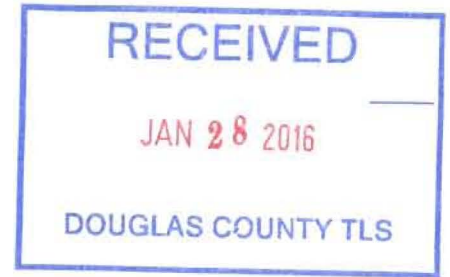


DOUGLAS COUNTY
DEPARTMENT OF HEARING EXAMINER
140 19th Street NW
East Wenatchee, WAS 98802-4109



BEFORE THE DOUGLAS COUNTY HEARING EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P-15-01)	DECISION AND
Enchanted View)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on January 21, 2016, 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 applicants are Ackerman Construction, 2740 8th St SE, East Wenatchee WA and Corey Davis, 1969 6th St SE East Wenatchee WA.
2. General Description: A major subdivision application for a 27 lot subdivision. Proposed lot sizes range from 7,000 square feet to 12,309 square feet. Average lot size is 8,920 square feet. The project is proposed to be served by public water and sewer.
3. Location: The subject property is located at on the south side of 4th Street SE across from the intersection of S. Mary Ave and 4th St. SE. The property is further described as being located within the Section 18, Township 22N, Range 21 E.W.M. in Douglas County WA. The Douglas County Assessors Parcel Number is 56100100102.
4. Site Information:

Total Project Size:	7.79 acres
No. of lots	27
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 subject property was formerly an orchard. The trees have been removed and it is currently vacant.
6. The subject property is located within the East Wenatchee Urban Growth Area.

7. The Comprehensive Plan Designation is Low Residential.
8. The subject property is located in the R-L 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. RCW 58.17.110(2) requires that appropriate and adequate provisions be made for streets or roads, alleys or other public ways.
11. The subdivision will access 4th street SE on the north. S Lynn will enter the property and cul-de-sac. S. Mason and S. Mary streets will extend from the south through the property to connect to 4th Street.
12. Frontage Improvements are addressed in Chapter 12.50.150 *Transportation System and Frontage Improvements*, of the East Wenatchee Comprehensive Street Standards. 4ths Street SE is designated as a Urban Arterial. East Wenatchee Municipal Code Street Standard, Figure 3-8, Urban Arterial is the applicable street standard. S Lynn Ave, S. Mason Ave and S Mary Ave are designated as Urban Local Access Street. East Wenatchee Municipal Code Street Standard Figure 3-7b is the applicable street standard.
13. Section 17.04.040(A), D.C.C., authorizes dedications of right-of-way and improvements to the area directly affected by the development.
14. A Traffic Impact Analysis, dated February 16, 2015, prepared by Transportation Engineering NorthWest was submitted for the proposed development.
15. A Preliminary Stormwater Drainage Report, dated February 2015, prepared by Ed Zontek, PE, was submitted for the proposed development.
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. Comments from reviewing agencies have been considered and addressed where appropriate.
18. The following submitted written comment regarding the proposal during the comment period:
 - David Lane, 530 S. Lynn Ave, East Wenatchee WA
 - Hugh Theiler, 500 S Lynn Ave, East Wenatchee WA
 - Dean & Susan Windsor, 2110 4th St SE, East Wenatchee WA
19. Douglas County issued a Determination of Nonsignificance on January 8, 2016 pursuant to WAC 197-11-355 (Optional DNS).

20. 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.
21. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
22. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
23. The Eastmont School District #206 has determined that the District has adequate school related facilities to support the proposal.
24. 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.
25. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
26. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
27. An open record public hearing after due legal notice was held on January 21, 2016.
28. The entire Planning Staff file was admitted into the record at the public hearing.
29. The Douglas County Department of Land Services recommended approval of this preliminary plat, subject to the recommended conditions of approval.
30. Appearing and testifying on behalf of the applicant were Ed Zontek and Norm Nelson. Mr. Zontek and Mr. Nelson both testified that they were agents authorized to appear and speak on behalf of the property owners and applicant. Mr. Zontek testified that all of the proposed Conditions of Approval were acceptable. He further testified that no variance would be required for the development of a lot for residential use with normal accessory structures. Further testimony was provided about the street improvements that will be required. Mr. Nelson testified about the easement existing between Fourth and Fifth Streets. He testified his understanding was that new easement was just to benefit lot 1 of the adjacent subdivision. The intent was not to allow public access through this easement area. Mr. Nelson also testified that all irrigation improvements and expenses related to this development were going to be paid for by the applicant.
31. Douglas County Transportation Engineer, Shelly Peterson, stated that it was her understanding that the easement being created through the applicant's property was to be available for use by all users of the easement on the adjacent property.
32. Testifying from the public was Hugh Theiler. Mr. Theiler testified regarding his understanding of the easement issue and his desire that all users of the easement on the adjacent property be

able to use this new easement area for ingress and egress. Mr. Theiler also testified regarding irrigation costs and expenses and his concern that these costs and expenses may be passed along to the other users of this irrigation water delivery system.

33. Mr. Theiler submitted what was admitted as Exhibit 2 to the hearing. This is a copy of survey documents from the adjacent property with Mr. Theiler's handwritten notations written on the document.
33. Supplemental materials were submitted by Staff at the hearing, including Exhibit 1 Memorandum from Jennifer Lange, PE to Curtis Lillquist.
34. 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.
35. The proposed use will not cause significant adverse impacts on the human or natural environments 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. 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-15-01, 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 February 23, 2015, March 31, 2015, and December 10, 2015 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. The following notes shall appear on the face of the plat:
 - 9.1 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.
 - 9.2 Each lot within the subdivision shall have an equal and undivided interest of the Stormwater Tract. The Stormwater Tract is to be restricted to stormwater uses and shall be controlled, operated and maintained by the Homeowners Association.
 - 9.3 A Stormwater Operation and Maintenance Agreement has been filed under Auditors File Number _____.
 - 9.4 Douglas County has the right to access the Stormwater Tract and the subdivisions stormwater system, including easements for inspection and enforcement of all stormwater requirements.
10. 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.
11. The final plat shall show the location of all easements serving or encumbering the subject property.
12. 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.
13. 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.
14. 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, Wenatchee Reclamation District and Douglas County Fire Marshal. All utilities shall be located underground.
17. 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.

18. 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.
19. Prior to final plat approval, written verification from the Wenatchee Reclamation District that the requirements of the District have been satisfied is required.
20. 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.
21. 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.
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:
 - 21.2 "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 and Douglas County Code Chapters 12, 17 and 18, and the AASHTO Policy on Geometric Design of Highways and Streets, in accordance with the current Douglas County Road Standards as updated at the time of final plat approval, and other applicable code requirements.
23. Final design plans for the improvements in public rights-of-way and affecting existing public facilities require County acceptance prior to the start of construction.
24. 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 access is limited to the internal road system.
25. A 1-foot non-vehicular access easement shall be depicted along the eastern right-of-way dedication (C-line AKA S. Mary Ave.) south of the driveway provided for parcel #22211840021 (Windsor), noting that access shall not be permitted until the full right-of-way and associated improvements have been dedicated and constructed. A physical barrier, temporary in nature shall be provided to prevent unauthorized access.
26. A 1-foot non-vehicular access easement shall be depicted along the western right-of-way dedication (A-line aka S. Lynn Ave.), noting that access shall not be permitted until the full right-of-way and associated improvements have been dedicated and constructed. A physical barrier, temporary in nature shall be provided to prevent unauthorized access.

27. Road improvements associated with this development shall include:
- 27.1 Half street frontage improvements to 4th Street SE in accordance with Figure 3-8, UrbanArterial (35 feet minimum right-of-way centered on 4th Street SE). Construction of improvements or execution of Deferred Improvement Agreement (DIA) prior to final plat approval. Acceptance of a deferred improvement agreement is dependent upon identification and acceptance of locations for various elements, including but not limited to a mailbox cluster box. PRELIMINARY design of the 4th Street improvements shall be included within the construction plan set, noting the improvements as FUTURE. If a deferred improvement agreement is executed in lieu of construction, construction easements and/or additional right-of-way shall be provided to facilitate future construction. Applicability of the Deferred Improvement Agreement shall be coordinated with the applicant during design of the 4th Street improvements fronting Lot 1 and Lot 27. At the discretion of the County engineer, as the deferred improvements are minimized; a waiver for construction and of the DIA may be processed for the 4th Street improvement fronting Lot 1.
 - 27.2 The internal roadways (B-Line – S. Mason Ave & C-Line – S Mary Ave.) shall be a full width street in accordance with Figure 3-7b, Urban Local Access Road (Parking Both Sides).
 - 27.3 The internal roadway (A-Line – S. Lynn Ave.) shall be designed as a full width street (Figure 3-7b Urban Local Access) extending from the existing northern end of S. Lynn Avenue. S. Lynn Avenue shall terminate as a cul-de-sac meeting urban standards and subject to approval of the Fire Marshal. Provisions for snow storage may be accommodated jointly on the proposed stormwater tract.
 - 27.4 Final design plans shall accommodate a full County road intersection at 4th Street and S. Mason Avenue in accordance with Figure 3-7b, Urban Local Access Road (Parking Both Sides).
 - 27.5 A new access to serve the existing residence on parcel 56100100206 – Hahn shall be designed and constructed. Re-addressing the parcel shall be coordinated by Douglas County prior to final plat approval; this also includes Lot 2 of the Gregg Short Plat.
 - 27.6 Final design plans shall accommodate a full County road intersection at 4th Street and S. Mary Avenue in accordance with Figure 3-7b, Urban Local Access Road (Parking Both Sides). Intersection improvements shall include provisions for pedestrian connectivity crossing of 4th Street.
 - 27.7 Transportation improvements shall be extended and tied into existing transportation improvements for S. Lynn Avenue, S. Mason Avenue, and S Mary Avenue.
 - 27.8 The designer shall identify the applicable WSDOT Standard Driveway detail to be utilized throughout the development. Sidewalk easements and language as necessary shall be identified on the face of the plat.

28. An access easement that crosses the subject property recorded under Auditors File Number 3000945 shall be relinquished prior to dedication of right-of-way for the extension of S. Mason Avenue at the intersection of 4th Street SE.
29. 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.
30. Final plans and right-of-way dedication associated with the location of cluster mailbox units for the subdivision shall be provided. Location to be approved by the County Engineer and USPS Postmaster. Location of mail box cluster on 4th Street SE requires construction of a pull out per WSDOT/AASHTO standards. Cluster box location 4th Street SE will negate the applicability of a deferral of 4th Street improvements. Cluster box locations shall be located in a manner that parked vehicles will not impede traffic flow/sight distance at intersections.
31. 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, East Wenatchee Municipal Code, the approved construction plans, and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the Douglas County Road Standards and East Wenatchee Municipal Code, with final reports and certification submitted to Douglas County.
32. 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*.
33. Utility installation/replacement/upgrade within the Douglas County right-of-way, including, but not limited to 4th Street SE, S. Lynn Ave., S. Mason Ave., and S. Mary Ave 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.
34. Five foot utility easements are required along all lots or tracts with county road frontage in accordance with the Douglas County Road Standards.
35. A final storm water drainage plan designed 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 shall be addressed in accordance with East Wenatchee Municipal Code, Douglas County Code 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 as recommended within the Nelson Geotechnical Stormwater Infiltration letter. The stormwater plan must have supporting calculations. Any 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.

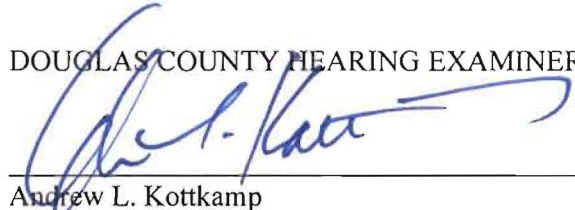
Recommendations and/or requirements contained within the Final Drainage Analysis shall be incorporated into final project approval, including but not limited to the addition of plat notes and recording of operation and maintenance agreements and/or easements. Final "as-built" plans, including certification are required prior to final plat approval.

36. Should measures to address frozen soil conditions and/or extreme weather conditions include the addition of an Underground Injection Control facility, registration of the UIC shall be completed PRIOR to construction.
37. Stormwater detention 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 tracts.
38. In accordance with the Stormwater Management Manual for Eastern Washington, design and maintenance criteria for infiltration ponds, and the policies of the Greater East Wenatchee Storm Water Utility Management Team, stormwater facilities shall be above ground facilities, located on a separate tract(s) which is adjacent to and provides an emergency overflow to public right-of-way. This policy provides for maintenance, inspection and access to the facility and provides additional protection to downstream properties from overflows in the event of failure of the stormwater facility.
39. During construction the Geotechnical Engineer shall visually observe the bottom of the infiltration system and the associated design report and construction plans to confirm that the design rate utilized is appropriate and to modify the design rate as warranted accounting for variations in soil conditions at different locations and depths. A stamped certification or amendment from the Geotechnical Engineer shall be provided prior to completing construction of the facility.
40. The Engineer of Record shall provide certification that the system has been completed in accordance with the recommendation of the Geotechnical Engineer, and 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. 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).
42. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW). Disturbed areas shall be re-vegetated and maintained throughout construction.
43. The applicant shall be responsible for preventing mud, dirt and debris from leaving the site, including stormwater runoff from being tracked otherwise discharging onto the public right-of-way or adjacent properties.

44. The SEPA document indicates that the applicant will submit a Notice of Intent Application for the Construction Stormwater General Permit. Acquisition of permits is the responsibility of the applicant.
45. Up to two access points for construction activities shall be approved from 4th Street SE. Construction access shall be minimized from the existing S. Lynn Ave., S. Mason Ave., and S. Mary Ave. alignments. 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 shall 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.
47. Access on the new easement area created on the applicant's property may be restricted if agreed to between the applicant and the county.

Dated this 26th day of January, 2016.

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.