

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,
PRD-2023-01/ CUP-2023-01)	DECISION AND
Rock Island Apartments, LLC)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on July 20, 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 is Rock Island Apartments, LLC 9240 NE 5th St, Bellevue WA 98004.
2. Requested Action: This is for applications submitted by Rock Island Apartments LLC, for a residential Planned Unit Development (PUD) and Conditional Use Permit (Permits: PRD-2023-01 & CUP-2023-01). The proposal consists of a 272 unit apartment complex (Nine separate buildings), recreation building, pool, and associated site improvements. The subject properties are approximately 6.86 acres in size and located within the General Commercial (G-C) and Residential High Density/ Office (R-H) zoning districts.
3. Location: The subject properties are located at 460 Rock Island Rd, East Wenatchee WA 98802. The properties are further described as being located in Section 14, Township 22N, Range 20 E.W.M. Douglas County Assessor's Parcel Numbers: 40300004704, 40300004801, 22201440001 and 40200005606. The subject properties are within the East Wenatchee Urban Growth Area.

4. Site Information:

Total Project Size:	6.86 acres
No. of units	272
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:	Varied

5. Site Characteristics: The subject property includes varied topography, with steeper slopes on the southwest portion of the site.

6. Surrounding Property:

North:	Commercial properties
South:	Single Family homes and SR-28
East:	Single family dwellings
West:	SR-28

7. Access: The property will be accessed via two separate entrances, each connecting to Rock Island Road. All roadway improvements will be the responsibility of the developer and shall be compliant with the East Wenatchee standards and specifications.

8. Zoning and Development Standards: The subject property is located within the General Commercial (G-C) zoning district which allows for multifamily developments via a conditional use permit. A portion of the site is located in the Residential High Density/ Office district which also allows for multifamily development.

9. The Growth Management Act identifies that urban growth areas are lands intended for annexation by the adjacent city within 20 years. Based on this, Douglas County has adopted city development regulations within their urban growth areas in order to guide growth according to city standards and ease the transition during future annexations. On March 28, 2007, Douglas County adopted Ordinance 07-01H which adopted sections of Title 17 'Zoning' of the East Wenatchee Municipal Code within the unincorporated portions of the East Wenatchee Urban Growth Boundary.

10. Comprehensive Plan: The Greater East Wenatchee Area Comprehensive Plan designates this property as Residential Low Density. The Low Residential designation is intended to permit a range of housing options and densities to provide areas desirable for single-family residential use. The primary and preferred land use is residential. The use of innovative housing techniques such as attached single family,

zero-lot line housing, averaging lots sizes, and other alternates should be encouraged infilling and variety of housing types and densities. In order for these techniques to be used in a manner that protects the integrity of the surrounding properties, there must be mechanisms to ensure neighborhood compatibility and good design quality. The following goals and policies set forth in the comprehensive plan are relevant to this development:

10. URBAN GROWTH:

10.1 POLICY UG-12: The City and County encourage the use of innovative, high quality infill development and redevelopment strategies such as planned developments, zero-lot line, lot-size averaging, shadow platting, small lot subdivisions, and mixed uses in existing developed areas within the urban growth areas.

10.2 LAND USE – RESIDENTIAL:

10.2.1 The quality and integrity of residential neighborhoods defines the character of the community. Ensuring that these neighborhoods remain stable and vital is of primary importance to meet the goals of the Growth Management Act, the Land Use Plan, and the Housing Plan.

10.2.2 POLICY: Urban governmental services and infrastructure must be available at the time of development or there must be a plan in place, with funding, to insure that a full range of urban governmental services is available to serve the development within the planning period.

10.3 LAND USE AND HOUSING

10.3.1 The Land Use Element provides for a variety of housing types and densities within the residential designations and provides opportunities for mixed-uses where high density housing and commercial uses can co-exist. In keeping with historic trends and to ensure the availability of housing at varying affordability levels; the land capacity analysis shows an 83% designation for single-family and 17% for multi-family. Policies in the plan recommend densities from 8 to 10 dwelling units per acre for single-family and a range of up to 15 to 30 dwelling units per acre for multi-family and mixed use designations. Policies have also been included to encourage infill development, increased density, and affordable housing to meet the needs of the community.

10.3.2 GOAL: To provide for a sufficient number of safe, attractive and affordable residences for people of all income levels.

10.3.3 GOAL: To provide for a variety of housing types and densities to ensure a range of affordable housing options for all segments of the community.

- 10.3.4 GOAL: To insure that public facilities and infrastructure are available to support development at urban densities in advance of or concurrent with development.
- 10.3.5 POLICY H-1: Require residential development at urban densities to locate within urban growth areas consistent with the comprehensive plan. If the property is located outside of the service district boundary of a utility, annexation into the service district must occur prior to development of the property.
- 10.3.6 POLICY H-2: Provide flexibility in the development regulations to encourage infill development that is compatible with the character of the existing neighborhood and is adequately served by public facilities and services.
- 10.3.7 POLICY H-4: Apply consistent standards in residential development to preserve residential character.
- 10.3.8 POLICY H-6: Require the construction of sound, safe, and sanitary dwelling units.
- 10.3.9 POLICY H-7: Use the following criteria for the establishment of residential densities:
 - 10.3.9.1 Adjacent to commercial development, residential development should range from 15 to 30 dwelling units per acre and may include mixed-use type projects.
 - 10.3.9.2 Adjacent to the existing single-family districts, densities should range from 8 to 20 dwelling units per acre.
- 10.3.10 POLICY H-12: Development standards must address efficient transportation networks and multi-modal opportunities for new development requiring the extension of existing streets into and through developments and the provision of sidewalks and trails for non-motorized modes of transportation.
- 10.3.11 POLICY H-13: New residential development in the urban growth area must be concurrently served by a full range of urban governmental services.
- 10.3.12 POLICY H-25: Ensure that new developments provide adequate street illumination.

10.4 OPEN SPACE AND RECREATION:

- 10.4.1 GOAL: Provide recreational opportunities, facilities, and experiences which will allow all individuals the opportunity to improve the quality of their lives, while preserving and enhancing the existing resources of the area.
- 10.4.2 POLICY OS-6: Provide adequate access for vehicles and pedestrians to public recreational areas as appropriate.

10.4.3 POLICY OS-15: The city and county should consider providing density bonuses for developments that provide open space and recreational facilities that are available for public use.

10.5 UTILITIES:

- 10.5.1 GOAL: Facilitate the development of all utilities at the appropriate levels of service to accommodate growth that is anticipated to occur in the Area, in a fair and timely manner.
- 10.5.2 POLICY UT 2: A full range of urban services shall be provided within the entire urban growth area by promoting utility extensions to those areas needing urban services.
- 10.5.3 POLICY UT 3: Encourage development of vacant properties adjacent to established utility systems, according to the appropriate zoning classification and/or land use designation.
- 10.5.4 POLICY UT 4: Insure that development take into account the timely provision of adequate and efficient utility systems.
- 10.5.5 POLICY UT 5: The cost of on-site utility improvements or site preparation for developments, such as surface drainage, utilities, and water and sewer systems should be the responsibility of private enterprise.
- 10.5.6 POLICY UT 7: Facilitate the provision of urban services to all areas in the urban growth area by sizing and locating new services that will efficiently accommodate future service extensions.
- 10.5.7 POLICY UT 10: Require the under-grounding of utility wires, where feasible.
- 10.5.8 GOAL 4: Provide sewer service for the East Wenatchee Urban Growth Area.
- 10.5.9 GOAL 5: Provide an efficient surface and stormwater management system that serves community residences and business in a manner that makes efficient use of limited resources and minimizes damage to public and private property from flooding events.
- 10.5.10 POLICY UT 23: Design, construct, and maintain stormwater facilities in a manner that minimizes their impact on adjacent neighborhoods and business.
- 10.5.11 POLICY UT 25: Require new developments locate required stormwater management facilities on-site unless a regional facility benefiting drainage has been constructed with sufficient excess capacity to serve the development.
- 10.5.12 POLICY UT 29: Stormwater facilities and infrastructure shall be of a type, nature and location to facilitate ease of access for required inspection, maintenance and operation. Stormwater facilities shall be

located on a separate tract, where feasible overflow and access is provided from a county or city right-of-way.

10.6 TRANSPORTATION:

- 10.6.1 GOAL: Provide a balanced transportation system that meets the needs of the community by accommodating the movement of people, goods, and services at an optimum level of safety, economy and efficiency.
- 10.6.2 GOAL: Ensure adequate and safe access to property via a system of public and private roads.
- 10.6.3 POLICY T-6: As public and private development occurs, ensure that transportation system improvements have adequate streets, sidewalks and walkways; and are consistent with the transportation and adopted system design.
- 10.6.4 POLICY T-7: Ensure that current and future developments provide proper, adequate and safe access to the transportation system and facilities.
 - 10.6.4.1 Provision for adequate parking must be included for all development.
 - 10.6.4.2 Natural and artificial landscaping should be considered in the design of system facilities.
- 10.6.5 POLICY T-8: Facilitate mobility for all residents within the Greater East Wenatchee Area; including the elderly and persons with disabilities by providing accessible transportation facilities.
- 10.6.6 POLICY T-16: Design transportation facilities within the Greater East Wenatchee Area that minimize adverse environmental impacts resulting from both their construction and use.
- 10.6.7 POLICY T-17: Economic and residential growth decisions should be tied to the ability of the existing transportation system to accommodate the increased demand, or new transportation facilities should be provided concurrently with the proposed development.
- 10.6.8 POLICY T-18: Allow land use changes only when proposals are consistent with the adopted transportation level of service standards of the comprehensive plan.
- 10.6.9 POLICY T-19: Control the location and spacing of driveways and encourage the development of shared driveways.
- 10.6.10 POLICY T-24: All road construction projects shall be designed and constructed in compliance with locally adopted stormwater management standards.
- 10.6.11 POLICY T-26: Encourage public transportation-compatible infill development on bypassed vacant parcels in developed areas adjacent to bus routes and stops.

- 10.6.12 **POLICY T-27:** All transit related decisions such as roadway access, projects, and pedestrian linkages shall be consistent with the current adopted LINK service area policies.
- 10.6.13 **POLICY T-28:** Coordinate with LINK to provide public transportation, which is affordable, safe, convenient, clean, comfortable, accessible, well maintained and reliable.
- 10.6.14 **POLICY T-34:** Development shall provide improvements adjacent to their development in accordance with adopted design standards and approved traffic studies. Where deficiencies are present, these issues would have to be addressed prior to development occurring in order to protect the public’s health, safety and general welfare consistent with the policies of the comprehensive plan, standard engineering principals, and adopted standards. Improvements necessary to maintain adopted levels of service shall be in place at the time of development, or a financial commitment agreed to by the city or county and the applicant must be in place to complete the improvements or strategies within six years.
- 10.6.15 **POLICY T-40:** Encourage physical activity by providing alternative modes of transportation with more pedestrian and bicycle friendly street standards.

- 11. **Environmental Review.** Douglas County issued a Determination of Non-Significance on June 23, 2023.
- 12. **Agency And Public Comments:** Applicable agencies have been given the opportunity to review this proposal. No public comments were received on the proposal. Agency comments have been included below:

Agency Notified	Response Received	Agency Notified	Response Received
Chelan-Douglas Health District	06/13/2023	Douglas County Treasurer	N/R
Douglas County PUD	04/27/2023	Douglas County GIS/Addressing	04/25/2023
WA State Dept. of Ecology	05/08/2023	Douglas County Assessor	04/27/2023
Douglas County Fire Marshal/ Building Official	07/13/2023	East Wenatchee Water District	05/25/2023
Douglas County Sewer District	07/11/2023	Douglas County Transportation & Storm Water	05/18/2023

Douglas County Land Services	06/23/2023	Washington State Department of Archeology and Historic Preservation	N/R
WSDOT	N/R	Eastmont School District	N/R
City of East Wenatchee	N/R	Link Transit	04/27/2023
Colville Confederate Tribes	N/R	Wenatchee Reclamation Irrigation District	04/24/2023

13. Project Analysis. In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.
14. Comprehensive Plan Consistency: The proposal is consistent with the goals and policies of the Greater East Wenatchee Area Comprehensive Plan. The project is considered infill development as it is completely surrounded by developed properties. The proposed unit amount meets the density standards designated by the Greater East Wenatchee Comprehensive Plan for infill development. Policy H-13 requires that urban development within the urban growth area be served concurrently with urban services. The development will be served by the full range of urban services. The first goal of the transportation chapter strives to provide a balanced transportation system that meets the needs of the community by accommodating the movement of people, goods and services at an optimum level of safety, economy and efficiency. The project will include a balanced transportation system that meets the needs of the community.
15. Consistency with the provisions of the General Commercial Zoning District, Chapter 17.42, EWMC as adopted by Douglas County: The applicant has applied for a Multifamily Planned Unit Development (PUD). Multifamily Developments are permitted Via a Conditional Use Permit (CUP) in the General Commercial zoning district. In addition to the CUP, the applicant has also applied for a PUD to allow flexibility with density and parking standards.
16. Consistency with the provisions of Planned Unit Development District, Section 17.68 EWMC as adopted: A planned unit development (PUD), as the term is used, is an overlay district requiring a rezone. The purpose of a PUD is to permit greater flexibility and consistently more creative and imaginative uses than is generally possible under conventional zoning regulations; To promote more economical and

efficient use of the land while providing a harmonious variety of housing choices, a higher level of city attractiveness and quality and preservation of scenic open space; and To correlate the intentions of this chapter and other ordinances of the city to encourage developments which will provide a desirable and stable environment in harmony with that of the surrounding area.

17. EWMC 17.68.020 – Minimum size:

The minimum size of PUD projects is as follows:

Type of PUD	Minimum Area (Acres)
Residential	2
Commercial	4
Residential/Commercial	8

17.1 The subject property is approximately 6.86 acres in size therefore qualifying for a residential planned unit development.

18. EWMC 17.68.030 – Permitted uses: Any uses permitted outright or as a conditional use in the zone where the PUD is located shall be permitted in a PUD, subject to the criteria established in this chapter; provided, however, that duplexes or multifamily dwellings may be permitted as a PUD in any residential zone.

18.1 The subject property falls within the General Commercial zoning district which allows for multifamily development via a conditional use permit.

19. EWMC 17.68.040 - Authority to initiate. PUD projects may be initiated by:

- 19.1 The owner of all the property involved, if under one ownership; or
- 19.2 Jointly by all owners having title to all the property in the area proposed for a PUD project, if there is more than one owner; or
- 19.3 A governmental agency; or
- 19.4 A person having interest in the property to be included in the PUD;
- 19.5 The proposal is being initiated by the owner of the subject property.

20. EWMC 17.68.050 Public services availability: PUD approvals are not granted unless such facilities as water lines, sewer lines and streets exist or are immediately planned in sufficient quantity to service the proposed new development.

20.1 The proposal will be served by public sewer, public water, and will include road improvements. The cost of utility improvements, on-site stormwater management, and all other infrastructure improvements/ modifications will be the responsibility the applicant. As conditioned, utility purveyors have indicated adequate, sufficient quantities of service can serve the proposal.

21. EWMC 17.68.060 – Pre-application conference: Before filing any application for a PUD, the prospective applicant shall submit to a designated responsible official

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- preliminary plans and sketches and basic site information for consideration and advice regarding the relation of the proposal to general developmental objectives and city policies in the area.
- 21.1 The applicant participated in a pre-application meeting prior to submitting application.
22. EWMC 17.68.070 – Filing: After an applicant has a pre-application conference with the city’s technical review committee, the applicant may file a formal preliminary application for a PUD. The formal preliminary application for a PUD shall be filed with the city together with the application fee and documents meeting the requirements set out in EWMC 17.68.090 and 17.68.100.
- 22.1 On March 24, 2023, the applicant submitted the PUD application. On April 18, 2023, Douglas County deemed the application complete.
23. EWMC 17.68.080 – Fee: The PUD application shall be accompanied by a nonrefundable fee in the amount currently established and as hereafter may be amended by resolution of the city council.
- 23.1 The applicant paid all applicable application fees.
24. EWMC 17.68.090 Application – Written documents: The applicant has submitted all applicable documents required by EWMC 17.68.090.
25. EWMC 17.68.100 Application – Site plan and supporting maps. The applicant has submitted the required site plan and all required supporting maps.
26. EWMC 17.68.110 Application – Administrative review. The project has been reviewed consistent with applicable review procedures. Douglas County Issued a Determination of Nonsignificance for the proposal on June 23, 2023.
27. EWMC 17.68.120-160. Sections repealed by Ordinance 22-08.
28. EWMC 17.68.170 Final development plan – Filing. A. The applicant shall file with the hearing examiner a final development plan containing in a detailed form the information required in EWMC 17.68.090 and 17.68.100. The hearing examiner, at the time of approval of the preliminary development plan, shall be authorized to allow up to 12 months for filing of the final development plan.
- 28.1 The applicant has elected to submit preliminary and final plans together for a combined review.
- 28.2 If the applicant fails to apply for final approval within such time or extended period for any reason, the tentative approval shall be deemed revoked and all that portion of the area included in the development plan for which final approval has not been given shall be subject to the zoning and subdivision

provisions otherwise applicable thereto. (Ord. 22-08 § 5 (Exh. B), 2022; Ord. 91-5 § 2, 1991)

- 28.3 The applicant elected to submit preliminary and final plans together for a combined review.
29. EWMC 17.68.180 Final development plan – Administrative review. The applicant(s) shall submit the final development plan to the responsible official for review. If the applicant meets the minimum requirements as set forth in this chapter and is in substantial compliance with the approved preliminary development plan, it shall be deemed submitted to the planning commission. The final development plan shall be deemed sufficiently consistent with the preliminary development plan, provided modification by the applicant does not involve a change in one or more of the following:
- 29.1 Violate any provision of this chapter;
 - 29.1.1 As conditioned, the proposal is consistent with EWMC 17.68.
 - 29.2 Vary the lot area requirements by more than 10 percent;
 - 29.2.1 Lot area not applicable to multifamily development.
 - 29.3 Involve a reduction of more than 10 percent of the area reserved for the common open space and/or usable space;
 - 29.3.1 The applicant has provided open space in excess of the amount required by EWMC.
 - 29.4 Increase the floor area proposed for nonresidential use by more than 10 percent;
 - 29.4.1 As conditioned, the proposal is consistent with this chapter.
 - 29.5 Increase the total ground area covered by buildings by more than five percent;
 - 29.5.1 As conditioned, the proposal is consistent with this chapter.
 - 29.6 Increase density or number of dwelling units by more than 10 percent. (Ord. 91-5 § 2, 1991)
 - 29.6.1 Density allowance is consistent with that required by the zoning code and outlined in the Greater East Wenatchee Comprehensive Plan.
30. EWMC 17.68.190 Final development plan – Lapse of zoning.
30.1 The project has followed all applicable procedural standards.
31. EWMC 17.68.200 Final development plan – Content.
31.1 The applicant has elected to combine the preliminary and final review of the project. The Hearing Examiner will review all items included as part of the final development plan.
32. EWMC 17.68.210 Final development plan – Hearing examiner action.
32.1 The Douglas County Hearing Examiner will review the final development plan in preparation for the July 20, 2023 public hearing. Hearing Examiner action and procedures will be consistent with the applicable sections of EWMC 17.68.

33. EWMC 17.68.220 Final development plan – City council action.
 - 33.1 Repealed by Ordinance 22-08.
34. EWMC 17.68.230 Building permit issuance.
 - 34.1 After necessary actions by the hearing examiner, such as recording site plans and plats, building permits may be issued and construction may begin.
35. EWMC 17.68.240 Amendments to final development plan.
 - 35.1 The final development plan will be reviewed by the Douglas County Hearing Examiner. Any modifications to such plan shall follow all applicable sections of code.
36. EWMC 17.68.250 Construction start and completion limits.
 - 36.1 Timing of construction/ project development will follow all applicable sections of this chapter.
37. EWMC 17.68.260 Review during construction.
 - 37.1 Each commercial building permit application received by Douglas County will be reviewed for conformance with the approved PUD plan and applicable Codes.
38. EWMC 17.68.270 Plan to run with land – Violations.
 - 38.1 The approved final development plan is binding and shall be a restriction on development which runs with the land. Any unauthorized deviation therefrom shall be punishable and enforceable as a violation of this chapter.
39. EWMC 17.68.280 Design criteria: The design elements established within this chapter shall be used as a guide for an applicant to follow in developing a preliminary and final development plan. The responsible official and the hearing examiner shall determine from the applicant and other resources available to it whether a PUD preliminary and final development plan vary from these criteria.
 - 39.1 The project has been designed to be consistent with the Greater East Wenatchee Area Urban Design Guidelines. The narrative provided by the applicant demonstrates compliance with applicable design criteria. Building permit review will include more detailed review of certain building specific design components.
40. EWMC 17.68.290 Design criteria – Density increases in general: Density increases, as provided in each respective section of this code, shall be governed by the precepts listed in EWMC 17.68.300, 17.68.310 and 17.68.320, which are to be treated as additive, but in no case shall the bonus be more than the maximum for that category.
 - 40.1 The applicant has provided documentation to justify the application qualifying for the maximum density increase of 40%. Later portions of this decision

cover the differing increases. Documents and analysis supporting density increases are identified herein and within the findings section of this decision.

41. EWMC 17.68.300 Design criteria – Density increases for open space: Open space reservation shall be considered for density increases according to the following provision:
 - 41.1 An acre of improved common open space permits a maximum increase of 10 percent.
 - 41.2 If unimproved, an eight percent increase is allowed;
 - 41.2.1 The total amount of open space is 127,005 sq/ft; of that the total amount of usable open space is 125,017 sq/ft.
 - 41.3 A second acre of improved common open space permits a maximum increase of six percent. If unimproved, four percent is allowed;
 - 41.3.1 The total amount of open space is 127,005 sq/ft; of that the total amount of usable open space is 125,017 sq/ft.
 - 41.4 Additional acres of improved common open space permit a maximum increase of four percent. If unimproved, three percent is allowed;
 - 41.5 A minimum of one acre is required for open space bonuses;
 - 41.6 The total open space bonus possible is 20 percent. (Ord. 91-5 § 2, 1991)
 - 41.6.1 Total increase of density for Design Criteria in Open Space = 20%

42. EWMC 17.68.310 Design Criteria – Density increases for design factors: Character, identity, and architectural and siting variation incorporated in a development shall be considered cause for density increases not to exceed 20 percent, provided these factors make a substantial contribution to the objectives of a PUD. The degree of distinctiveness and the desirable variation achieved shall govern the amount of density increases which the hearing examiner may approve. Such variations may increase, but are not limited to, the following:
 - 42.1 For design factors:
 - 42.1.1 A maximum increase of 10 percent for landscaping: streetscape, open spaces and plazas, use of existing landscape, pedestrian-way treatment and recreational areas
 - 42.1.2 The applicant has proposed sufficient landscaping, open space, pedestrian ways, and recreational areas to achieve the 10 percent bonus.
 - 42.2 A maximum increase of five percent for siting: visual focal points, use of existing physical features such as topography, view, sun and wind environment, variation in building setbacks, building groups (such as clustering) and energy efficient siting;
 - 42.2.1 The site takes advantage of existing views, topography, building design/ location to achieve the 5 percent bonus.

- 53.1.1 The project has been designed consistent with the standards of this section.
 - 53.2 The off-street loading and parking requirements shall be as set forth in EWMC 17.72.010, as the same exists now or may hereafter be amended.
 - 53.2.1 Off street parking and loading areas have been designed consistent with the standards of this section. Any reduction in the required off street parking will only be allowed upon the Applicant's full compliance with EWMC 17.72.010(f)(1-4).
 - 53.3 The hearing examiner makes a finding that the property is within 500 feet of a residential district and that the proposed use is not unduly detrimental to the development of commercial property in the area. (Ord. 22-08 § 5 (Exh. B), 2022; Ord. 02-18 § 3, 2002; Ord. 91-5 § 2, 1991).
54. Application materials reviewed by Douglas County Transportation and Land Services, the Douglas County Planning Commission, and the Hearing Examiner include:
- 54.1 Site Plan prepared by the applicant, dated March 23, 2023
 - 54.2 SEPA Checklist prepared by Charles Morgan and Associates, dated March 23, 2023.
 - 54.3 Project Narrative prepared by Charles Morgan and Associates dated March 23, 2023.
 - 54.4 Preliminary Civil Plans prepared by Insight Engineering, dated March 21, 2023.
 - 54.5 Preliminary Drainage Report prepared by Insight Engineering, dated March 21, 2023.
 - 54.6 Traffic Impact Analysis prepared by Kimley Horn, dated March 2023.
 - 54.7 Geotechnical Engineering Evaluation prepared by Nelson Geotechnical Associates, dated October 19, 2022.
 - 54.8 Phase 1 Environmental Assessment prepared by The Riley Group, INC, dated April 18, 2022.
 - 54.9 Parking Plan prepared by Charles Morgan and Associates, dated March 24, 2023.
 - 54.10 Open Space Plan prepared by Origin Design Group, dated March
 - 54.11 Landscaping Plan prepared by Origin Design Group, dated March 17, 2023
 - 54.12 Market Study prepared by Kidder Mathews dated March 24, 2023.
55. The East Wenatchee Water District has confirmed water is available per this request. Domestic water service is available for 460 Rock Island Road with a service that can accommodate up to a 2 inch water meter.
56. The Washington State Department of Ecology has provided comment indicating the subject properties are located within an area that was 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. All requirements for soil testing/ remediation are administered by the Department of Ecology.
57. The Washington State Department of Ecology submitted comments stating The NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with disturbed ground.
 58. The preliminary civil plans illustrate the proposed multifamily structures, parking and site circulation, stormwater infrastructure, and utility infrastructure. Access is proposed from Rock Island Road.
 59. The preliminary civil plans include right-of-way dedication and frontage improvements on Rock Island Road along the eastern edge of the project site. Half-street improvements per Road Standard Figure 3-8 are required for Rock Island Road. The applicant has inquired about deferring construction of frontage improvements into the future. Deferring improvements is considered acceptable to the County since it would likely be safer and more efficient to construct the improvements as part of a future county or city project with the proportional contribution from this developer. If the applicant enters into a deferred improvement agreement (DIA), it would be in effect for 10 years. If the DIA is executed, interim improvements to the project frontages within public right-of-way shall be constructed with this current development, including:
 - 59.1 Interim pavement surfacing (6' minimum widening of roadway shoulder and tapered transitions to existing pavement) and gravel surface extending to the new right-of-way line.
 - 59.2 Interim drainage improvements (swale, collection structures, piping, etc.) for stormwater runoff from half-street right-of-way along project frontage. Drainage shall be conveyed to a stormwater facility located on the project property and maintained by the owner during the interim conditions and after the future road improvements are completed. The stormwater facility on-site shall be sized to include the tributary runoff from the right-of-way along the project frontage.
 60. The Traffic Impact Analysis (TIA) prepared by Kimley Horn indicates that all study intersections analyzed will operate at a level of service that meets or exceeds the acceptable standards (LOS E) in the Greater East Wenatchee Area Comprehensive Plan.
 61. The traffic study has also been provided to the City of East Wenatchee and WSDOT for review and comment.
 62. The preliminary stormwater report adequately demonstrates stormwater management feasibility for the subject property through the use of qualitative analysis, sub-basin

- delineation, and calculations. A final stormwater report prepared in accordance with the SWMMEW shall be prepared and submitted with the Building permit application.
63. The entire Planning Staff file was admitted into the record at the public hearing.
 64. The Douglas County Department of Land Services recommended approval of this PUD and CUP, subject to the recommended conditions of approval.
 65. Public hearing after due legal notice was held on July 20, 2023. Appearing and testifying on behalf of the applicant was Brian Bergstrom. Mr. Bergstrom testified that he is authorized to appear and speak on behalf of the applicant. Mr. Bergstrom testified that all of the proposed conditions of approval were acceptable and that he agreed with all the representations in the staff report. He stated that the Traffic Impact Study provided information justifying the reduced off street parking.
 66. Also testifying for the Applicant was Brian Kalab. Mr. Kalab stated he is the Civil Engineer for the project that the parking areas adjacent to SR28 are 25 feet above SR 28 so headlights from parking vehicles will not shine on SR28.
 67. No member of the public testified at the hearing.
 68. 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.
 69. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
 70. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
 71. 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 Ordinance # 01-01H.
6. As conditioned, the proposal is consistent with the East Wenatchee Urban Area Design Guidelines.
7. As conditioned, the proposal is consistent with Title 19 "Environment", and Title 20 "Development Standards", of the Douglas County Code.
8. 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 PRD 2023-01 and CUP 2023-01, 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. The project shall proceed in substantial conformance with the plans and application materials submitted on 03/24/2023 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 approvals and permits.
3. The applicant shall obtain commercial building permits for all structures identified within the approved PUD plans.
4. Subsequent commercial building permits shall meet all applicable standards identified within the East Wenatchee Urban Area Design Guidelines.
5. Site illumination shall be designed to not trespass onto neighboring properties/ SR 28 and shall be consistent with the East Wenatchee Urban Design Guidelines.
6. Proposed landscaping shall be maintained for the life of the project and be consistent with the plans on file. Landscaping shall be inspected upon installation. The landscape architect shall complete a landscaping affidavit upon installation of the landscaping.
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. Upon application for the commercial building permit(s), the applicant shall provide a final landscaping plan, proportionate to the phase/ building being constructed.

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9. Proposed landscaping shall be installed, or bonded for, prior to final approval of the commercial building permit(s).
10. A final design of the recreation spaces must be included with the construction drawings. Design detail such as safety fencing, active and passive recreation areas, access, pedestrian circulation, and landscaping shall be included. The open space plans must comply with EWMC 17.73 Open Space Standards and the East Wenatchee Urban Design Guidelines.
11. All structures shall meet setbacks identified for front, side, and rear property lines. The applicant shall conduct a boundary line adjustment or lot consolidation to ensure structures meet setbacks prior to building permit issuance.
12. Additional permits for fire suppression and fire detection are required for review, approval, and issuance prior to installation.
13. Minimum Required Fire Flow is 1500 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. 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 with the approval of the AHJ and / or Fire Marshal.
14. All dwellings to be monitored and protected by a fire sprinkler system in accordance with NFPA 13R.
15. 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 be 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.
16. Buildings or facilities exceeding 30 feet or three stories in height shall have not fewer than two means of fire apparatus access for each structure. Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet, approved aerial fire apparatus access roads shall be provided. The highest roof surface shall be determined by the measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of the parapet wall, whichever is greater. Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.
17. 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.

18. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet exclusive of shoulders.
19. Per DCC 17.10.040.c, an all-weather access road approved by the fire marshal shall be provided to within one hundred fifty feet of every linear foot of the exterior wall on the first floor of each building prior to any construction.
20. Multi-family residential projects having more than 100 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads. The access roads shall be placed a distance apart equal to but not less than one half the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.
21. During construction, temporary occupancy within individual units shall not be authorized until such time that the entire building is complete, inspected, and approved by the Fire Marshal for occupancy.
22. The applicant shall provide LINK transit funds for the cost of a bus shelter and construction of a suitable concrete pad to mitigate the impact of the development in regard to public transportation/ transit. Link Transit will be responsible for installation of the shelter, signage, and benches/ Link will also be responsible for the maintenance of all amenities at the stop. The applicant shall coordinate with Link to ensure shelter location is compatible with the overall project design.
23. Utility easements along Rock Island Road shall be 10' wide.
24. The applicant shall ensure buildings/ decks have sufficient safety clearance from overhead electrical lines when lines are relocated by any future project.
25. The applicant shall contact the Douglas County PUD and complete a request for service so that a cost estimate for service to the project can be provided.
26. At time of building permit submittal, the applicant shall provide a complete address request form. Addresses will be assigned once the Fire Marshal has approved the buildings.
27. The applicant shall provide the East Wenatchee Water District domestic flow requirements in order to ensure proper sizing of the water meter.
28. Backflow assembly installation shall follow the requirements of WAC 246-290490 and the PNS-AWWA CCS manual. All water system improvements shall be shown on the civil drawings prior to final approval. It shall be the responsibility of the owner/ developer to coordinate all backflow requirements and installation of those facilities with the district per the district standards and specifications.
29. All additional requirements for fire flow will need to comply with the Douglas County Fire Marshal standards. Fire protection improvements will be per district standards and specifications and be installed by a qualified contractor at the expense of the developer.

30. All sanitary sewer facilities within the project boundaries will be private infrastructure; owned, operated and maintained by the property owner(s) or their agents.
31. The sewer pump station must meet Washington Department of Ecology (WDOE) guidelines for emergency storage volumes, and must have a backup power source. The applicant must provide pump station design details to DCSD for review.
32. Sewer pump station output will be limited to 50 gallons per minute (GPM) during normal operation.
33. General Facility Charges (GFCs; also referred to as Connection Fees), for sewer, must be paid prior to DCSD approval of building permits. The current GFC for one Equivalent Residential Unit (ERU) is \$5,748.00. There is a presently a discounted scale for GFCs for multi-family dwellings (MFDs). However, DCSD is in the process of performing a rate study. In 2024, the GFC per ERU may increase significantly, and the discounted scale for MFDs may be adjusted or retired.
34. All Water and Sewer system improvements shall be designed, constructed, and placed in accordance with the purveyor's, and Department of Ecology's, standards and requirements.
35. Final construction plans designed by a Professional Engineer licensed in the State of Washington shall be submitted to and accepted by Douglas County at the time of building permit submittal. Construction plans shall be prepared in accordance with the requirements of the Douglas County Code.
36. Rock Island Road is classified as an Urban Arterial. Half-street improvements shall be constructed along the project frontage per Figure 3-8 (arterial) or the applicant has the option to enter into a deferred improvement agreement (DIA). Half-street improvements include but are not limited to widening, curb, sidewalk, drainage, and illumination. Right-of-way dedication is required (and cannot be deferred) to provide 35' of right-of-way from new property line to centerline of right-of-way. If the applicant enters into a deferred improvement agreement (DIA), it would be in effect for 10 years. If the DIA is executed, interim improvements to the project frontages within public right-of-way shall be constructed with this current development, including:
 - 36.1 Interim pavement surfacing (6' minimum widening of roadway shoulder and tapered transitions to existing pavement) and gravel surface extending to the new right-of-way line.
 - 36.2 Interim drainage improvements (swale, collection structures, piping, etc.) for stormwater runoff from half-street right-of-way along project frontage. Drainage shall be conveyed to a stormwater facility located on the project property and maintained by the owner during the interim conditions and after the future road improvements are completed. The stormwater facility on-site

shall be sized to include the tributary runoff from the right-of-way along the project frontage.

37. Coordinate directly with Link Transit to determine if additional transit stops or any other form of mitigation is required as a result of this project. Provide written verification from Link Transit confirming that the existing facilities or proposed mitigation is adequate. Include a signature block for Link Transit on the cover sheet of the construction plans.
38. Illumination shall be designed and installed consistent with East Wenatchee Municipal Code, Douglas County Code Section 12.57.100 Roadway Illumination, and meet Douglas County PUD Standards. 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.
39. Prior to occupancy 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.
40. 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 a Warranty Assurance Agreement shall be completed per DCC 12.50.110 prior to final plat acceptance.
41. Per DCC Chapter 12.24, all new or revised accesses onto a County road (including temporary accesses) require an approved access permit.
42. 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.
43. 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 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.

44. 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.
45. 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.
46. Prior to occupancy, 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.
47. Provisions to provide access for inspection and maintenance of the stormwater tract(s) / easement(s) shall be addressed within the design plans, report, and on the final plans as necessary.
48. 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. Provide written acceptance from WSDOT that emergency overflow from the stormwater system is acceptable.
49. Registration of facilities that are regulated under the Washington State Department of Ecology's Underground Injection Control Program shall be completed prior to construction.
50. Individual/common plan development for this proposal will 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.
51. Prior to reduction of any required off street parking, the Applicant shall demonstrate full compliance with all the requirements set forth in EWMC 17.72.010(f)(1-4).

Dated this 21 day of July, 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.