

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-2022-08)	DECISION AND
Rocky Pond 17 Lot Subdivision)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on May 18, 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 Rocky Pond Hospitality Ventures LLC, 116 Orchard Pl, Orondo, WA 98843.
2. This application is for a 17 lot major subdivision.
3. Location: The subject property is approximately 12.42 acres in size and is located off of Edgewater Drive, Orondo WA. The subject property is located in the Rural Service Center (RSC) zoning district under Douglas County Code and is further described as being located within Section 12, Township 26N, Range 21E, W.M. Douglas County Assessor's Parcel Number: 66200000200.
4. Site Characteristics: The subject property is vacant. The topography is relatively flat with a minor slope towards the Columbia River:
North: Vacant land/ Columbia River
South: US 97
East: Orchard/ Vacant land
West: Single family dwellings
5. Site Information:
Total Project Size: 12.42
No. of lots: 17
Domestic Water: Edgewater Rocky Pond Water District

Sewage Disposal: On-site Septic Systems
Power/Electricity: Douglas County PUD
Fire Protection: Douglas County Fire District #4
Telephone Service: Varied

6. Access: Access to the site is US Highway 97 and Sun Cove Road intersection located adjacent to the Orondo Cider Works, then onto Edgewater Drive, then east onto a private road access easement.
7. Zoning and Development Standards: The subject property is located within the Rural Service Center (RSC) Zoning District under Douglas County Code (DCC), which allows for the subdivision of land.
8. Major Subdivisions: The requirements of Title 17, "Subdivisions" DCC, apply to the design and review requirements for approval of major subdivisions of 5 or more lots, parcels or tracts.
9. Comprehensive Plan: The Douglas County Comprehensive Plan designates this property as Rural Service Center (RSC). The following goals and policies set forth in the comprehensive plan are relevant to this development:
10. Rural Service Center: Rural service centers are those areas where historic, unincorporated communities or older, recreationally-oriented subdivisions are characterized by compact rural type densities and may offer some urban services such as roads, community water systems, and limited commercial uses. They are generally small, compact, isolated rural community centers that primarily exist to provide housing, convenience goods and services to residents in and around the area. It is intended that these areas continue to be a mixture of land uses, particularly residential and limited neighborhood businesses and services. These areas will also be accommodating needed agriculturally related commercial, cottage industries, tourist related uses, recreation and/or light industrial uses.
 - 10.1 POLICY RSC-1: Encourage mixed land use patterns that currently exist within the rural service centers by clearly establishing what kinds of uses will be permitted and which will be prohibited.
 - 10.2 POLICY RSC-2: Provide incentives for development of a variety of housing types, including farm worker housing, and increased residential densities within the rural service centers, and encourage the refurbishing and updating of existing structures.
11. Utilities:
 - 11.1 GOAL 1: Develop in Douglas County will occur in conjunction with the availability of adequate, cost effective provision of utilities. The installation and expansion of utilities will be coordinated to minimized cost and disruption of normal activities.
 - 11.2 POLICY U-4: Require that development take into account the timely and concurrent provision of adequate and efficient utility systems.

- 11.3 POLICY U-9: The cost of on-site utility improvements or site preparation for developments will be the responsibility of the development benefiting from the improvement.
- 11.4 POLICY U-10: Promote the continued use, maintenance, development and revitalization of existing utilities whenever possible.

12. Transportation:

- 12.1 **GOAL**: Provide efficient use of existing and future transportation facilities through a systematic approach of monitoring and maintaining the road system, integrating all types of transportation systems and facilities, by coordinating transportation facilities planning with other elements of the comprehensive plan, and coordination with other federal, state, and local agencies.
- 12.2 POLICY T-1: Develop a functional classification system to aid in the evaluation and provision of orderly and efficient traffic flow.
- 12.3 POLICY T-13: Ensure that transportation planning and implementation considers and is respectful of the rural and historic character found throughout the County.
- 12.4 POLICY T-15: As development occurs it shall comply with the applicable road standards, and off-site improvements to existing County roads may be required where those existing roads do not currently meet the adopted road standards.

13. Environmental Review: Douglas County issued a Determination of Non-Significance on 05/02/2022 in accordance with WAC 197-11-355 (Optional DNS).

14. Applicable agencies have been given the opportunity to review this proposal.

Agency Notified	Response Received	Agency Notified	Response Received
Chelan-Douglas Health District	01/24/2023	Dept. of Arch. & Historical Preservation	12/14/2022
Douglas County PUD	12/16/2022	Douglas County GIS/Addressing	11/22/2022
WA State Dept. of Ecology	11/29/2022	Douglas County Assessor	11/16/2022
Douglas County Fire Marshal	12/02/2022	Douglas County Transportation & Stormwater	01/10/2023
Washington State Department of Transportation	N/R	Douglas County Treasurer	11/16/2022
Douglas County Land Services	05/02/2023	Confederated Tribes of the Colville Reservation	11/23/2022

WSDOT	N/R
-------	-----

15. No members of the public commented on the project.
16. 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:
 - 16.1 Comprehensive Plan consistency: The proposal appears consistent with the goals and policies of the Douglas County Comprehensive Plan. The proposed lot sizes meet the density standards for the applicable land use designation. The development will be adequately served by a combination of existing and proposed utilities.
 - 16.2 Consistency with the provisions of Title 17, "Subdivision", Douglas County Code. As conditioned, the proposed subdivision is consistent with the provision of this title.
 - 16.3 Consistency with the provisions of the RSC Zoning District, Chapter 18.32, DCC as adopted by Douglas County: As conditioned, the following dimensional standards for the RSC zoning district (DCC 18.32.060) will be met for each proposed lot:
 - 16.3.1 Minimum lot area: 10,000 square feet;
 - 16.3.2 Minimum width of lot at building line: 70 feet. Corner lots shall have a minimum width of 100 feet of contiguous frontage with one side being not less than seventy feet;
 - 16.3.3 Maximum building height: 40 feet;
 - 16.3.4 Minimum setback distances:
 - 16.3.4.1 Front yard: 20 feet;
 - 16.3.4.2 Rear yard: 15 feet;
 - 16.3.4.3 Side yard: 5 feet.
 - 16.3.5 Buildings on corner lots shall observe the minimum front yard setback on both streets and shall provide at least one rear yard setback.
 - 16.4 Consistency with the provisions of DCC Chapter 20.34, Stormwater Drainage. As conditioned, the proposal is consistent with the provisions of this chapter.
 - 16.6 Consistency with the provisions of DCC Title 12 Road Standards. As conditioned, the proposal is consistent with the provisions of this chapter.
17. The applicant has submitted the following:
 - 17.1 Land Use Master Application prepared by the applicant, dated September 21, 2022.
 - 17.2 Project Narrative prepared by the applicant, dated September 21, 2022
 - 17.3 Preliminary Civil Plans prepared by Pacific Engineering, dated September 16, 2022
 - 17.4 Preliminary Civil Plans – Edgewater Drive Concept Plan, dated November 2, 2022
 - 17.5 Preliminary Storm Report prepared by Pacific Engineering, dated September 16, 2022
 - 17.6 Preliminary Plat prepared by Northwest Geodimensions, dated September 16, 2022
 - 17.7 Rocky Pond Resort & Event Center – Traffic Impact Analysis (Updated for CUP 2022-02), dated November 1, 2022

- 17.8 SEPA checklist prepared by Northwest Geodimensions, dated September 19, 2022
- 17.9 Rocky Pond Resort Residences 17-Lot Subdivision – Traffic Analysis dated December 22, 2022
- 17.10 Soil Report prepared by Tower Design, dated September 12, 2022
- 17.11 Phase 1 Environmental Site Assessment prepared by Shannon & Wilson dated November 29, 2021
18. The subject property is located in the Rural Service Center (RSC) zoning district.
19. The Washington State Department of Ecology has provided comment indicating a portion of the properties within the footprint of the project were occupied by orchard during the period when lead arsenate was applied as a pesticide, often resulting in shallow soil contamination from lead and/or arsenic. Ecology requires soil sampling if vacant, commercial, industrial, or agricultural properties are converted to residential use as there may be an increased risk of exposure to soil with elevated concentrations of arsenic and lead.
20. The Washington State Department of archeology and Preservation (DAHP) and the Colville Confederate Tribes (CCT) submitted comments recommending the applicant conduct a Cultural Resource Survey of the property. Per DAHP and CCT, a statewide predictive model indicates that there is a high probability of encountering cultural resources within the proposed project area. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present.
21. The preliminary Civil Plans depict Road F extending to the northeast and terminating in a cul-de-sac. This roadway extends from future Road D which is part of the CUP-16-02 and CUP-16-02A Rocky Pond Event Venue project. Road D is proposed to be constructed as a private road from the termination of the portion of Edgewater Drive that is public right of way.
22. Road D shall be constructed from the end of the public portion of Edgewater Drive up to and 70 feet beyond the intersection of Road F.
23. The public portion of Edgewater Drive currently terminates in a cul-de-sac that is inadequate to serve as an intersection for this plat, the Rocky Pond Resort (CUP-2022-02), the Rocky Pond Resort (CUP-16-02 & CUP-16-02A), and the other existing and proposed residences and private drives. As such, the applicant has proposed an intersection design being referred to as an “egglet” in the preliminary civil plans. This new intersection shall be constructed and the right of way shall be dedicated prior to final plat approval.
24. The Preliminary Stormwater Report adequately addresses the feasibility of mitigating stormwater runoff generated due to the proposed development. The project proposes the use of infiltration ponds for mitigation. A site specific infiltration test with recommendations for long term infiltrations rates was not found in the report.
25. The Traffic Impact Analysis (TIA) prepared by Transportation Engineering Northwest (TENW) for the Rocky Pond Resort, dated November 1, 2022 analyzes the cumulative impacts of multiple projects that includes this proposed 17-Lot subdivision.
26. TENW prepared a supplemental Traffic Analysis, dated December 22, 2022 to further clarify how trips generated for this project are accounted for in the November 1, 2022 Rocky Pond Resort TIA.

27. Douglas County issued a Determination of Non-Significance on 05/02/2023 in accordance with WAC 197-11-355 (Optional DNS).
28. No members of the public commented on the proposal.
29. 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 14.12.
30. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
31. Purveyors who responded to the project have indicated that adequate utilities/services are or can serve this project.
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 May 18, 2023.
35. The entire Planning Staff file was admitted into the record at the public hearing.
36. Appearing and testifying on behalf of the applicant was David Dufenhorst. Mr. Dufenhorst testified that he is the manager-member of the property owner and Applicant. Mr. Dufenhorst testified that he agreed with all representations set forth within the staff report and all conditions of approval.
37. No member of the public testified at the hearing.
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 RSC zoning district.
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 "Subdivisions", Title 18 "Zoning", Title 19 "Environment", and Title 20 "Development Standards", of the Douglas County Code and the Douglas County Comprehensive Plan.
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-2022-08 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. The final plat shall show the location of all easements serving or encumbering the subject property.
8. 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.
9. The developer shall install all utilities in accordance with the standards and specifications of the applicable utility purveyor.
10. The developer shall prepare final plans for the development and installation of utilities for the approval of the respective purveyors prior to site development. Final "as-built" drawings shall be delivered to purveyors upon completion.
11. Prior to final plat approval, Douglas County PUD shall provide written verification that all District requirements have been satisfied. Additional areas for utility easements may be required.
12. The final plat Mylar must include the following note: "The Health District has not reviewed the legal availability of water to his plat development."
13. The applicant shall coordinate with the Chelan Douglas Health District to address lot sizes related to septic system requirements.
14. The applicant shall coordinate with the Douglas County GIS Department to address road naming.
15. Final construction plans designed by a Professional 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.
16. Edgewater Drive is classified as a Rural Local Access. Transportation improvements within the public right of way shall be designed and constructed in accordance with Standard Figure 3-3. The existing cul-de-sac shall be removed and replaced with an intersection, such as a

roundabout or similar, that can accommodate the projected traffic associated with the existing and proposed residential uses, the proposed resort hotel, spa, restaurant, convenience store, and event venue(s). The applicant shall coordinate this design with Douglas County Transportation staff. Construction of the improvements shall be completed prior to final plat approval. Right of way dedication shall be completed via a statutory warranty deed prior to final plat acceptance.

17. Internal roads shall be designed and constructed in accordance with private road standards in Douglas County Code 12.52.
18. Illumination shall be designed and installed at the termination of Edgewater Drive consistent with Douglas County Code Section 12.57.100 Roadway Illumination. The applicant shall be responsible for PUD charges for the connection of street lights to the transformer or hand hole. The type of light fixture to be installed shall be coordinated with Douglas County during construction plan review.
19. The location of any cluster mailbox units proposed for the subdivision shall be shown on the construction plans. The location shall be accepted by the County Engineer and USPS Postmaster prior to plan acceptance. Cluster mailbox units shall be located within the public right of way or covered within an easement dedicated for such use.
20. An access easement for the internal private roads shall be prepared and recorded or shown on the face of the plat prior to final plat approval. If individual access easements are prepared and recorded prior to final plat, the AFN of said easements shall be included on the face of the plat.
21. A Private Access Operation and Maintenance Agreement shall be prepared, executed, and recorded by the applicant; the Auditor's File Number(s) shall be noted on the final plat map.
22. Five-foot utility easements (min.) are required along all lots or tracts with County road frontage in accordance with applicable road standards. Utility purveyors may require easements in excess of five feet.
23. All existing and proposed easements shall be clearly delineated with the Auditor's File Number(s) noted as necessary on the final plat.
24. Prior to final plat acceptance and/or release of financial security, the Engineer of Record shall provide written certification that the public transportation system 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. Construction 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.
25. Final acceptance shall be processed in accordance with Douglas County Code (DCC) Section 12.56.110 Final Acceptance and a Performance Assurance Agreement and/or Warranty Assurance Agreement shall be completed per DCC 12.50.110 prior to final plat acceptance.
26. Per DCC Chapter 12.24, all new or revised accesses onto a County road (including temporary accesses) require an approved access permit.
27. 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.

28. 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 the 2019 Stormwater Management Manual for Eastern Washington (SWMMEW) shall be submitted to and accepted by Douglas County prior to construction.
29. Stormwater facilities shall be designed to overflow to the public Right of Way or oversized by 125% of design capacity plus one-foot of freeboard. The volume used to determine that the system meets 125% of design capacity cannot include volume provided by the one-foot of freeboard. A downstream analysis of potential overflow impacts shall be included within the design report.

30. Site specific stormwater design for the individual lots may be deferred until time of building permit submittal. If applicable, a note shall be included on the face of the final plat which states:

“At the time of building permit submittal for Lots __ through __, 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 Private Stormwater Operation and Maintenance Agreement, prepared with standard Douglas County forms, shall be executed and recorded with the Douglas County Auditor’s Office.”

31. Should the applicant choose to provide stormwater stubs to any of the lots which will drain to a communal facility, a note shall be included on the face of the final plat which states:

“At the time of building permit submittals for Lots __ through __, a site plan shall be submitted which depicts the on-site stormwater conveyance system. The site plan shall include the following information:

a) Pipe size.

b) Minimum pipe slope.

c) Invert elevation at the connection to the stormwater stub.

d) Finished floor elevation of the structure and garage slab.”

32. Stormwater facilities shall be above ground and located on a separate tract under the functional control of the Homeowners’ Association (HOA). A note shall be included on the face of the plat which states:

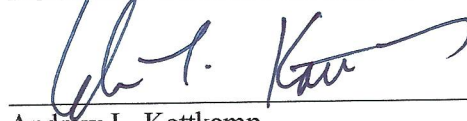
“Stormwater facilities located on Tract _____ shall be under the functional control of the Homeowners’ Association (HOA) with each lot having an equal and undivided interest and maintenance responsibility in the tract(s).”

33. Stormwater facilities only mitigating runoff from the public right of way shall be installed on a Tract to be deeded/dedicated to Douglas County or contained within the public right of way.
34. Provisions to provide access for inspection and maintenance of the stormwater tract(s) shall be addressed within the design plans and stormwater report with associated access easements shown on the face of the final plat.
35. 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.
36. 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.
37. As applicable, registration of facilities that are regulated under the Washington State Department of Ecology's Underground Injection Control Program shall be completed prior to construction.
38. 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.
39. 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:

"Douglas County will not maintain the private roads and associated 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 _____."
40. 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.

Dated this 30th day of May, 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.