

**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>
	)	<b>DECISION AND CONDITIONS OF</b>
P 2017-02	)	<b>APPROVAL</b>
C&C Investment Properties, LLC	)	

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on March 15, 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 C&C Investments Properties LLC, PO Box 2874, Wenatchee WA.
2. General Description: An application for a 30 lot planned unit development/major subdivision. Proposed lot sizes range from 2,722 sq. ft. to 4,295 sq. ft. Lots are proposed to be served by public water and sewer.
3. Location: The subject property is located on the west side of Cascade Ave. within Govt Lot 9, Section 34, Township 23 N., Range 20 EWM, Douglas County, WA. The Douglas County Assessors Number is 23203440003.
4. Site Information:

Total Project Size:	3.52 acres.
No. of lots	30.
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. 0
5. Site Characteristics: The site is primarily vacant. An abandoned single family residence is present on the property.
6. The subject property is located within the East Wenatchee Urban Growth Area.
7. The Comprehensive Plan Designation is Waterfront Mixed Use.

8. The subject property is located in the WMU 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 February 22, 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. On April 18, 2017, Douglas County adopted Ordinance No. TLS 17-05-16 which established an Interim Official Control regarding requirements for open space. This application is vested under that interim official control.
18. A request for deviation from road standards was submitted on October 17, 2017 for the proposed private roadway. The County Engineer has reviewed and accepted the requested deviation. The two items deviating from the road standards include:
  - 18.1 42 foot centerline radius on the internal private access road labeled B-Line.
  - 18.2 Private road access location to NW Cascade Avenue being 73 feet south of the existing 21<sup>st</sup> Street NW intersection.
19. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
20. The subdivision will access NW Cascade Ave. via a new private road. All roadway improvements would be the responsibility of the developer.
21. A preliminary construction plan (received 10/17/2017) and stormwater report (received 10/17/2017) prepared by Ed Zontek, PE of Zontek 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.
22. Frontage Improvements are addressed in Chapter 12.50.150 *Transportation System and Frontage Improvements*, of the EWMC. NW Cascade Ave. is designated as an Urban Arterial. Figure 3-8, Urban Arterial is the applicable street standard.

23. A Traffic Impact Analysis, dated April 14, 2017 prepared by Transportation Engineering NorthWest was submitted for the proposed development.
24. A preliminary stormwater analysis and plans, dated revised September 2017 prepared by Ed Zontek, PE was submitted for the proposed development. Developed runoff from the design storm will be retained and infiltrated on-site. During design of the transportation improvements, both on-site and off-site frontage improvements, provisions to address stormwater will be addressed in the final design report.
25. 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.
26. 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.
27. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
28. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
29. An open record public hearing after due legal notice was held on March 15, 2018.
30. The entire Planning Staff file was admitted into the record at the public hearing.
31. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended Conditions of Approval.
32. Appearing and testifying on behalf of the applicant was Ed Zontek. Mr. Zontek testified that he was an agent authorized to appear and speak on behalf of the property owner. Mr. Zontek indicated that proposed Condition of Approval number 23, second bullet, incorrectly stated a 29 foot width instead of a 28 foot width. All other Conditions of Approval were acceptable.
33. Staff indicated that the 29 foot number was a typographical error and that the correct number would be 28.
34. No member of the public testified at the hearing.
35. 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.
36. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by Conditions of Approval.
37. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
38. 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. 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 2017-02 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 May 9, 2017, October 17, 2017, and January 18, 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 blue-line 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. 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.
9. 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.
10. The final plat shall show the location of all easements serving or encumbering the subject property.
11. 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.
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.
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.
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. Concurrent with the submittal of the engineering plans for approval a landscape/recreation plan from a landscape architect shall be submitted that coordinates the requirements for stormwater retention with the requirements for the provision of open space.
19. Prior to final plat approval the required open space shall be built/installed.

20. 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.
21. The following language must appear with the Health District signature line:
  - 21.1 “The Health District makes no representation as to the legal availability of water to this plat.”
22. Final plans for transportation improvements 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, Douglas County Code, and all other applicable code requirements.
23. Final design plans for the improvements require County acceptance prior to the start of construction.
24. Road improvements associated with this development shall include:
  - 24.1 Half street frontage improvements to NW Cascade Ave in accordance with Figure 3-8, Urban Arterial (35 feet right-of-way from center line of right-of-way).
  - 24.2 The internal roadway (A Line & B Line) shall be a 28 foot wide street in accordance with Figure 3-7b, Urban Local Access Street (no parking and sidewalk on one side only). The minimum tract width for the internal road shall be 35 feet as shown on the preliminary plan set. Parking will be allowed as shown on the preliminary plan set along A-Line from approximate station 4+30 to 5+00.
  - 24.3 No Parking signs shall be installed on A-Line and B-Line with the exception of A-Line from approximate station 4+30 to 5+00.
  - 24.4 A-Line and B-Line shall be posted with 10 MPH speed limit signs.
  - 24.5 A 1-ft non-vehicular access easement shall be shown on the construction plans and final plat along NW Cascade Ave (Lots 1, 27, 29, 29, and 30) and along the A-Line and B-Line adjacent to the Storm Tract (except for location of proposed pond access). Note(s) shall be included on the face of the plat to indicate to no access along these areas shall be permitted.
  - 24.6 Specific lots have limitations associated with access which shall be addressed as follows:
    - 24.6.1 Access to Lot 1 shall be located as far west as possible from NW Cascade Avenue to minimize conflicts at the intersection.
    - 24.6.2 Access to Lot 30 shall be on B-Line and be located as far south as possible to minimize conflicts at the intersection.
    - 24.6.3 Access to Lots 11, 15, 16 and 20 shall be located as far from the end of the curb return as possible to minimize conflicts.
    - 24.6.4 Lots 27 and 28 shall be accessed via a minimum 20 foot wide access easement with a minimum paved width of 15 feet.
  - 24.7 All driveways, curb cuts, and sidewalks shall be shown on the construction plans and constructed prior to plat approval.
  - 24.8 Deviations to the county road standards as described in the letter from Ed Zontek, received 10/17/2017, have been accepted by the County Engineer contingent upon the internal road being private and posted at a 10 mph speed limit. A plat note is to include and state that the private road on this plat will not be eligible for dedication as Douglas County or East Wenatchee right-of-way.

- 24.9 A private roadway operation and maintenance agreement shall be prepared, executed and recorded with the Auditor's File Number referenced on the final plat.
- 24.10 New or revised driveways and accesses onto a County Road via the private drive (including temporary or construction accesses) require an approved access permit as per the procedures in DCC 12.24, Approaches to County Roads.
25. Illumination shall be designed and installed consistent with 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.
26. The location of cluster mailbox units for the subdivision shall be shown on the construction plans. A pull out/turn out shall be provided if the mail box cluster is located on NW Cascade Avenue. Location to be approved by the County Engineer and USPS Postmaster prior to plan acceptance. Additional right of way may be required.
27. Prior to final plat approval and/or release of financial security, the engineer of record shall provide written certification that the final construction of the frontage improvements, internal roads, utility plans, stormwater systems 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, with final reports submitted to Douglas County along with the certification.
28. Final acceptance shall be processed in accordance with 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 approval.
29. Utility installation/replacement/upgrade within the Douglas County right-of-way, including, but not limited to NW Cascade Avenue 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. The extent of the repair and/or replacement will be determined during construction plan review and during field inspection of the proposed work within the right-of-way. Repairs shall be completed prior to final plat approval. Repair of existing road surfaces may include overlays of the existing road surface due to the construction activities. Existing moratoriums on public roads may limit utility work to boring or pushing. DCC 12.20.060 *Specific Requirements – Underground Utilities*.
30. A minimum five foot utility easement is required along all lots or tracts with county road or private road frontage in accordance with applicable road standards. The applicant shall verify the minimum width requirements with the Douglas County PUD.
31. The drywell on Lot 1 shall be eliminated, located on a separate tract, or located within dedicated right-of-way. The drainage easement and stormwater conveyance system proposed along the south edge of lots 21-27 shall be a minimum 15 feet wide and include provisions to allow access for maintenance of the system. The easement language shall include provisions for gates wide enough for construction equipment (12' minimum), surfacing requirements, limitations on allowable uses, maintenance requirements, and restoration requirements should maintenance be required.

32. A suggested revision to the design includes conveying runoff from CB 19 to CB 8 along with a connection to convey stormwater from CB 6 to CB 18. The pipe from CB 5 would need to be revised to slope from CB 5 to CB 6. This would eliminate the need for the drywell and also eliminate the need for a conveyance system on the south side of lots 21-27.
33. A final storm water 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 EWMC, DCC and the Stormwater Management Manual for Eastern Washington (Ecology). Measures to address stormwater infiltration during frozen soil conditions shall be included, including provisions for overflow in extreme weather conditions. The stormwater plan shall have supporting calculations and final "as-built" drawings shall be delivered to Douglas County prior to final plat approval. Modifications to the system during construction shall be analyzed by the engineer and the results provided to the County to demonstrate the constructed stormwater facilities meet the conditions of approval, including but not limited to the addition of plat notes and recording of operation and maintenance agreements and/or easements.
34. The project is located in the Wellhead Protection Zone and shall comply with the requirements of DCC 19.18E.
35. Registration of facilities regulated under the Washington State Department of Ecology Underground Injection Control Program shall be completed PRIOR to construction.
36. Stormwater detention facilities shall be located on separate tract, under the functional control of the homeowners association with each lot having an undivided interest in the tract(s).
37. 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.
38. Based on the preliminary plans (received 10/17/2017), the following notes shall be placed on the face of the plat:
  - 38.1 An engineered stormwater plan shall be submitted at the time of building permit submittal for all lots with stormwater stubs. The stormwater plan design shall include roof drain pipe sizes, inverts, and slopes for the connection from the roof drains to the stormwater stub.
  - 38.2 Prior to issuance of the certificate of occupancy, the engineer shall submit a certification letter and record drawing to verify the stubs are installed in accordance with the engineered plan.
  - 38.3 Prior to the certificate of occupancy, a stormwater operation and maintenance agreement prepared on Douglas County standard forms shall be executed and recorded.
39. During construction, the Engineer shall visually observe the bottom of the infiltration system to confirm that the design rate utilized is appropriate. Any modifications to the design as a result of the visual observations shall be submitted to Douglas County for review and acceptance prior to construction.
40. The Engineer of Record shall provide 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.

41. Prior to final plat approval, 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 will not maintain the private stormwater facilities (tracts). 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.
42. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW). Best Management Practices shall be employed to prevent runoff from flowing over site slopes. Disturbed areas shall be revegetated and maintained throughout construction. Final grading shall incorporate permanent erosion control measures that route stormwater runoff away from site slopes and directs the collected water to appropriate discharge locations.
43. 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.
44. Individual/common plan of 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 permits is the responsibility of the applicant.
45. 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.
46. Preliminary approval 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 19<sup>th</sup> day of March, 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.