

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-2022-05)	DECISION AND
Bedolla Subdivision)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on February 24, 2023, 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 and owner is Humberto Bedolla, 5627 4th St SE, East Wenatchee, WA 98802.
2. This application is for a 7 lot major subdivision. Proposed lots range from .48 to 1.55 acres in size. A portion of the subject property is located within the Residential Low Density (Rock Island) zoning district and a portion is located within the Rural Resource 2 (Douglas County) zoning district.
3. Location: The subject property is located off of Riverside Drive in Rock Island and is further described as being located within Section 26, Township 22N, Range 21E, W.M. Douglas County Assessor's Parcel Number is 41600001801.
4. Site Characteristics: The subject property is vacant with existing agricultural activity on site. Uses adjacent to the subject properties:
 North: Single family dwellings
 South: SR 28
 East: Single family dwellings
 West: Single family dwellings
5. Site Information:

Total Project Size:	5.4
Proposed No. of lots	7
Domestic Water:	City of Rock Island

Sewage Disposal: On-site Septic Systems
Power/Electricity: Douglas County PUD
Fire Protection: Wenatchee Valley Fire Department
Telephone Service: Varied

6. Access: The subdivision will be accessed via Riverside Drive. All roadway improvements would be the responsibility of the developer, and shall comply with applicable road standards and specifications.
7. Zoning and Development Standards: A portion of the subject property is located within the Low Residential (R-L) Zoning District under Rock Island Municipal Code (RIMC), while a portion of the property is located in the Rural Resource 2 (RR-2) zoning district under Douglas County Code.
8. Major Subdivisions: The requirements of Title 17, "Subdivisions" Douglas County Code, apply to the design and review requirements for approval of major subdivisions of 4 or more lots, parcels or tracts.
9. Comprehensive Plan: The Rock Island Comprehensive Plan designates this property as Low Residential. The R-L district is intended to preserve residential neighborhoods, promote efficient use of land within such neighborhoods, protect the community water system and to encourage development of land areas in accordance with the comprehensive plan and any subsequent sub-area plans. The following goals and policies set forth in the comprehensive plan are relevant to this development.
10. Urban Growth Policies:
 - 10.1 POLICY 16: Ensure that those utilities and services necessary to support development will be adequate at the time development is available for occupancy or as otherwise specified in the comprehensive plan.
11. Residential Policies:
 - 11.1 POLICY 1: Encourage residential development to locate within the urban growth area consistent with the comprehensive plan.
 - 11.2 POLICY 3: Future residential development will be guided by criteria that promotes high quality neighborhoods.
 - 11.2 POLICY 6: Determine the density of all types of residential development that are compatible with surrounding residential uses.
12. Utility Policies:
 - 12.1.1 POLICY 3: Encourage development of vacant properties adjacent to established utility systems, according to the appropriate zoning classification and/or land use designation.
 - 12.1.2 POLICY 5: The cost of on-site utility improvements or site preparation for developments, will be the responsibility of private enterprise.

12.1.3 POLICY 9: Promote multi-jurisdictional cooperation for utility planning and implementation.

13. The Douglas County Comprehensive Plan designates this property as Rural Resource 2. The purpose of the RR-2 rural resource district is to provide an area for low density, rural residential lifestyles that require only rural levels of service for utilities and infrastructure. This district may accommodate some agricultural activities. However, the more intensive agricultural support activities, such as large-scale warehousing and/or processing or packaging facilities would not be allowed due to the potential for inclusion into an urban growth area at a future date.

14. The following goals and policies set forth in the comprehensive plan are relevant to this development

14.1 Rural Land Use:

14.1.1 Policy R-6: Encourage development in rural areas to be served by rural levels of service

14.1.2 Policy R-9: Rural lands adjacent to urban growth areas already characterized by urban growth, which would have access to a full range of urban governmental services, should be considered as rural transitional areas for future urban growth.

14.2 General Land Use:

14.2.1 Policy G-9: Rural developments should only occur where adequate access to transportation systems, rural levels of utilities and facilities are available. Appropriate facilities/services may include domestic water, sewage disposal, fire and police protection, schools, and power, etc. depending on the scale and impact of the development.

15. Environmental Review. Douglas County issued a Determination of Non-Significance on 08/30/2022 in accordance with WAC 197-11-340.

16. Applicable agencies have been given the opportunity to review this proposal. The following agencies commented:

Agency Notified	Response Received	Agency Notified	Response Received
Chelan-Douglas Health District	9/13/2022	WSDOT	09/13/2022
Douglas County PUD	8/30/2022	Douglas County GIS/Addressing	8/29/2022
WA State Dept. of Ecology	9/12/2022	Douglas County Assessor	N/R
Douglas County Fire Marshal	9/12/2022	City of Rock Island	9/12/2022

Wenatchee Reclamation Irrigation District	08/29/2022	Douglas County Transportation & Stormwater	9/13/2022
Douglas County Land Services	10/10/2022	Douglas County Treasurer	N/R

17. Multiple members of the public commented on the proposal. Comments included concerns related to an existing well located on the subject property that feeds neighboring properties. The comments also raised concerns related to additional traffic and transportation issues that may arise as a result of the development.
18. In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is the Hearing Examiner’s analysis and consistency review for the subject application:
 - 18.1 Comprehensive Plan consistency: The proposal is consistent with the goals and policies of the Rock Island Comprehensive Plan. The proposed lot sizes meet the density standards for residential lots. The project is also supported by a number of policies out of the Douglas County Comprehensive Plan.
 - 18.2 Consistency with the provisions of Title 17, “Subdivision”, Douglas County Code. As conditioned, the proposed subdivision is consistent with the provision of this title.
 - 18.3 Consistency with the provisions of the R-L Zoning District, Chapter 17.20, RIMC as adopted by Douglas County: The subdivision will meet all applicable development standards of the Low Residential zoning district including but not limited to minimum lot size and dimension.
 - 18.4 Consistency with DCC 18.28 – Rural Resource 2 (RR-2) zoning district. The portion of the property that falls within the RR-2 zoning district will meet all applicable development standards including lot size and dimension.
 - 18.5 Consistency with the provisions of DCC Chapter 20.34, Stormwater Drainage. As conditioned, the proposal is consistent with the provisions of this chapter.
 - 18.6 Consistency with the provisions of DCC Title 12 Road Standards. As conditioned, the proposal is consistent with the provisions of this chapter.
19. The applicant has submitted the following:
 - 19.1 SEPA Checklist prepared by the applicant
 - 19.2 Preliminary Plat prepared by Fitzpatrick Surveying, PLLC, dated June 2, 2022.
 - 19.3 Preliminary Civil Engineering Plans prepared by Torrence Engineering LLC, dated June 6, 2022
 - 19.4 Project Narrative prepared by the applicant, dated June 6, 2022
20. The subject property is located within the Rock Island Urban Growth Area.
21. The subject property is designated Low Residential by the Rock Island Comprehensive Plan.
22. A portion of the subject property is located in the Low Residential (R-L) zoning district which allows for subdivisions as permitted uses.

23. A portion of the subject property is designated Rural Resource 2 by the Douglas County Comprehensive Plan.
24. A portion of the subject property is located in the Rural Resource 2 zoning district which allows for subdivisions as a permitted use.
25. Douglas County issued a Determination of Non-Significance on 08/30/2022 in accordance with WAC 197-11-350.
26. Riverside Drive is classified as a rural local access that does not meet current County road standards. A minimum 10-foot right of way dedication and widening to meet County road standards as defined in Figure 3-3 shall be installed along the project frontage.
27. The preliminary civil engineering plan submitted with the preliminary materials generally indicates that stormwater management will be provided for Riverside Drive via the full dispersion BMP in the 2019 SWMMEW. This concept may be viable. Roadside ditches to convey runoff to a stormwater facility located in a tract is also viable solution. A final stormwater report stamped by a professional civil engineer shall be submitted with the civil engineering plans.
28. Access to the proposed lots will consist of direct access to Riverside Drive. No access easements are proposed.
29. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
30. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
31. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
32. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
33. After due legal notice and open record public hearing was held on February 24, 2023.
34. The entire Planning Staff file was admitted into the record at the public hearing.
35. Appearing and testifying on behalf of the applicant was Humberto Bedolla. Mr. Bedolla testified that he was the property owner and Applicant. Mr. Bedolla testified that he agreed with all representations set forth within the staff report and all conditions of approval. Mr. Bedolla stated that he understood that there was a well on the property and that there were access easements to the well that he had to honor. He stated there would be no development over the well easement areas.
36. Testifying from the public was Charles Zimmerman. Mr. Zimmerman is an attorney and his clients own three parcels to the west of the proposed plat. His primary argument was that his clients had a prescriptive easement for agricultural purposes and that the Hearing Examiner should recognize this prescriptive easement and require the Applicant to honor it. Mr. Zimmerman offered into evidence a proposed easement between his clients and the Applicant. This proposed easement was admitted into the record.
37. The Hearing Examiner indicated that the Hearing Examiner does not have any authority or jurisdiction to determine or interpret easements. In response, Mr. Zimmerman asked that the

Hearing Examiner note in the decision that Mr. Bodello would be required to not infringe upon any legal easements, including prescriptive easements or other legal easements.

38. Also testifying from the public was Ryan McGahern. Mr. McGahern testified about the well on the subject property and the easement. He indicated that the easement should be shown on the final plat.
39. The Hearing Examiner does not have authority to interpret, enforce, create, or eliminate easements of any nature.
40. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Rock Island Comprehensive Plan and the Douglas County 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 "Subdivision", Title 19 "Environment", and Title 20 "Development Standards", of the Douglas County Code and Title 17 "Zoning of Rock Island Municipal Code.
6. Any Finding of Fact that is more correctly Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Hearing Examiner has determined that P-2022-05 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 is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. A plat certificate showing parties of interest from a title company must be submitted with the blue line drawings.

4. The final plat 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.
5. All parties having an ownership interest in the subject property shall acknowledge the plat.
6. 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.
7. 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.
8. The final plat shall show the location of all legal easements of any nature serving or encumbering the subject property.
9. 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.
10. Final construction plans designed by a Professional Civil Engineer licensed in the State of Washington shall be submitted to and accepted by Douglas County prior to construction. Construction plans shall be prepared in accordance with the requirements of the Douglas County Code and Road Standards. The construction plans shall include the design for Riverside Drive per Road Standard Figure 3-3.
11. Include the designation "P-2022-05" on each sheet of the final civil engineering plans.
12. Five (5) foot utility easements are required along all lots or tracts with County road frontage in accordance with Douglas County Road Standards. Utility purveyors may require easements in excess of five feet.
13. Prior to final plat acceptance and/or release of financial security, the Engineer of Record shall provide written certification that the frontage improvements, off-site improvements, internal roads, utility infrastructure, stormwater systems, and grading have been constructed/completed in accordance with the Conditions of Approval, applicable codes, and the accepted construction plans. Monitoring shall be required as determined appropriate by the Engineer of Record and in accordance with the Road Standards, with final reports submitted to Douglas County along with the certification.
14. Final acceptance shall be processed in accordance with Douglas County Code (DCC) Section 12.56.110 Final Acceptance and a Warranty Assurance Agreement shall be completed per DCC 12.50.110 prior to final plat acceptance.
15. Per DCC Chapter 12.24, all new or revised driveways and accesses onto a county road (including temporary accesses) require an approved access permit. This will be processed at the time of building permit submittal for the lots after the plat is recorded.
16. Utility installation/replacement/upgrade within the Douglas County right-of-way shall be approved by Douglas County. A permit to perform work in the right-of-way shall be obtained prior to construction. Damage to existing roads 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, by the applicant. The extent of repair and/or replacement will be determined during construction plan review and during field inspection of the proposed work within the right-of-way.

17. A final site-specific stormwater plan and report prepared by a Professional Civil Engineer (PE) licensed in the State of Washington that conforms to Douglas County Code and the 2019 Stormwater Management Manual for Eastern Washington (SWMMEW) shall be submitted to and accepted by Douglas County prior to construction.
18. Include the designation "P-2022-05" on the cover sheet of the final stormwater report.
19. Stormwater facilities for Riverside Drive shall be located in the public right of way or a tract dedicated to Douglas County and maintained by Douglas County if the facilities are only mitigating runoff from the public right of way. Stormwater facilities mitigating a combination of public and private runoff shall be located on separate tract(s) under the functional control of the Homeowners' Association with each lot having an undivided ownership, interest, and responsibility for the tract(s).
20. Provisions to provide access for inspection and maintenance of the stormwater facilities shall be addressed within the design plans, report, and on the face of the final plat.
21. Prior to any on-site grading occurring or prior to construction plan acceptance (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.
22. The applicant is responsible for preventing mud, dirt, debris, and stormwater runoff from being tracked or otherwise discharging onto the public Right of Way or adjacent properties.
23. 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 provided as applicable.
24. As applicable, prior to final plat acceptance, a Private Stormwater 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. County staff then prepares the agreement for signature and recording by the applicant. A note shall be included on the face of the final plat which states:
25. "Douglas County will not maintain the private stormwater facilities located within this subdivision. Responsibility for the long term maintenance of the private stormwater facilities is described within the Declaration of Stormwater System Maintenance Covenants recorded under AFN _____."
26. Site specific stormwater design for the individual lots may be deferred until time of building permit submittal. A note shall be included on the face of the final plat which states:
27. "At the time of building permit submittal, an engineered site specific stormwater plan and report shall be submitted that conforms to Douglas County Code and the current edition of the Stormwater Management Manual for Eastern Washington. The Engineer of Record shall provide certification that the private on-site stormwater system has been completed in accordance with the accepted plans. A Declaration of Stormwater System Maintenance Covenants, prepared with standard Douglas County forms, shall be executed and recorded with the Douglas County Auditor."

28. Individual lots created within this development are subject to the Douglas County Stormwater Utility annual service charge. This charge is per parcel and is triggered at the time of building permit issuance.
29. Individual/common plan development for this proposal exceeds 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.
30. The applicant shall complete a Request for Service and coordinate with the Douglas County PUD to design a power/fiber plan. Frontage improvements that might impact the existing pole line need to be determined.
31. A ten foot 10' utility easement adjacent to county right of way will be required on the final plat. The cost estimate to provide electrical service to the project must be paid prior to final approval (DC PUD).
32. The Washington State Department of Ecology has indicated sampling results for your property indicate lead and/or arsenic contamination are above Washington State cleanup standards. Any soil remediation that is required by Ecology shall be conducted prior to occupancy. Soil remediation shall meet Department of Ecology clean-up standards.
33. The applicant shall maintain adequate dust abatement during construction.
34. Prior to construction, the applicant shall submit a Hydrant Plan to the Douglas County Fire Marshal. The hydrant plan shall be approved prior to construction.
35. Minimum Required Fire Flow is 1000 GPM at a minimum of 20 PSI for no less than a 2-Hour duration. A hydrant must be located no more than 250 feet from the nearest frontage access to each lot that is less than one (1) acre in size.. Maximum hydrant spacing is 500 feet and as approved or required by the Fire Marshal. The large-diameter port of all hydrants must be equipped with a 4-inch diameter Storz quarter-turn fitting. The Storz fitting must meet the specified requirements of the Fire District as per the discretion of the Fire Marshal.
36. Maximum grade for any graveled access is 10%. Grades greater than 10% but not greater than 12% must be paved. Grades beyond 12% are typically not allowed unless approved by the Fire Marshal on a case-by-case basis.
37. All access longer than 150 feet must end in an approved Turn Around. The Turn Around must not be a part of a garage approach, must not counted as parking, must not be counted as a storage area, must account for seasonal snow accumulation, and must be capable of supporting the weight of emergency apparatus in all weather conditions.
38. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet exclusive of shoulders.
39. The applicant shall receive approval from the City of Rock Island confirming water availability. Any infrastructure improvements required by the City shall meet all applicable standards.

40. The applicant shall remove access on SR 28 MP 7.12 LT and upgrade the guardrail to meet applicable WSDOT standards.
41. The applicant shall close out the lease agreement with region real estate service (WSDOT Comment).
42. The applicant shall complete soil remediation within the WSDOT right of way, as applicable.

Dated this 1st day of March, 2023.

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.