

**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-2018-01	)	<b>DECISION AND</b>
Leisure Estates	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on August 16, 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 John Torrence, PE, Torrence Engineering, 6377 Kimber Road, Cashmere, WA.
2. The property owners are Bonnie & Rod Jacobs, 2091 8<sup>th</sup> St. SE, East Wenatchee, WA 98802.
3. General Description: A major subdivision of two parcels totaling 4.38 acres zoned Low Residential (R-L). The proposed subdivision would consist of 14 lots, sized from 8,000 square feet to one-half acre, and a tract for storm drainage. The project is proposed to be served by public water and sewer.
4. Location: The subject properties are located at the corner of 8<sup>th</sup> Street SE and S. Mary Avenue near East Wenatchee and are further described as being located within the SW Quarter of Section 18, Township 22N, Range 21E, W.M. The Assessor's Parcel Numbers are: 56100400401 and 56100400402.
5. Site Information:

Total Project Size:	4.38 acres
No. of lots	14
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

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6. Site Characteristics: The subject property is characterized as sloping from the northeast to the southwest with orchard grass remaining; the orchard has been removed. A single family home and garage/shop are present on the .75 acre lot; parcel number 56100400402.
7. Surrounding Properties:
  - North: Single Family housing and agriculture
  - South: Single family homes
  - East: Single family homes and agriculture
  - 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 (R-L).
11. The subject properties are located in the 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 that residential lots not on a cul-de-sac shall have a minimum of 40 feet of contiguous frontage.
14. RCW 58.17.110 requires that local governments make appropriate provisions for the establishment of parks, open space and recreational areas at the time it considers approval of a proposed subdivision.
15. An Alternate to Code request was received by the Douglas County Transportation Department. The EWMC requires private access drives serving more than 4 lots to meet City road standards. The applicable road standard is an Urban Local Access per Figure 3-7A. On behalf of the property owner, Torrence Engineering, LLC, submitted an alternate to code request to allow access for up to 7 lots via a 30-foot wide access easement with a surfacing width of 20 feet. The request included provisions for a fire apparatus turnaround to be designed and built in accordance with the Fire Marshal requirements. The County Engineer approved the request on May 17, 2017.
16. The preliminary plat includes 14 single-family residential lots proposed to be constructed in 2 phases. Phase 1 includes Lots 1 through 8 served via an extension of Legacy Place SE. The extension of Legacy Place SE is proposed to terminate in a temporary cul-de-sac. The removal of temporary cul-de-sacs on private property in a subdivision with homes constructed is not acceptable. Construction plans and final plat shall include a 48-foot radius (face of curb to face of curb) permanent cul-de-sac with a minimum 55-foot radius right of way.
17. Phase 2 includes lots 9-14 accessed from 8th Street SE via a 20-foot wide private drive in a 30-foot easement in accordance with the alternate to code request approved by the County Engineer on May 17, 2017. The storm drainage tract and right of way dedication on 8th Street SE shall be included with Phase 1. The existing access to the home on proposed lot 10 shall be eliminated and frontage improvements shall be constructed as part of the Phase 2 plat.

18. The Preliminary Engineering Plans prepared by Torrence Engineering include the Phase 1 Legacy Place SE extension, the Phase 2 private driveway, and the Phase 2 frontage improvements on 8th Street SE.
19. The Legacy Place SE improvements shall be designed and constructed in accordance with Fig 3-7b, generally as depicted on the preliminary plans. Fig 3-7b requires a 36-foot face of curb to face of curb roadway width. As noted previously, the cul-de-sac shall be constructed as a permanent improvement with curb, gutter, and a 5-foot wide sidewalk, within dedicated right of way generally as depicted on page 2. Snow storage shall be required on the easternmost 20 feet of the roadway.
20. 8th Street SE improvements include half street improvements in accordance with Fig 3-8 to provide 30 feet of right of way from centerline, 22 feet of pavement from centerline, curb, gutter, and a 6-foot wide sidewalk.
21. The private access drive improvements serving lots 9-14 include a 20-foot wide BST surface within a 30 foot wide access easement. The preliminary plans include a fire apparatus turnaround on Lot 10. The layout is subject to fire marshal approval. The improvements are laid out in general accordance with the County Engineer approved alternate to code request.
22. Stormwater management improvements include an underground infiltration trench located in the southwest corner of lot 12. The infiltration trench preliminary design will mitigate impacts from the proposed onsite private drive, the Legacy Place SE extension, 8th Street SE, and all lots within the subdivision.
23. The proposed storm water design consists of collecting runoff from the roadway and lots with conveyance to a storm drainage infiltration trench to be located in a tract in the southwest corner of the plat. The sizing of the trench is currently based on an assumed infiltration rate of 10 inches per hour. The general concept and calculations in the preliminary analysis indicate that the site is suitable for the proposed development from a storm drainage perspective.
24. Preliminary Engineering Plans were prepared by Torrence Engineering, LLC, and were received April 12, 2018.
25. A Preliminary Stormwater Drainage Overview prepared by Torrence Engineering, LLC, was received April 12, 2017.
26. The subject property is located within a wellhead protection area for the Kentucky Street Wellfield and thus is subject to and must comply with Douglas County Code 19.18E Aquifer Recharge Areas.
27. In order to meet the state requirements for Enhanced 911 service, all lots within this plat will be addressed prior to final plat approval.
28. Comments from reviewing agencies have been considered and addressed where appropriate.
29. Douglas County issued a Determination of Non-Significance on August 1, 2018 pursuant to WAC 197-11-355 (Optional DNS).
30. 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.

31. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
32. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
33. The Eastmont School District #206 has determined that adequate school related facilities exist to accommodate increased student enrollment associated with increased residential development.
34. Section 17.24.150 of the Douglas County Code requires that every subdivision must be served by a water supply system approved and installed to meet the requirements and standards of the Chelan Douglas Health District.
35. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
36. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
37. An open record public hearing after due legal notice was held on August 16, 2018.
38. The entire Planning Staff file was admitted into the record at the public hearing.
39. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.
40. 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 property owner. Mr. Torrence testified that the Applicant concurred with all representations set forth in the staff report and had no objection to any of the proposed conditions of approval. Mr. Torrence also testified that each and every lot proposed to be created by this plat has sufficient buildable area for the construction of a single family residence and accessory structures such as a garage, without the need for a variance.
41. No member of the public testified at the hearing.
42. 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.
43. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
44. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
45. 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. 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. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
12. 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-2018-01 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. 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 of file dated April 12, 2018 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. A plat certificate showing parties of interest from a title company must be submitted with the blueline drawings.
5. 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.
6. All parties having an ownership interest in the subject property shall acknowledge the plat.

7. 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.
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. Contact Todd Wilson at 509-884-7173 prior to blue line submittal to select an appropriate road name for the private access. Addresses for each lot must be shown on the face of the final plat Mylar prior to final plat approval.
11. All lots must have a minimum of 40 feet of contiguous frontage.
12. All lots must have a minimum width at the building line of 50 feet. Corner lots must have a minimum width at the building line of 60 feet except as provided in EWMC 17. 72.020(D).
13. A more detailed design of the recreation/open space must be included with the final plans and construction drawings (Bluelines) and shall be consistent with EWMC 17.73 Open Space Standards.
14. Prior to final plat approval, the required open space shall be built/installed and shall be consistent with EWMC 17.73 Open Space Standards.
15. An adequate building envelope for each lot must be established outside of all applicable setbacks and easements and must be shown on the blue line drawing.
16. 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.
17. 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, and Douglas County Fire District #2.
18. 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.
19. Prior to final plat approval Douglas County PUD shall provide written verification that the District requirements to provide power to the project has been met. District requirements are included in their May 3, 2018 comments and are included in Attachment A.
20. Prior to final plat approval written verification shall be provided from the East Wenatchee Water District that District requirements have been met and that adequate water is provided to all lots within the project. District requirements are included in their May 16, 2018 comments and are included in Attachment A.
21. Prior to final plat approval, written verification from the Douglas County Sewer District that the requirements of the District have been satisfied and certifying sewer availability is required.

District requirements are included in their May 14, 2018 comments and are included in Attachment A.

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:
  - “The Health District has not reviewed the legal availability of water to this development.”
24. Prior to final plat approval, written verification from the Douglas County Fire Marshal that the requirements of Douglas County Fire District #2 have been satisfied is required.
25. 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 East Wenatchee Municipal Code and Douglas County Code, AASHTO Policy on Geometric Design of Highways and Streets, the current Douglas County Road Standards and East Wenatchee Municipal Code, and other applicable code requirements.
26. Approval signatures from utilities and service purveyors, including the US Postmaster, Irrigation District, and Link Transit (as applicable) shall be acquired prior to acceptance of the plans by the County Engineer.
27. The applicant shall coordinate with and provide documentation from Link Transit defining the required transit stop improvements, if any, required in association with the proposed development.
28. Prior to final plat approval, a 1-foot non-vehicular access easement shall be depicted along the Lot 10 and 14 eastern boundary, along the eastern edge of the Legacy Place SE extension, and on the southern boundary of lots 12, 13, & 14. The plat note for the non-vehicular easement at the eastern end of Legacy Place SE shall include a provision that it will be extinguished upon future extension of Legacy Place SE. A note on the plat shall indicate that the 1-foot non-vehicular access easement limits access to Lots 9-14 to the internal private driveway.
29. The existing driveway from 8th Street SE serving the existing home on lot 10 shall be removed as part of the phase 2 improvements.
30. On-site transportation improvements shall include the following:
  - 30.1 Legacy Place SE extension shall be constructed as a full width road including parking both sides in accordance with the applicable standard for Urban Local Access Roads (Figure 3- 7b). The right of way width shall be increased as necessary to accommodate Type 2 WSDOT driveway approaches if Type 2 approaches are proposed.
  - 30.2 The cul-de-sac shall be constructed as a permanent feature on the eastern end of the Legacy Place SE extension with curb, gutter, illumination, and a 5-foot sidewalk. The diameter of the cul-de-sac shall be 48 feet from face of curb to face of curb and the right of way shall be a minimum of 55 feet. The right of way width shall be increased as necessary to accommodate Type 2 WSDOT driveway approaches if Type 2 approaches are proposed.

30.3 Snow storage shall be provided at the eastern 20 feet of the Legacy Place SE extension. No parking signage shall be installed in the cul-de-sac and at the snow storage area. WSDOT Type 3 barricades shall be installed at the eastern end of Legacy Place SE.

30.4 Lots 9-14 shall be served by a joint use driveway constructed in accordance with the EWMC modified per the alternate to code request approved by the County Engineer on May 17, 2018.

30.5 The designer shall identify the applicable WSDOT Standard Driveway detail to be utilized throughout the development.

30.6 The design shall conform with the requirements of the IFC. The applicant shall coordinate the road layout, turnaround, and emergency vehicle access/easement requirements with the Fire Marshal.

31. Frontage improvements are addressed in Chapter 12.50.150 Transportation System and Frontage Improvements, of the Douglas County Road Standards and EWMC. 8th Street SE is designated as an Urban Collector. EWMC Figure 3-8, Urban Collector Roadway is the applicable road standard. Right of way dedication to provide a minimum of 30 feet from centerline shall be completed as part of the Phase 1 plat. Construction of the 8th Street SE improvements shall be completed prior to approval of the Phase 2 plat.
32. 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.
33. 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 systems, and site grading plans have been constructed in accordance with the conditions of approval, Douglas County Code, EWMC, 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), East Wenatchee Municipal Code and with final testing and inspection reports submitted to Douglas County. The applicants engineer shall notify Douglas County one (1) working day prior to scheduled inspections as required per DCC 12.56.050.
34. 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 12.50.110 Performance Assurance, B. Maintenance Performance.
35. Utility installation/replacement/upgrade within the East Wenatchee and Douglas County right-of-way, including but not limited to 8th Street SE and Legacy Place SE 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.
36. Minimum five foot utility easements are required along all lots or tracts with county road frontage in accordance with applicable road standards. The applicant shall coordinate the required easement width with the utility purveyors.

37. 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 5 weeks. The applicant is responsible for initiation and coordination of the Franchise application and is required to coordinate directly with County staff for assistance in this process.
38. 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 Douglas County prior to construction. Construction and Post-construction stormwater elements shall be addressed in accordance with the Douglas County Code and the Stormwater Management Manual for Eastern Washington (Ecology.) 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.
39. Stormwater retention facilities shall be located on a separate tract, under the functional control of the homeowners association with each lot having an undivided interest in the tract(s).
40. Provisions to provide access for inspection and maintenance to the stormwater tract shall be addressed within the design plans, report and on the face of the plat.
41. The storm drainage system shall be designed and constructed to mitigate impacts for both the Phase 1 and Phase 2 improvements.
42. In place infiltration testing shall be performed in the location of the proposed infiltration facility and included in the storm drainage report.
43. Construction plans shall include measures to protect the infiltration facility from sediment laden runoff during construction of both phases.
44. The final plat shall include easements for the storm drainage conveyance systems located on private property.
45. Stormwater facilities provide 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.
46. 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 Douglas County Code and the Stormwater Management Manual for Eastern Washington.
47. Prior to final plat approval, an operation and maintenance agreement shall be executed, recorded and the Auditor's File Number 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 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 serving the development. If stormwater tracts/easements serve future phases, the SW O&M(s) will need to be updated with each phase.
48. The final plat shall include notes requiring design of the storm drainage connections from the downspouts to the storm drainage stubs at the time of building permit submittal. The notes shall

include a requirement for engineer's certification and as-builts prior to issuance of the final certificate of occupancy.

49. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW).
50. 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 the permit, if necessary, is the responsibility of the applicant.
51. An access point for construction activities may be approved from 8th Street SE and/or Legacy Place SE. The applicant shall coordinate the approval with Douglas County. A stabilized construction access for the site shall be included on the Stormwater Pollution Prevention Plan (SWPPP).
52. The SWPPP (narrative and erosion control plan) shall be prepared in accordance with the SWMMEW guidelines and submitted/accepted by Douglas County prior to on-site grading taking place.
53. 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.
54. The following note shall appear on the face of the 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 17th day of August, 2018.

DOUGLAS COUNTY HEARING EXAMINER



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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.