

**DOUGLAS COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

140 19<sup>th</sup> Street NW  
East Wenatchee, WA 98802-4109

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
CUP-23-03	)	<b>DECISION AND</b>
Douglas County Sewer District	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on December 21, 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 Douglas County Sewer District, 692 Eastmont Ave, E. Wenatchee, WA 98802. The owner of the property is Matt Meenach.
2. General Description: An application for a Conditional Use Permit (CUP) to install a new lift station on the southeast corner of the property. The projects will construct approximately 100-feet of force main from the new lift station location to the point of connection on the existing force main. A gravity system extension will be constructed of 10-inch PVC pipe, extending from the existing system at the current collection manhole northwest towards the location of the new station. The proposed sewer facility will be operated by Douglas County Sewer District at the property mentioned below.
3. Location: The property is located south of 2297 8<sup>th</sup> Street NE, East Wenatchee, WA 98802. The subject property is located in the Residential Low (R-L) zoning within the East Wenatchee Zoning District and is further described as being located within Section 7, Township 22N, Range 21E. Douglas County Assessor's Parcel Number: 22210710049.
4. Site Information: The subject property includes one existing storage building and an orchard.
5. Site Access: The subject property will be accessed via 8<sup>th</sup> Street NE.
6. Zoning: The subject property is located within the Residential Low (R-L) zoning district, which allows sewer facilities through a conditional use permit (CUP).
7. Comprehensive Plan – The Greater East Wenatchee Comprehensive Plan designates this property as Residential Low and is zoned Residential Low (R-L) under Douglas County Code 18A. The following goals and policies set forth in the comprehensive plan are relevant to this development.

7.1 URBAN GROWTH AREA:

7.1.1 POLICY UG-3: Periodically monitor the development pattern within the urban growth area based on population projections, land use, the adequacy of existing and future utility and transportation systems, economic development strategies, and capital facilities plans to ensure that development and the provision of urban governmental services are occurring concurrently.

7.1.2 POLICY UG-7: Ensure that the location of proposed easements and road dedications, structures, stormwater drainage facilities, and the extension of a full range of urban utilities (water, sewer, power, etc.) are consistent with the orderly future development of the property to achieve urban densities.

7.2 RURAL LANDS:

7.2.1 POLICY R-3: Establish land use designations that represent rural character and that protect the integrity of rural areas.

7.2.2 POLICY R-6: Encourage development in rural areas to be served by rural levels of service.

7.3 LAND USE – RESIDENTIAL:

7.3.1 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.

7.3.2 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 ensure that a full range of urban governmental services is available to serve the development within the planning period.

7.4 CAPITAL FACILITIES:

7.4.1 GOAL: Ensure that adequate capital facilities and services are planned, located, designed and maintained in an efficient manner that maximizes the use of existing facilities and promotes orderly compact urban growth and development that is served with a full-range of urban services.

7.4.2 POLICY CF 1: Promote the continuation of multi-jurisdictional coordination in facility planning.

7.4.3 POLICY CF 2: Encourage the multiple use of capital facilities.

7.4.4 POLICY CF 3: Encourage the location and expansion of public facilities in accordance with projections for growth and development.

7.4.5 POLICY CF 5: Ensure that capital facility planning is consistent with the comprehensive plan.

7.4.6 POLICY CF 6: Ensure that the location and design of capital facilities creates minimal adverse impacts on the surrounding land use.

7.4.7 POLICY CF 7: The phasing of growth & development within the Urban Growth Boundary should be consistent with the priorities and capital improvement budgets contained within the water and sewer plans.

7.4.8 POLICY CF 8: The facility plans for all service providers must be consistent with the growth projections adopted by the city and county for the urban growth area.

- 7.4.9 POLICY CF-9: Plan for and provide capital facility improvements to correct existing deficiencies and to accommodate existing and future needs.
- 7.4.10 POLICY CF-10: The city and county should work with the service providers to support and foster efforts to secure grants or other funds to finance improvements and extensions of capital facilities throughout the urban area.

7.5 UTILITIES:

- 7.5.1 GOAL 1: 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.
- 7.5.2 POLICY UT 5: The cost of on-site utility improvements or site preparation for new and redevelopments, such as surface drainage, utilities, and water and sewer systems shall be the responsibility of private enterprise.

7.6 SEWER:

- 7.6.1 GOAL 4: Provide sewer service for the East Wenatchee Urban Growth Area.
- 7.6.2 POLICY UT 18: Plan future sewer line locations to developing areas of the Greater East Wenatchee Area.
- 7.6.3 POLICY UT 19: In urban areas where sewer is not currently available, developers shall install dry lines from the septic systems to the future sewer easement.
- 7.6.4 POLICY UT 20: Periodically, as the City grows and develops, it should review its potential for assuming Douglas County Sewer District #1 and the implications associated with doing so

8. Applicable provisions of DCC 18.80.030 "Evaluation Criteria"

- 8.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
- 8.2 The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.
- 8.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
- 8.4 The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use will provide adequate services.
- 8.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
- 8.6 The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
- 8.7 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to DCC Title 20 and to the satisfaction of the county engineer.

- 8.8 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects.
  - 8.9 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
  - 8.10 The hearing examiner is the review authority and may approve, conditionally approve or deny a request for changing the minimum lot size of a conditional use. Any waiver of minimum lot size shall not be construed as an exemption from the requirements of DCC Title 17 and RCW Chapter 58.17.
9. Douglas County Sewer District took on the role of Lead Agency for this project. Darrell Winans issued a Determination of Non-Significance on April 27, 2023, in accordance with WAC 197-11-355 (Optional DNS).
10. Applicable agencies have been given the opportunity to review this proposal. These agencies have identified mitigation or project design requirements for the project that have been included as conditions of approval where appropriate.

Agency Notified	Response Received	Agency Notified	Response Received
East Wenatchee Water District	10/19/2023	Douglas County Transportation	10/18/2023
Douglas County Fire Marshal	11/08/2023	Douglas County PUD	10/03/2023
Douglas County Planning	12/11/2023	Douglas County Sewer District	10/19/2023
Douglas County GIS	10/02/2023	Douglas County Health District	10/19/2023

11. No comments were received from members of the public.
12. Comprehensive Plan consistency: The project is located within designated *Residential Low* designation and is consistent with chapter 3 “Capital Facility Planning Relationship to Land Use”, chapter 6 “Capital Facilities”, and chapter 7 “Utilities” of the Greater East Wenatchee Comprehensive Plan.
13. Consistency with DCC Chapter 18.80.030 “Conditional Uses – Evaluation Criteria”. R-L zoning authorizes this land use as a Conditional Use. The required operational conditions will sufficiently mitigate associated impact. The project will not create excessive demands on public services. Noise impacts, dust control, and adequate buffering must fall within the parameters of Douglas County Code, as well as State standards.
- 13.1 As conditioned, the proposal appears consistent with the requirements of this section.
14. Consistency with EWMC 17.24 Residential Low Density: The Residential Low (R-L) zoning district allows this use via a Conditional Use Permit (CUP).

- 14.1 As conditioned, the proposal appears consistent with the requirements of the zoning district.
15. Douglas County Transportation Department has evaluated the proposal and recommended approval of the project with applicable conditions.
16. Douglas County Land Services: The application materials demonstrate compliance with adopted codes, standards, and specifications applicable to this project. As conditioned, the proposal is consistent with the provisions of Douglas County Code 18A.
17. Initial application materials reviewed by Douglas County Transportation and Land Services and admitted into the record at the open record public hearing include:
- 17.1 Ex. 1 Master application dated August 14, 2023.
  - 17.2 Ex. 2 Geotechnical Report dated July of 2023.
  - 17.3 Ex. 3 Cultural/Archeology Report dated May 22, 2023.
  - 17.4 Ex. 4 Preliminary Stormwater Report prepared by RH2 Engineering, dated Summer 2023.
  - 17.5 Ex. 5 Summer Place Lift Station Project Narrative.
  - 17.6 Ex. 6 Summer Place Lift Station Site Layout dated June 29, 2023.
  - 17.7 Ex. 7 Summer Place Lift Station Landscaping Plan dated June 29, 2023.
  - 17.8 Ex. 8 SEPA Determination of Non-Significance dated April 27, 2023.
  - 17.9 Ex. 9 Staff Report.
18. The preliminary stormwater report adequately demonstrates stormwater management feasibility for the subject property.
19. 8th Street SE is classified as an Urban Arterial. Half-street improvements are typically required in accordance with Figure 3-8 (Arterial) to meet the current standards. As this project will not add traffic to the transportation system, frontage improvements are not required.
20. The project narrative addresses Douglas County request for 5 feet right-of-way dedication along the project parcel frontage. The 5 feet of right-of-way will be dedicated at the time the property is subdivided.
21. Surrounding property owners were given the opportunity to comment on the proposal, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
22. No public comments were received for the proposal.
23. Comments from reviewing agencies have been considered and addressed where appropriate.
24. Proper legal requirements were met and surrounding property owners, affected agencies, and interested parties were given the opportunity to comment on the proposal at a public hearing.
25. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
26. After due legal notice an open record public hearing was held on December 21, 2023.
27. The entire Planning Staff file was admitted into the record at the public hearing.
28. Appearing and testifying on behalf of the Applicant was Jeremy Stumetz. Mr. Stumetz testified that he was the agent for the Applicant and property owner and was authorized to

appear and testify on its behalf. Mr. Stumetz had concerns with Finding of Fact No. 10 and proposed Conditions of Approval No. 7 and 8, regarding landscaping. He indicated that the site of this proposed project is very small and that landscaping, if required, would impact their ability to place equipment on the site. He asked that landscaping be eliminated and that new measures be implemented to address aesthetics.

29. Also testifying on behalf of the Applicant was Darrell Winans. Mr. Winans testified that he was also an agent authorized to appear and speak on behalf of the Applicant and property owner. He testified that their attempt is to beautify the site. He stated that it is set on a hillside. They were not proposing any fencing to keep the view lines open.
30. In response, staff indicated that landscaping was required by the Douglas County Code and that no exceptions apply. They indicated that this is a high residential area with the nearest residence nearly 40' away. Also, responding for the County was Mike Neer, Development Services Manager. He indicated that the last sentence of Finding of Fact No. 10 could be stricken.
31. No member of the public testified at this hearing.
32. 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 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 18A "Zoning", Title 19 "Environment", and Title 20 "Development Standards" of the Douglas County Code.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

## III. DECISION

Based on the above Findings of Fact and Conclusions of Law, review of all applicable files, including the Planning Department staff file, and after an open record public hearing, the Hearing Examiner has determined that CUP No. 2023-03 is hereby **APPROVED** subject to the following Conditions of Approval.

#### IV. CONDITIONS OF APPROVAL

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

1. The project shall proceed in substantial conformance with the plans and application materials of file except as amended by the conditions herein.
2. The applicant, and site operators, are responsible for compliance with all applicable local, state and federal rules and regulations and shall acquire all applicable permits including but not limited to:
  - 2.1 Commercial Building Permit(s) for all structures being built.
3. An Address Request Application shall be submitted with the building permit application.
4. Prior to building permit issuance, the applicant shall acquire approval from the Chelan Douglas Health District. The final design shall meet all applicable CDHD standards.
5. Final construction plans designed by a Professional Engineer licensed in the State of Washington shall be submitted to Douglas County at the time of building permit submittal. Construction plans shall be prepared in accordance with the requirements of the Douglas County Code.
6. At time of building permit submittal, the applicant shall provide an external illumination plan. All lighting shall be directed downward as to not cause any light pollution to neighboring properties.
7. At time of building permit submittal, the applicant shall submit a final landscaping plan. Proposed landscaping shall be compliant with the standards of the Residential Low district.
8. Landscaping shall be installed per the plans and shall be maintained for the life of the project. Landscaping shall be installed or bonded for, prior to final inspection of the commercial building permit.
9. Final site-specific civil construction plans and a stormwater 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 with the building permit application. The plans and stormwater report submitted with the building permit application shall be accepted by Douglas County prior to construction and prior to issuance of any building permit.
10. The station bunker building setback and grading shall be based off the County's future 5-foot-wide right-of-way acquisition.
11. A copy of the recorded easement from the property owner, Matt Meenach, to the Douglas County Sewer District for the construction, maintaining, repairing..etc of the sewer facilities shall be provided prior to building permit issuance.
12. A County Access Permit is required at the time of the building permit submittal. Driveway construction shall comply with standard figure 4-1, including paving the portion of the access road within County ROW. The width of the driveway access within ROW shall be 20 feet minimum and not exceed 50 feet. A minimum 12-inch culvert with 12-inch cover is required. At the time of issuance this permit shall be accepted and signed by the property owner.

13. Utility installation/replacement/upgrade within 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.
14. Field infiltration tests shall be performed in the location of the proposed infiltration facilities in accordance with the guidance presented in the SWMMEW. The infiltration rate derived in this manner shall be utilized in the design process with an appropriate factor of safety/correction factor applied. This information shall be included as an appendix to the stormwater report and contain, at a minimum, the name of the testing agency, the methodology utilized, and the recorded time step information.
15. Registration of facilities that are regulated under the Washington State Department of Ecology's Underground Injection Control Program shall be completed prior to construction.
16. An Erosion/Sediment Control Plan shall be prepared and BMP's implemented and maintained throughout construction until such time as permanent site stabilization is established.
17. The Engineer of Record shall monitor construction and shall provide as-built drawings and report as necessary along with certification that the transportation and stormwater improvements have been completed in accordance with the applicable codes, regulations, and accepted plans. UIC registration shall be provided with the engineering certification.
18. 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.
19. Individual/common plan development for this proposal may exceed 1-acre of disturbed ground. This would meet the threshold by the Washington State Department of Ecology (WSDOE) in administering their general permit to discharge stormwater associated with construction activity. The applicant is responsible for acquisition of all applicable permits prior to beginning ground breaking activities, including but not limited to: Construction Stormwater General Permit, Sand & Gravel Stormwater General Permit, and/or Industrial Stormwater General Permit. Compliance with the Washington State Department of Ecology's regulations is the responsibility of the applicant.

Dated this 27th day of December, 2023.

DOUGLAS COUNTY HEARING EXAMINER



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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.