

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

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

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-2021-03)	DECISION AND
NORTHERN FRUIT CO., INC.)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on July 21, 2022, 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 Northern Fruit Company, Inc. 220 2nd St. NE, East Wenatchee, WA 98802.
2. General Description: This is an application for a Conditional Use Permit application for the construction and operation of a new fruit packing and refrigerated storage facility including related uses to the agricultural industry. The subject property is approximately 62.14 acres in size, and is located at 13xxx US Hwy 2 & 5020 NW Cascade Ave. The proposal will include four new structures (~704,000 sq.ft. total), site improvements and supporting infrastructure. The main packing building will house the fruit processing, the packing team building will house employee offices, lockers and break/lunch room and restrooms, the headquarters building will house administration and sales functions, the employee wellness building will house fitness and wellbeing for employees. CUP-2018-07 to remain preserved. The property is located in the Commercial Agricultural 5 (AC-5) zoning district under Douglas County Code.
3. Location: The subject property is located at 13xxx US Hwy 2 & 5020 NW Cascade Ave, East Wenatchee, WA 98802; The property is located in the Commercial Agricultural 5 (AC-5) zoning district under Douglas County Code and is further described as being located within Section 11, Township 23N, Range 20E, W.M. Assessor's Parcel Numbers: 23201130002, 23201130001, 78000001800, 78000001901, 78000001902, 78000001903, and 78000001904.
4. Site Characteristics: The subject properties include multiple parcels of land located between US 2 and the Columbia River. The properties were previously used for orchard/ tree fruit production and includes multiple existing structures.
5. Site Access: The subject property will be accessed via a private access road connecting to NW Cascade Ave.

6. Zoning: The subject property is located within the Commercial Agricultural (AC-5) zoning district.
7. The Douglas County Comprehensive Plan designates this property as Commercial Agriculture 5. The following goals and policies set forth in the comprehensive plan are relevant to this development:
 - 7.1 GENERAL LAND USE: GOAL: Maintain and improve the quality of life, attitude, and character of Douglas County by encouraging the long-term public commitment to the stewardship of historical/cultural resources, natural resources, critical areas and the full range of land uses desired by the public.
 - 7.1.1 POLICY G-11: Establish siting and design criteria to provide buffering or other mechanisms that will protect adjacent land uses from potential conflicts between incompatible uses..
 - 7.2 AGRICULTURAL RESOURCE LANDS:
 - 7.2.1 POLICY A-3: Protect agricultural lands and activities from conflicting non-farm uses and influences.
 - 7.2.2 POLICY A-4: Douglas County will encourage continued agricultural activities within areas designated as agricultural and preserve right-to-farm policies as set forth by the County. Ensure that public policies minimize disruption of agricultural activities.
 - 7.2.3 POLICY A-11: Encourage the location and siting of agricultural support activities, such as commercial granaries, storage buildings, packing sheds and chemical fertilizer operations, within agricultural areas, rural service centers and resource industrial areas.
 - 7.3 ECONOMIC DEVELOPMENT
 - 7.3.1 POLICY ED-7: Develop and implement land use regulations that are flexible enough to recognize the changing nature of business and industry.
 - 7.4 Applicable provisions of DCC 18.80.030 "Evaluation Criteria":
 - 7.4.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
 - 7.4.2 The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.
 - 7.4.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
 - 7.4.4 The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use will provide adequate services.
 - 7.4.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
 - 7.4.6 The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.

- 7.4.7 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to DCC Title 20 and to the satisfaction of the county engineer.
- 7.4.8 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate, and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects.
- 7.4.9 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
- 7.4.10 The hearing examiner is the review authority and may approve, conditionally approve or deny a request for changing the minimum lot size of a conditional use. Any waiver of minimum lot size shall not be construed as an exemption from the requirements of DCC Title 17 and RCW Chapter 58.17.

- 8. Douglas County issued a Determination of Non-Significance on June 22, 2022 in accordance with WAC 197-11-355 (Optional DNS). No appeal has been filed.
- 9. Applicable agencies have been given the opportunity to review this proposal. These agencies have identified mitigation or project design requirements for the project that have been included as conditions of approval where appropriate.

Agency Notified	Response Received	Agency Notified	Response Received
WSDOT	2/24/2021	Douglas County Transportation and Stormwater	05/10/2021 and 7/15/2022
Douglas County Fire District	03/31/2021	Douglas County PUD	02/10/2021
Douglas County Planning	03/02/2021	WA State Dept. of Ecology	02/23/2021
Chelan Douglas Health District	03/30/2021	Douglas County Assessor	N/R
Department of Archaeology and Historic Preservation	02/22/2021	Douglas County GIS	02/16/2021
Douglas County Treasurer	N/R	Confederated Tribes of the Colville Reservation	02/18/2021
Chelan County PUD	7/11/2022	Douglas County Treasurer	N/R
Douglas County Sewer District	02/08/2021	East Wenatchee Water District	05/12/2021
Douglas County Land Services	03/02/2021		

- 10. The following public comments were received:
 - 10.1 Molly Iverson, Manager, Stritzel Family, LLC dated February 18, 2021;

- 10.2 Jeff Sandborn, dated March 19, 2021.
11. Comprehensive Plan consistency: The project is located within Irrigated Agriculture designation and is consistent with Section 3.24 “Resource Lands” of the Douglas County Comprehensive Plan. The proposal is supported by multiple Agricultural land use policies. Supporting policies can be found in section 5.2.4 *Agricultural Goals and Policies* and in early portions of this decision.
 12. Consistency with DCC 18.34 AC-5 Commercial Agriculture 5 District: The AC-5 zoning district allows “Agriculturally Related Industry” as a Conditional Use Permit (CUP), subject to development requirements of DCC. As conditioned, the proposal will be required to meet all applicable development standards of the AC-5 district. As conditioned, the proposal appears consistent with the requirements of the zoning district.
 13. Consistency with DCC Chapter 18.80.030 “Conditional Uses – Evaluation Criteria”. AC-5 zoning authorizes this land use as a Conditional Use. The required operational conditions will sufficiently mitigate associated impact. The project will not create excessive demands on public services. Noise impacts, dust control, and adequate buffering must fall within the parameters of Douglas County Code, as well as State standards. As conditioned, the proposal appears consistent with the requirements of this section.
 14. As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 18, 19 and 20 of the Douglas County Code, and the Douglas County Countywide Comprehensive Plan.
 15. The project is being processed as an “Agriculturally related industry” under Douglas County Code.
 16. Douglas County code requires a Conditional Use Permit for Agriculturally Related Industries proposed within the AC-5 zoning district.
 17. Douglas County Code Section 18.80.030 establishes minimum criteria for Conditional Use Permits.
 18. Surrounding property owners were given the opportunity to comment on the proposal, and can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
 19. Proper legal requirements were met and surrounding property owners, affected agencies, and interested parties were given the opportunity to comment on the proposal at a public hearing.
 20. Initial application materials reviewed by Douglas County Transportation and Land Services and admitted into the record at the open record public hearing include:
 - 20.1 Ex. 1 Master Application prepared by the applicant, received January 29, 2021
 - 20.2 Ex. 2 Narrative prepared by the applicant, received January 29, 2021.
 - 20.3 Ex. 3 Site plan prepared the applicant, received January 29, 2021
 - 20.4 Ex. 4 Preliminary civil plans prepared by Pacific Engineering, received January 29, 2021
 - 16.5 Ex. 5 Preliminary storm report prepared by Pacific Engineering, received January 29, 2021
 - 16.6 Ex. 6 Landscaping Plan, prepared by Eco Plan Design, Thom Vetter, received February 2, 2021

- 16.7 Ex. 7 SEPA Checklist prepared by the applicant, received January 29, 2021
 - 16.8 Ex. 8 Access, Circulation and Parking Plan, prepared by the applicant, received January 29, 2021
 - 16.9 Ex. 9 Water Easement Exhibit, prepared by the Washington State Department of Transportation, Duane Berentson, received on February 26, 2021
 - 16.10 Ex. 10 Letter from Northern Fruit Company, dated May 6, 2021
 - 16.11 Ex. 11 Traffic Impact Analysis prepared by TENW, received May 7, 2021
 - 16.12 Ex. 12 TIA Exhibit prepared by Pacific Engineering, received May 7, 2021.
 - 16.13 Ex. 13 Notice of Additional Information Response prepared by the applicant, received March 18, 2021.
 - 16.14 Ex. 14 Permit Extension Letter prepared by the applicant, received April 1, 2022.
 - 16.15 Ex. 15 Letter to Douglas County Planners prepared by the applicant, received May 6, 2021.
 - 16.16 Ex. 16 Response to DC and WSDOT Information request prepared by the applicant.
21. The preliminary civil plans provided on January 29, 2021 include an access from Cascade Avenue and an access from US 2/97. Per coordination with the Washington State Department of Transportation (WSDOT), the project shall not have direct access to US 2/97 with the exception of a gated emergency vehicle access. The revised site plan labeled as the "TIA Exhibit" submitted on May 7, 2021 illustrates the location of the proposed access to Cascade Avenue along with the proposed emergency vehicle access to US 2/97.
 22. The traffic impact analysis (TIA) identifies the intersection of Cascade Avenue and US 2/97 as operating in its existing condition below the level of service thresholds adopted by Douglas County and the Washington State Department of Transportation (WSDOT). In order to facilitate this development or any other developments that will utilize this intersection, an intersection improvement is required to improve the level of service to meet the minimum adopted standards
 23. The TIA notes that a roundabout or traffic signal would improve the level of service of this intersection to an acceptable level. The TIA states that the proportionate share of the traffic being generated by this development as compared to the existing traffic utilizing this intersection to be approximately 13%; neither Douglas County nor WSDOT has validated this proportionate share.
 24. The applicant has proposed to contribute \$500,000.00 towards the cost of an intersection improvements. In order to facilitate building permit issuance, and improvement must be identified and funded prior to building permit issuance and the intersection improvements must be constructed within 6 years after issuance of a certificate of occupancy.
 25. Douglas County submitted a grant application to the Chelan Douglas Transportation Council (CDTC) on May 13, 2021 in an effort to secure funding for an intersection improvement at Cascade Avenue and US 2/97. The grant application identifies the proposed \$500,000.00 contribution offered by the applicant as a match to help to obtain the funding. The CDTC awarded Douglas County the grant on November 19, 2021. It is anticipated that the project will be constructed in 2024.
 26. The traffic impact analysis identifies project access from NW Cascade Avenue with 25 feet of spacing from the existing residential driveway to the west. No direct access to US 2/97 is being proposed with the exception of on gated emergency vehicle access.

27. The existing warehouse at 5020 NW Cascade Avenue currently has unrestricted access along its approximate 450 feet of frontage. The unrestricted access poses a traffic safety concern that is compounded given its proximity to the intersection with US 2/97. In coordination with WSDOT and Douglas County, access to this existing facility shall be limited to a 50-foot wide driveway on NW Cascade Avenue located a minimum of 250 feet from US 2/97 unless otherwise approved in writing by the County Engineer.
28. The preliminary stormwater report adequately demonstrates stormwater management feasibility for the subject property through the use of qualitative analysis, sub-basin delineation, and calculations.
29. After due legal notice an open record public hearing was held on July 21, 2022.
30. The entire Planning Staff file was admitted into the record at the public hearing.
31. Appearing and testifying on behalf of the Applicant was Doug Pauly. Mr. Pauly testified that he was the agent for the Applicant and property owner and was authorized to appear and testify on its behalf. Mr. Pauly stated that he agreed with all the representations in the staff report and had no objection to any of the proposed Conditions of Approval, including those set forth in the July 15, 2022 comment by WSDOT. Mr. Pauly also gave a brief history of the Northern Fruit Company in the Wenatchee Valley.
32. No member of the public testified at this hearing.
33. 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 will not adversely affect the general public, health, safety and general welfare.
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Comprehensive Plan.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Public use and interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 "Zoning", Title 19 "Environment", and Title 20 "Development Standards" of the Douglas County Code.
7. 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, review of all applicable files, including the Planning Department staff file, and after an open record public hearing, the Hearing Examiner has determined that CUP No. 2021-03 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The project shall proceed in substantial conformance with the plans and application materials of file except as amended by the conditions herein.
2. The applicant, and site operators are responsible for compliance with all applicable local, state and federal rules and regulations and shall acquire all applicable permits and approvals including but not limited to:
 - 2.1 Douglas County Commercial Building Permit.
3. Submittal of an Inadvertent Discovery Plan to Douglas County prior to any ground disturbing activities, including demolition and siting of equipment and supplies.
4. A professional archaeologist shall be on-site to monitor ground disturbance taking place within 100 feet of 45DO1322 for the entirety of the project.
5. Proposed landscaping shall be consistent with the plans on file and be maintained for the life of the project. A final landscape plan shall be submitted with the commercial building permit (s). Plans shall be consistent with DCC 20.40 – *Landscaping Standards*.
6. Proposed off-street parking shall be consistent with the plans on file and be maintained for the life of the project.
7. The applicant shall confirm the legal right to utilize water for dust suppression.
8. A Washington State Department of Ecology water right permit is required for surface water diversions and for any groundwater withdrawals that will exceed 5,000 gallons per day for domestic supply, exceeds 5,000 gallons per day for industrial purpose, for stock water, or for the irrigation of more than one-half acre of non-commercial lawn or garden.
9. Submittal for engineering approval for the wastewater handling components of the facility to the Washington State Department of Ecology. Upon approval of the engineering portion of the wastewater handling components, the facilities will need a public comment on the coverage before issuance of documents.
10. The applicant shall submit an address request application with the first building permit.

11. A fire hydrant shall be located within 225 feet of the nearest frontage access point and approved by the Fire Marshal; maximum hydrant spacing is 450 feet. The large-diameter port of all hydrants shall be equipped, by the developer, with a 4-inch diameter Storz quarter-turn fitting.
12. The entire facility shall be sprinklered as per NFPA 13; fire flow shall be established at 2000 GPM at a minimum of 20psi for a duration of 4 hours.
13. The developer shall assume all the East Wenatchee Water District's costs for the proposed project including inspections, testing, and permits. After construction is completed and accepted by the District, a 2-year Maintenance/Warranty Bond will be required.
14. Final construction plans designed by a Professional Engineer licensed in the State of Washington shall be submitted to Douglas County at the time of building permit submittal. Construction plans shall be prepared in accordance with the requirements of the Douglas County Code.
15. NW Cascade Avenue is classified as a Rural Collector. Half-street transportation improvements shall be constructed along the frontage of parcel 78000001800 per Figure 3-6. Half-street improvements include but are not limited to widening, ditch, and illumination.
16. Access to the property is proposed from NW Cascade Avenue via an access easement. An access easement of sufficient width to accommodate the proposed access shall be recorded prior to building permit issuance.
17. Access shall be designed in accordance with the private road standards in Douglas County Code 12.52.020.B.
18. Access to the existing facility/buildings on parcel 78000001800 shall be revised to meet Douglas County Code requirements per Figure 4-1. This includes a maximum 50 foot wide driveway unless otherwise approved in writing by the County Engineer. In accordance with the Washington State Department of Transportation requirements, as coordinated during the CUP review process, the access shall be located a minimum of 250 feet from the intersection of NW Cascade Avenue and US 2/97 unless otherwise approved in writing by the Washington State Department of Transportation.
19. US 2/97 access limitations, permitting, design, and construction shall be coordinated by the applicant with the Washington State Department of Transportation. Provide written verification from the Washington State Department of Transportation that the revised access control is acceptable prior to issuance of the certificate of occupancy.
20. The intersection of US 2/97 and NW Cascade Avenue shall be improved to meet the Washington State Department of Transportation and Douglas County adopted minimum level of service thresholds within 6 years of issuance of the certificate of occupancy. Douglas County was awarded a grant that, in combination with \$500,000.00 proposed by Northern Fruit to go towards the intersection improvement, has secured full funding for the intersection improvement. Douglas County will design and administer the construction of the intersection improvement to be completed within 6 years of occupancy of the Northern Fruit facility.

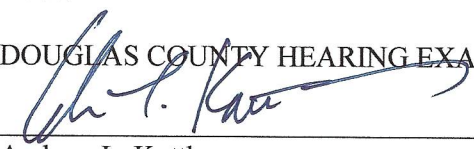
21. As proposed by the applicant, \$500,000.00 of the construction cost shall be provided to Douglas County to be used as a match for the grant to design and construct the intersection improvement at US 2/97 and NW Cascade Avenue. Douglas County will send an invoice to the applicant for the \$500,000.00. The invoice shall be paid in accordance with the terms on the invoice.
22. A final site-specific stormwater plan and report prepared by a Professional Engineer (PE) licensed in the State of Washington that conforms to Douglas County Code and current edition of the *Stormwater Management Manual for Eastern Washington* (SWMMEW) shall be submitted to and accepted by Douglas County prior to building permit issuance.
23. Prior to any on-site grading occurring or prior to building permit issuance (whichever comes first), a Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment Control Plan (TESC Plan) shall be submitted to and accepted by Douglas County. The SWPPP and TESC Plan shall be kept on-site at all times and updated as necessary to address and prevent sediment and sediment laden water from leaving the project site.
24. The Engineer of Record shall monitor construction and shall provide as-built drawings and report as necessary along with certification that the improvements have been completed in accordance with the applicable codes, regulations, and accepted plans. UIC registration shall be provided as applicable.
25. Prior to occupancy, a Private Operation and Maintenance Agreement shall be executed on standard Douglas County forms. The site plan, details, certification, and operation and maintenance recommendations are provided to the County. Douglas County staff then prepares the agreement for signature and recording by the applicant.
26. Individual/common plan development for this proposal may exceed 1-acre of disturbed ground. This would meet the threshold by the Washington State Department of Ecology (WSDOE) in administering their general permit to discharge stormwater associated with construction activity. The applicant is responsible for acquisition of all applicable permits prior to beginning ground breaking activities, including but not limited to: Construction Stormwater General Permit, Sand & Gravel Stormwater General Permit, and/or Industrial Stormwater General Permit. Compliance with the Washington State Department of Ecology's regulations is the responsibility of the applicant.
27. The 26' access road along the west boundary line appears to be adjacent to Chelan County PUD transmission poles. A minimum of 5' of clearance is required between the edge of traveled way and the poles, or other means to protect the poles from damage be installed. Pole protection measures, if any, shall be approved by Chelan County PUD.
28. No fill shall be placed around the base of the transmission structures (poles) without written permission from the Chelan County PUD. Grading around the poles shall promote drainage away from the structure.
29. It appears that proposed fill will preclude the Chelan County PUD from maintenance or structure replacement. Provisions for year round access and adequate space to perform maintenance will be required, as determined by the Chelan County PUD.

30. Chelan County PUD request that no fill be placed beneath the transmission conductors; however, if there are no alternatives the applicant shall provide additional information for evaluation of required clearances. Placement of fill in the vicinity of the transmission line will be at the discretion of the District.
31. Structure RR-M 1/12 is shown between SWA Pond 3 and SWB Pond 4. The guy wires for this structure are not shown on the plans and it appears that they will fall within the 2 stormwater ponds. There shall be no excavation within 20' of the guy wire anchors and the stormwater facilities may not be developed so that the anchors are in the stormwater facilities. If the stormwater ponds cannot be modified to ensure these requirements, modifications to the transmission structure may be possible to relocate or remove the guys. All costs of the modifications will be the responsibility of the proponent.
32. The applicant shall not have snow storage in the vicinity of the transmission structures.
33. The applicant shall provide the Chelan County PUD with year round access to the Transmission Infrastructure. The applicant will be required to install gates and other provisions for the District's access.
34. All site improvements shall meet the requirements of the National Electric Safety Code.
35. The applicant shall coordinate with the Douglas County PUD for site requirements for power and fiber optic service.
36. If roadway improvements impact existing facilities along SR2/97 or NW Cascade Ave., relocation of those lines will be required by the developer.
37. The applicant shall include utility easements for all on-site primary power lines and 10' utility easements adjacent to SR2/97 and NW Cascade Ave.
38. An agreement between Northern Fruit Company and the East Wenatchee Water District has been presented to the developer. The local facilities charge and land ownership transfer as outlined in the agreement must be fulfilled and the agreement signed prior to any connection to the East Wenatchee Water District system. The applicant shall provide the Water District with the latest sets of plans showing proposed connection points and sizes of domestic water and fire lines.
39. Requirements for fire flow will meet the standards of the Douglas County Fire Marshal and all required improvements will be per current District Design Standards and Specifications.
40. The developer will assume all of the Water District's costs for the proposal including inspections, testing, and permits. After construction is completed and accepted by the District, a 2-year Maintenance/ Warranty Bond will be required.
41. Domestic water source will be provided by East Wenatchee Water District. A letter of availability will be required from East Wenatchee Water District.

42. Individual private water reviews will be required for any existing well that is planned on providing domestic water.
43. Individual on-site septic systems will serve the facilities. Soil/site evaluations will be required followed by a new construction septic permit application(s) through the Chelan Douglas Health District.
44. Wastewater from packing processes will need to be properly disposed of through approved treatment and disposal methods. WA Department of Ecology will need to review and approve these methods.
45. Dust control shall be maintained during any earth disturbing activities during construction and installation.
46. The Applicant shall comply with all “suggested Conditions of Approval (1-4)” contained in the WSDOT comment letter dated July 15, 2022.

Dated this 22 day of July, 2022.

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.