

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, AND
CUP-2018-03)	DECISION AND
Maryhill Plaza Apartments)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on July 19, 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 Sage Homes, LLC, POB 119, Wenatchee, WA 98807.
2. The property owner is Prime Properties, LLC, POB 119, Wenatchee, WA 98807.
3. The developer is Maryhill Plaza Apartments, LLC.
4. General Description: A conditional use permit (CUP) application to construct eight, three-story, 12-unit multifamily buildings, clubhouse, pickle ball court, common areas and on-site parking.
5. The two subject properties total approximately 4.4 acres in size and are zone Light-Commercial (C-L) under East Wenatchee Municipal Code.
6. The subject properties are located at the corner of Grant Road and S. Nevada Ave in the Maryhill development and are further described as being located within the NE Quarter of Section 18, Township 22N, Range 21E, W.M.
7. The Assessor’s Parcel Numbers are: 70800000300 and 70800000400.
8. The Greater East Wenatchee Area Comprehensive Plan designation is Light-Commercial (C-L)
9. EWMC 17.64.140 “Multifamily Dwellings Conditional Use” and 17.92 “Conditional Use Permits” establish minimum review criteria for multifamily dwellings proposed as a primary use.
10. EWMC 17.64 identifies that multifamily dwellings can be approved with a conditional use permit in the C-L zoning district.
11. The property is within 500 feet of a residential district and the proposed use is not unduly detrimental to the development of commercial property in the area.

12. The developer, Maryhill Plaza Apartments, LLC, entered into a development agreement with Douglas County on June 12, 2018 establishing modified parking standards and requirements for the project.
13. A preliminary site plan prepared by Sage Homes, sealed by Greg Brizendine, was received March 27, 2018 and a revised plan was received on June 6, 2018.
14. A preliminary stormwater report was received March 27, 2018 and a revised plan was received on June 6, 2018.
15. An updated traffic impact study, prepared by Transportation Engineers Northwest was received March 27, 2018.
16. The binding site plan (BSP-2017-01) includes a 60-foot wide utility and access easement that terminates with a 59-foot radius cul-de-sac. EWMC 12.52.020.B.5 requires new private streets that generate more than 160 ADT to meet the appropriate city street standards. The Traffic Impact Study estimates that 1,846 daily trips will be generated by this development served by South Nevada Court. The preliminary layout for the proposed development generally depicts the required private access drive improvements with no parking being permitted on S. Nevada Court.
17. Two access drives from the apartment complex parking area are proposed to connect to S. Nevada Court.
18. Issuance of the first building permit will be contingent upon approval of the comprehensive construction plans for the on-site and private access drive improvements by Douglas County Transportation and Stormwater.
19. A Road and Utility Easement Improvement and Maintenance Agreement for S. Nevada Court was recorded under AFN 3207957 concurrently with the Maryhill Plaza Binding Site Plan. This document obligates the Plaza Lot Owners maintain the stormwater system associated with S. Nevada Court. Maryhill Plaza BSP-2017-01 plat notes require a Private Stormwater Operation and Maintenance Agreement be prepared for the S. Nevada Court private access drive and recorded prior to occupancy.
20. Separate drainage facilities are proposed for the on-site runoff and the runoff from the private access drive. The preliminary design is based on infiltration trenches being utilized to infiltrate 100 percent of the runoff from the Type 2 100-year 24-hour storm event. The final design of the stormwater facilities may vary from the preliminary design and will be reviewed through the Building Permit process for compliance with DCC 20.34 and 20.36 and the Stormwater Management Manual for Eastern Washington.
21. The preliminary analysis appears to show that the proposed development is feasible from a stormwater management and grading perspective.
22. Comments from reviewing agencies have been considered and addressed where appropriate.
23. Douglas County issued an environmental review Determination of Non-significance on June 21, 2018 in accordance with WAC 197-11-355 (Optional DNS).
24. 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.

25. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
26. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
27. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
28. An open record public hearing after due legal notice was held on July 18, 2018.
29. The entire Planning Staff file was admitted into the record at the public hearing.
30. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
31. Appearing and testifying on behalf of the applicant was Charles Underwood. Mr. Underwood testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Underwood indicated that the applicant concurred with the staff report findings and conclusions. The applicant had no objection to any of the proposed conditions of approval.
32. The following persons testified from the public:
 - 32.1 Daryn Klinginsmith testified regarding what was located on the Southwest and/or Southeast corners of the project. Mr. Klinginsmith was advised by the Hearing Examiner that the Southwest corner indicated it was a stormwater facility.
 - 32.2 Mike Neer of Douglas County testified that on the Southeast corner is property owned by Douglas County as part of the Douglas County stormwater system.
33. 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.
34. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
35. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
36. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
37. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use will not unreasonably interfere with allowable development or use of neighboring properties.
38. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
39. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
40. 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. As conditioned, the proposal is consistent with East Wenatchee Municipal Code 17.92 conditional use permits general evaluation criteria.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 14 "Development Permit Procedures and Administration, and Title 19 "Environment" of the Douglas County Code, Title 17 "Zoning" of the East Wenatchee Municipal Code, The Greater East Wenatchee Urban Growth Area Design Standards & Guidelines and The Greater East Wenatchee Area Comprehensive Plan.
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 CUP-2018-03 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. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file submitted on March 27, 2018, April 2, 2018 and June 6, 2018 except as amended by the conditions herein.


3. The owners/operators shall be responsible to obtain and comply with any applicable federal, state, and local laws, and must obtain all necessary permits and approvals prior to operation.
4. The owners/operators shall be responsible for all regulations and provisions set forth in the Development Agreement signed between Douglas County and Maryhill Plaza, LLC dated June 12, 2018.
5. The development shall comply with the dimensional standards of the High Density Residential (R-H) zoning district established in EWMC 17.32.050, as amended.
6. A final landscaping plan shall be required with the commercial building permit application and landscaping installed prior to final occupancy.
7. All plat notes from the Binding Site Plan (BSP-2017-01; AFN 3207958) shall be complied with.
8. The applicant shall be responsible for obtaining all appropriate permits and/or approvals from the Douglas County PUD, as included in their April 18, 2018 comments.
9. The applicant shall be responsible for obtaining all appropriate permits and/or approvals from the WA State Dept. of Ecology, as included in their April 23, 2018 comments.
10. The applicant shall be responsible for obtaining all appropriate permits and/or approvals from the Douglas County Sewer District, as included in their April 19, 2018 comments.
11. The applicant shall be responsible for obtaining all appropriate permits and/or approvals from the Douglas County Transportation Dept., as included in their June 14, 2018 comments.
12. As part of the building permit review process, trees shall be located to comply with site distance requirements at the proposed driveways in compliance with EWMC 12.53.010.C.1.
13. Final plans designed by a professional engineer licensed in the State of Washington shall be submitted to and approved 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.
14. Final construction plans for the improvements require County acceptance prior to the start of construction. Approval from utility and service purveyors, including the US Postmaster, of the final construction plans shall be acquired prior to County acceptance of the plans.
15. Frontage improvements associated with the Maryhill Plaza Binding Site Plan (BSP-2017-01) conditions of approval and plat notes include construction of S. Nevada Avenue. Douglas County acceptance of the S. Nevada Avenue improvements shall be obtained prior to issuance of any certificates of occupancy.
16. The private access drive (S. Nevada Court) shall be constructed to Urban Local Access standards per Figure 3-7b within the existing easement dedicated via the Binding Site Plan BSP2017-01 (AFN 3207958). S. Nevada Court shall terminate with a 96 foot diameter cul-de-sac measured from face of curb to face of curb. The preliminary design is based on no parking being provided on S. Nevada Court. No Parking signage shall be installed on both sides of S. Nevada Court. Bonding for completion of the required improvements on private property shall not be permitted. S. Nevada Court construction shall be completed prior to issuance of any certificates of occupancy.

17. The cul-de-sac shall be signed "No Parking". The design and construction shall meet the IFC standards.
18. WSDOT Type 2 concrete driveway approaches shall be installed at the proposed access points to S. Nevada Court as shown on the preliminary plans.
19. Direct access to S. Nevada Avenue from the project site will not be permitted in accordance with the BSP-2017-01 (AFN 3207958) plat notes.
20. Issuance of the first building permit will be contingent upon approval of the comprehensive construction plans for the on-site and private access drive improvements by Douglas County Transportation and Stormwater.
21. Internal circulation shall be coordinated with and approved by the Fire Marshal.
22. Illumination shall conform to East Wenatchee Municipal Code and Douglas County Code Section 12.57.100 Roadway Illumination and follow Douglas County PUD Standards. The applicant shall be responsible for PUD charges for connection of street lights to the transformer or hand hole. Street lights shall be LED rather than HPS. The type of luminaire shall be coordinated with Douglas County during the building permit review process.
23. Prior to issuance of any final certificates of occupancy and acceptance of the roadway improvements, the Engineer of Record shall provide written certification that all improvements have been constructed in accordance with the conditions of approval, Douglas County Code, East Wenatchee Municipal code, and the approved construction plans. Monitoring/inspection shall be required by the engineer in accordance with the Douglas County Road Standards and East Wenatchee Municipal Code. Issuance of temporary certificates of occupancy may be acceptable prior to completion of all on-site improvements contingent upon Douglas County Transportation and Land Services, Fire Marshal, utility purveyor, and service provider approval. S. Nevada Court and S. Nevada Avenue improvements shall be completed and accepted prior to issuance of any temporary or final certificates of occupancy.
24. Utility installation/replacement/upgrade within the Douglas County right-of-way shall be approved by Douglas County. 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 Douglas County.
25. A final stormwater drainage plan and report prepared by a professional engineer licensed in the State of Washington shall be submitted to and approved by Douglas County prior to construction. Construction and Post-construction stormwater elements shall be addressed in accordance with Douglas County Code and the Stormwater Management Manual for Eastern Washington (SWMMEW).
26. Provisions to provide access for inspection and maintenance to the stormwater facilities shall be addressed within the design plans and report.
27. Stormwater facilities shall be designed to accommodate runoff from on-site and private roadway improvements.
28. Stormwater infiltration surface shall be in undisturbed native material. The design infiltration rate shall be based on on-site infiltration testing completed in accordance with the SWMMEW.

29. The Engineer of Record shall provide as-builts and stamped certification that the system has been completed in accordance with the accepted plans, as well as the Douglas County Code and the Stormwater Management Manual for Eastern Washington.
30. Prior to final construction acceptance and prior to issuance of any final certificates of occupancy, separate private stormwater operation and maintenance agreements for S. Nevada Court and the on-site stormwater facilities shall be executed and recorded. Said agreements shall be executed on standard forms prepared by Douglas County. The agreements shall specify the owner of the property as having responsibility for the long-term maintenance of the private stormwater drainage system within the development.
31. Erosion control measures shall be designed in accordance with the SWMMEW. Disturbed areas shall be re-vegetated and maintained throughout construction.
32. A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared in accordance with the SWMMEW guidelines and submitted and accepted prior building permit approval. Best Management Practices shall be implemented and maintained throughout construction.
33. 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.
34. At issuance of a development permit, the parcel shall be subject to the Greater East Wenatchee Stormwater Utility annual service charge. The charge is based upon the total square feet of impervious surface on the site. Sites that have a site-specific private system, with a recorded operation and maintenance agreement, and who have maintained their system as required are eligible for a reduction in the annual service charge.
35. Individual / common plan development for this proposal exceeds 1 acre of disturbed ground. This meets the threshold used by the Washington State Department of Ecology in administering their General Permit to Discharge Stormwater Associated with Construction Activity. If required, the permit shall be obtained prior to beginning groundbreaking activities. Acquisition of this permit is the responsibility of the applicant.
36. In the event cultural sites or isolated finds are identified during operations, work in the immediate vicinity shall be halted until the site or find can be evaluated by a qualified archaeologist and applicable state and tribal entities can be consulted.
37. The conditional use permit shall expire at the end of one year from the time it is granted if the project is not substantially established by that time.

Dated this 23rd day of July, 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.