Wenatchee now requires LED luminaires. The applicant shall be responsible for PUD charges for connection of street lights to the transformer or hand hole.
34. Prior to final plat approval and/or release of financial security, the engineer of record shall provide written certification that the final construction plans for the internal road, utility plans, stormwater system and site grading plans have been constructed in accordance with the conditions of approval, EWMC, DCC and the approved construction plans. Monitoring shall be required as determined appropriate by the engineer and in accordance with the Douglas County Road Standards (DCC 12.56.040 & 050), with final reports submitted to Douglas County. The applicant's engineer shall notify Douglas County one (1) working day prior to scheduled inspections as required per DCC 12.56.050. Acceptance of improvements within the City right-of-way shall be the responsibility of the City of East Wenatchee. The applicant shall provide documented acceptance of the improvements from the City of East Wenatchee prior to final plat approval.
35. Prior to final plat approval, requirements for acceptance of the constructed improvements shall be met in accordance with the road standards, including Section 12.56.110 Final Acceptance and 12.56.110 Performance Assurance, B. Maintenance Performance.
36. Utility installation/replacement/upgrade within the East Wenatchee and Douglas County right-of-way, including, but not limited to 4th Street SE shall be approved by the City of East Wenatchee or Douglas County as applicable. Damage to existing roads, both public and private, resulting from construction activities (including utility extensions required to provide

necessary services to the proposed development) shall be repaired to the satisfaction of the City of East Wenatchee and Douglas County.

37. A minimum five foot utility easement is required along all lots or tracts with county road frontage in accordance with applicable road standards. The applicant shall coordinate the required width with the utility purveyors.
38. Please note that the execution of Franchise Agreements for private utilities located within the right-of-way, including but not limited to private irrigation facilities, is required concurrent with or ahead of plat approval. The process takes a minimum of 4 weeks. The applicant is responsible for irrigation and coordination of the Franchise application and is required to coordinate directly with County staff for assistance in this process.
39. Final storm water drainage plan(s) and report(s) prepared by a professional engineer licensed in the State of Washington shall be submitted to and approved by the City of East Wenatchee (4th Street SE) and Douglas County prior to construction. Construction and post-construction stormwater elements shall be addressed in accordance with EWMC, DCC and the Stormwater Management Manual for Eastern Washington (Ecology). Measures to address stormwater infiltration during frozen soil conditions shall be included. Recommendations and/or requirements contained within the final drainage analysis shall be incorporated into final project approval, including but not limited to the addition of plat notes and recording of operation and maintenance agreements and/or easements.
40. Stormwater detention facilities shall be located on separate tract or easement, under the functional control of the homeowners association with each lot having an undivided interest in the tract(s)/easement(s). The applicant shall coordinate the location of the storm drainage facilities for the 4th Street improvements with the City of East Wenatchee.
41. 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 plat.
42. Stormwater facilities shall provide for an emergency overflow and the final storm drainage report shall include a downstream analysis to ensure protection is provided to downstream properties from overflows in the event of failure of the stormwater facility.
43. The Engineer of Record shall provide as-builts and stamped certification that the stormwater system has been completed in accordance with the accepted plans, as well as applicable East Wenatchee Municipal Code, Douglas County Code and the Stormwater Management Manual for Eastern Washington.
44. Prior to final plat approval of each phase, an operation and maintenance agreement must be executed, recorded and AF# referenced on the face of the final plat regarding the private stormwater facilities. Said agreement shall be executed on standard forms approved by Douglas County. It shall be clearly noted on the face of the plat that Douglas County and the City of East Wenatchee will not maintain the private stormwater facilities (tracts/easements). The agreement shall specify the homeowners of the subdivision as having responsibility for the long-term maintenance of the private stormwater drainage system within the development. If stormwater tracts/easements serve future phases, the SW O&M9s) will need to be updated with each phase.
45. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW). Disturbed areas shall be revegetated and maintained throughout construction.

46. The applicant shall be responsible for preventing mud, dirt and debris from leaving the site, including stormwater runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
47. The disturbed area on the project site will exceed the 1 acre threshold requiring coverage under the Department of Ecology Construction Stormwater General Permit. Acquisition of permits is the responsibility of the applicant.
48. An access point for construction activities may be approved from 4th Street SE. The applicant shall coordinate the approval with the City of East Wenatchee. A stabilized construction access for the site shall be shown on the Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall be submitted and accepted prior to on-site grading taking place.
49. Preliminary approval of all phases will expire 5 years from the date of Notice of Action by the Douglas County Hearing Examiner. Final plat approval after the expiration will require the submittal of a new preliminary application and approval based on applicable documents and codes in effect at the time of re-application.

Dated this 22nd day of May, 2018.

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.