

BEFORE THE CHELAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF

P 2019-001
Pheasant Hills Subdivision

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FINDINGS OF FACT, CONCLUSIONS
OF LAW, DECISION AND CONDITIONS
OF APPROVAL

CHELAN COUNTY
COMMUNITY DEVELOPMENT

THIS MATTER, having come on for hearing in front of the Chelan County Hearing Examiner on September 18, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

FINDINGS OF FACT

1. An application was submitted to cluster subdivide in 5 phases, approximately 18.9 acres into 93 residential lots with tracts for stormwater and a private access road. The smallest lot size is approximately 6,000 square feet with the largest size of approximately 11,023 square feet. The average lot size is approximately 6,452 square feet.
2. The applicant/owners are D & T Campbell Investments, LLC, PO Box 3285, Wenatchee, WA 98807.
3. The surveyor is Northwest Geodimensions, 15 N. Chelan Ave., Wenatchee, WA 98801.
4. The subject site is NNA Easy St., Wenatchee, WA 98801.
5. The subject parcel numbers for the property are 23-20-2-130-050; 23-20-20-130-100 and 23-20-20-130-110.
6. The legal description of the subject property is Ptn. of the SW ¼ of the NE ¼ of Section 20, Township 23 North, Range 20 EWM; Ptn. of the SW ¼ of the NE ¼ Section 20, Township 23 North, Range 20; Ptn. of the NW ¼ of the SE ¼ of Section 20, Township 23 North, Range 20.
7. The property is located within the Wenatchee Urban Growth Area.
8. The current Comprehensive Plan designation and zoning district are Residential Moderate (RM)/Residential High (RH).
9. The subject property is currently vacant. The existing structures have been removed.
10. The subject site slopes gently from the north to the southeast and the current land cover consists of primarily orchard grass.
11. The proposed development includes 3 parcels for a total of approximately 18.9 acres..
12. The property to the north of the subject property is Easy Street, a public county right of way and property in residential use, and is zoned Residential High (RH).
13. The property to the south of the subject property is US Hwy 2, a state right of way and is zoned Rural Residential/Resource 5 (RR5).
14. The property to the west of the subject property is in residential and agriculture use, and is zoned Residential Moderate (RM).
15. The property to east of the subject property is in residential use, and is Residential High (RH).

16. Comments from the Washington Dept. of Archaeology & Historic Preservation, dated March 27, 2019, indicated that the proposed development area has a high potential for archaeological resources. A cultural resource study was recommended.
17. However, staff provided additional information regarding the site to DAHP and in an email dated May 15, 2019, the original recommendation was revised. A cultural resource study is not necessary, but rather an inadvertent discovery plan would be required at time of building permit submittal.
18. Pursuant to RCW 27.53.020, full cooperation among the Department of Archaeology and Historic Preservation and other agencies is required to ensure information regarding the possible impact of construction activities on the state's archaeological resources is maintained. Staff recommended notification if any artifacts are uncovered or discovered during the development of the proposed subdivision.
17. On March 22, 2018, a pre-application meeting was held to discuss the feasibility of the proposed development.
18. The proposed development fronts on Easy Street. Easy Street is a 50' right of way and is classified as an Urban Minor Arterial Road in the county road system. Easy Street consists of single travel lanes for both directions with curb, gutter, and no sidewalk on the north side of the roadway.
19. Being as the proposed project will have a direct impact to intersections on Easy Street, the County Engineer is requiring that a Traffic Impact Study be conducted in order to identify probable impacts in order to establish suitable mitigation measures. That study was completed September 17, 2019 and was admitted into the record as Exhibit 1 at the open record hearing.
20. With the development, a new internal roadway system is proposed. The proposed road will be required to meet a Residential Parking Standard 2, road standard pursuant to WCC Section 11.20.020(8).
21. Based on the revised site plan, the proposed road will abut the adjacent property to the west in order to allow future interconnectivity pursuant to CCC 15.30.230(4)& WCC 11.20.020(1).
22. The revised comment letter from Chelan County Public Works, dated July 22, 2019, states a private stormwater drainage system is required with an Operation and Maintenance Agreement of the drainage system and recorded with the final plat.
23. Water availability letter from Chelan County PUD, dated January 9, 2019, states, the proposed development is within the District's existing water service area and will require water system improvements.
24. The comment letter from Chelan County PUD, dated March 15, 2019, states electrical service is available to the subject property. Line extensions will be necessary. Easements will be required where utilities are located on private property. If utilities are proposed underground, the current 2.5 ft. easement will need to be increased to accommodate utilities.
25. Any additional easements, not already provided for the plat, will be determined during the design and construction phases.
26. The comment letter from the Chelan County Fire Marshal, dated March 14, 2019, states the subject property is located within Fire District #1. Additional fire hydrants will be necessary to serve the proposed development; therefore, alternative fire flow provisions are not necessary.
27. The comment letter from the Wenatchee Reclamation District, dated April 8, 2019, states the subject property is located within the irrigation district.

28. Noise impacts are addressed in Chelan County Code Chapter 7.35 and WAC 173-60.
29. The Notice of Application was referred to agencies and departments on March 14, 2019 and surrounding property owners within 300 feet, excluding 60 feet of right-of-way with comments due March 28, 2019. The following agencies provided comments:
 - 29.1 Chelan County Assessor responded on March 14, 2019
 - 29.2 Chelan County Fire Marshal responded on March 14, 2019
 - 29.3 Chelan-Douglas Health District responded on March 14, 2019
 - 29.4 Chelan County Public Works responded on March 28 & July 22, 2019
 - 29.5 Chelan County PUD responded on March 15 & March 26, 2019
 - 29.6 Wenatchee Reclamation District responded on April 8, 2019
 - 29.7 City of Wenatchee responded on April 3, 2019
 - 29.8 WA Department of Archaeology & Historic Preservation responded on March 27 & May 15, 2019
 - 29.9 WA Department of Ecology responded on April 8, 2019
30. The following agencies were notified but did not respond:
 - 30.1 Chelan County Building Official
 - 30.2 WA Department of Transportation
 - 30.3 Fire District #1
 - 30.4 Wenatchee School District
 - 30.5 Yakama Nation
 - 30.6 Confederated Tribes of the Colville Reservation
 - 30.7 Chelan County Natural Resources
31. Public Comments have been received by the following persons:
 - 31.1 Brian Patterson responded on March 18, 2019
 - 31.2 Richard & Raeanne Bailor responded on March 25, 2019
 - 31.3 Kevin Carney responded on March 20, 2019
32. The application materials were submitted on January 15, 2019.
33. Determination of Completeness was issued on March 11, 2019.
34. Notice of Application was issued on March 14, 2019.
35. SEPA DNS was issued on April 2, 2019.
36. Notice of Public Hearing was issued on August 9, 2019.
37. The subject property is within the study area of the Wenatchee Comprehensive Plan and is designated as Wenatchee Urban Growth Area Residential Moderate (RM) and Residential High (RH). Being as Residential Moderate (RM) is a more restrictive zoning district, the proposed development is reviewed under the Residential Moderate (RM) criteria and provisions.
 - 37.1 The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the Chelan County Comprehensive Plan.
38. The project is consistent with Wenatchee City Code Section 10.46.020 in the following respects:
 - 38.1 The proposed lots would be for residential use. The applicant is proposing lots ranging in size from 6,000 sq. ft. to 11,023 sq. ft. with the average lot size of approximately 6,452 sq. ft. All proposed lots meet or exceed the minimum lot width of 60 ft. at the front building line. Building setbacks, height, and lot coverage would be reviewed at the time of building permit application.

- 38.2 The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the provisions of WCC10.46.020.
39. The project is consistent with Wenatchee City Code Chapter 11.04 in the following respects:
- 39.1 Standards adopted by Chelan County apply to the proposed subdivision and any infrastructure. The applicant, City and County work together to ensure compatibility and concurrency standards are met.
- 39.2 The Hearing Examiner finds as conditioned, the proposed subdivision would be consistent with the provisions of this chapter.
40. The project is consistent with Wenatchee City Code Chapter 11.16 in the following respects:
- 40.1 The proposed subdivision is to provide an extension of the City of Wenatchee sewer system for sanitation purposes to each lot as well as domestic water via the Chelan County PUD. Additionally, a stormwater facility, as identified as Tract A on the site plan of record is proposed to address potential stormwater and/or drainage way concerns.
- 40.2 As proposed, the subdivision is to be completed in five (5) phases. With each phase, the necessary stretch of the proposed internal road is to be constructed. Based on provided comments from Chelan County Public Works, each phase shall have an approved emergency vehicle turnaround. Additionally, road dedication is to be required for Easy Street to assure that the right of way would be 30 ft. from centerline; based on the site plan of record, right of way along Easy Street has been dedicated for the proposed subdivision.
- 40.3 Pursuant to RCW 58.17.255 and WAC 332-130-040, all easement locations are required to be shown on the final plat. Separate instruments recorded with the Chelan County Auditor should be referenced on the final plat. Easements will be reviewed with blueline submittal.
- 40.4 The subject site is within Fire District No. 1. The proposed subdivision and all future building permits must conform to all applicable requirements of the International Fire Code and International Building Code administered by the Chelan County Fire Marshal.
- 40.5 Pursuant to WCC 11.16.190 & 11.16.210(20), restrictive covenants to be imposed upon the land within the subdivision shall be submitted at time of final plat review; a Homeowner's Association is necessary in order to provide maintenance of the stormwater facility, internal road, and required landscaping.
- 40.6 The Hearing Examiner finds that as conditioned, the proposed subdivision is consistent with the provisions of this chapter.
41. The project is consistent with Wenatchee City Code Chapter 11.20 in the following respects:
- 41.1 Pursuant to the review within this decision, the proposed development is consistent with the applicable chapters of the zoning code for the Residential Moderate (RM) zoning district together with Appendix K, Sunnyslope Subarea Plan. The proposed lots were reviewed for consistency with the subdivision standards and they are of an adequate size to accommodate the dimensional standards of the RM zoning district and the lot design provisions of WCC 11.20.050.
- 41.2 The proposed subdivision has been reviewed by the City of Wenatchee and Chelan County Public Works Departments. Final plat review and approval by the County Engineer and Fire Marshal will ensure that circulation is completed in consistency with the adopted plans and codes.

- 41.3 The main internal road proposed is to be designed to a Residential Parking Standard 2 of the Wenatchee City Code. The subdivision also proposes a private access road, identified as Tract B, to serve Lots 24-25 and Lots 91-93. Said Tract B is to be designed to meet a Private Lane road standard with an emergency vehicle turnaround of the Wenatchee City Code.
- 41.4 The Hearing Examiner finds that the proposed subdivision, as conditioned, is consistent with the provisions of this chapter.
42. The applicant submitted an Aquifer Recharge Area Disclosure Form, date stamped January 15, 2019. Pursuant to CCC 11.82.040, Chelan County has determined that the aquifer recharge measures do not apply.
43. According to the Chelan County GIS mapping, the site contains potential geologic hazardous areas. The applicant submitted an Engineering Geologic Hazard Assessment, dated February 26, 2019 prepared by Nelson Geotechnical Associates, INC. The report includes several recommendations for construction which should be adhered to for the design and construction of the proposed subdivision. Pursuant to CCC 11.86, a note on the final plat mylar should be required, identifying this subdivision as being located in a potential geologically hazardous area.
44. Pursuant to the Washington State Department of Fish and Wildlife Priority Habitat and Species Maps and Chelan County Fish & Wildlife Overlay District, CCC 11.78, the subject site does contain mule deer habitat; therefore, the provisions of CCC 11.78 do apply.
45. Staff reviewed the applications and submitted materials. Based on the information contained in the applications and compliance with the Revised Code of Washington, the Washington Administrative Code, Chelan County Comprehensive Plan, and the Chelan County Code, staff recommended APPROVAL of Pheasant Hills Subdivision, P 2019-001 subject to the findings of fact, conclusions of law, and conditions of approval.
46. The File of Record, Chelan County Department of Community Development Staff Report, and exhibits were received, admitted into the record and considered by the Hearing Examiner.
47. An open record public hearing after legal notice was provided was held on September 18, 2019.
48. Admitted into the record were the following exhibits:
- 48.1 Exhibit 1: September 17, 2019 Traffic Impact Analysis prepared by Michael Read of TENW.
49. Appearing and testifying on behalf of the applicant was John Torrence. Mr. Torrence testified that he was an agent authorized to appear on behalf of the applicant. Mr. Torrence indicated that the applicant concurred with the staff report's findings and conclusions. The applicant had no objections to any of the proposed conditions of approval. Mr. Torrence submitted for the record, Exhibit 1, identified above. Mr. Torrence testified that the applicant agreed and would follow all of the recommendations made by the City of Wenatchee, as this project is within the Wenatchee Urban Growth Area.
50. Testifying from the public were the following individuals:
- 50.1 Ron Hupp. Mr. Hupp's primary concerns related to traffic, density of the residences and change of the character of the area.
- 50.2 Kevin Carney. Mr. Carney owns an orchard next to the project and was requesting a 20' rear yard setback, making it easier for him to comply with his 25' spraying radius.

50.3 Dan Powers. Mr. Powers lives on the east side of the project and had a concern as to the height of the buildings that would block his view and requested limiting those houses to single story houses. He also had concerns with the property is not being maintained and that there is knapweed and tumbleweeds throughout the property that should be cleaned up.

51. The Chelan County Hearing Examiner considered all evidence within the record in rendering this decision.
52. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

CONCLUSIONS OF LAW

1. The Chelan County Hearing Examiner has been granted the authority to render this decision pursuant to CCC 1.61.080 Duties and Powers.
2. The proposed subdivision is governed by the rules and regulations of the of the City of Wenatchee's Title 10 Zoning and Title 11 Subdivisions; the Chelan County Comprehensive Plan; Chelan County Titles 11, 13, 14 and 15 as well as other applicable development regulations pursuant to the Chelan County Code.
3. The application, as conditioned, demonstrates consistency with the goals and policies as set forth in the Chelan County Comprehensive Plan.
4. The application, as conditioned, demonstrates consistency with adopted levels of service for roads, utilities, fire protection facilities, schools and other public and private facilities needed to serve the development, with assurance of concurrency.
5. The public interest will be served by the subdivision.
6. The application, as conditioned, is compatible with adjacent uses and will not harm or change the character of the surrounding area.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

DECISION

Based upon the above noted Findings and Fact and Conclusions, P 2019-001 is hereby **APPROVED**, subject to the conditions noted below.

CONDITIONS OF APPROVAL

All conditions imposed herein shall be binding on the "Applicant." "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns, and successors.

1. Pursuant to RCW 58.17, the project shall conform to all applicable local, state, and federal regulations, statutes, rulings, and requirements. The proposal shall be subject to approval that may be required under permits licenses or approvals by any other local, state, or federal jurisdictional agency.
2. All conditions imposed herein shall be binding on the Applicant. "Applicant" shall mean terms, which include the owner or owners of the property, heirs, assigns and successors.

3. Pursuant to WCC 11.04.040, the final plat shall be designed in substantial conformance with the revised preliminary plat of record, date stamped August 20, 2019, on file with the Chelan County Department of Community Development, except as modified herein. No increase in density or number of lots shall occur without a re-submittal of a plat or a major subdivision application.
4. Pursuant to WCC 10.46.020, the proposal shall comply with the City of Wenatchee's Residential Moderate (RM) Zoning District's dimensional and/or development standards, except as amended herein.
5. Pursuant to WCC 10.62.100, prior to final plat approval the applicant shall submit a landscaping plan for review, approval and implementation that is in conformance with the requirements of the Residential Moderate (RM) zoning district.
6. Pursuant to WCC 11.04.050, the applicant shall ensure that all public facilities and utilities shall be fully operational concurrent with the use and occupancy of the development.
7. Pursuant to WCC 11.04.060, the applicant shall ensure that all installations or improvements shall be installed in conformance with applicable codes.
8. Pursuant to WCC 11.16.080, the following note shall be placed on the final plat:
 - 8.1. "Based on historical agricultural use of this land, there is possibility the soils contains residual concentrations of pesticides. The WA State Dept. of Ecology recommends that the soils be sampled and analyzed for lead and arsenic and for organochlorine pesticides. If these contaminants are found at concentrations above the MTCA cleanup levels, the WA State Dept. of Ecology recommends that the potential buyers be notified of their occurrence."
9. Pursuant to WCC 11.16.140, the approval given to a preliminary major subdivision shall expire five (5) years following approval, unless within those five (5) years a proposed final major subdivision mylar in proper form is filed with the Administrator.
10. Pursuant to WCC 11.16.160, the stormwater tract with an operation and maintenance agreement shall be dedicated and completed with the development of Phase 1.
11. Pursuant to WCC 11.16.170 all dedications shall be clearly indicated on the face of the plat.
12. Pursuant to WCC 11.16.180, the applicant shall provide a copy of the Covenants, Conditions and Restrictions for the Pheasant Hills Subdivision for review and approval with the final plat submittal.
13. Pursuant to WCC 11.16.200-290, the applicant shall submit the final plat and documents consistent with this decision and the adopted City of Wenatchee Subdivision Code.
14. Pursuant to WCC 11.20.060, the applicant shall provide written verification from all utility providers documenting compliance with development standards, prior to final plat.
15. Pursuant to the Revised Code of Washington, the following notes shall be placed on the final plat:
 - 15.1. "Noxious weed control is the responsibility of the individual lot owners, per RCW 17.10.140, as amended."
 - 15.2. "If any Native American grave sites or archaeological resources are discovered or excavated, the owner/developer/contractor shall stop work immediately and notify Chelan County Department of Community Development and the Washington State Department of Archaeology and Historic Preservation in conformance with RCW 27.53.020. An inadvertent discovery plan shall be submitted with the building permit application and kept onsite during all land disturbing activities. A sample of this plan may be obtained from Chelan County Community Development."

16. Pursuant to CCC 11.86.080, the following note shall be placed on the final plat:

16.1. "All or part of this area may be located within a suspected or known geologically hazardous area. Subsequent development shall be consistent with Chelan County Code Chapter 11.86 Geologically Hazardous Areas Overlay District, as amended; and the Engineering Geologic Hazard Assessment prepared by Nelson Geotechnical Associates, Inc. dated February 26, 2019 or with a site-specific geological site assessment."

17. Pursuant to WCC 11.20.060, the applicant shall provide electrical line extensions and upgrades, with easements, for the proposed development, prior to final plat approval. All improvements shall be approved and verified in writing by the PUD.
18. Pursuant to WCC 11.20.060, the applicant shall provide water extensions and upgrades, with easements, for the proposed development, prior to final plat approval. All plans for water service shall be submitted to the District in accordance with rules, regulations and standards in effect on the date of completed application and reviewed and approved by the District.
19. Pursuant to the WCC 11.20.060, the applicant shall comply with all recommendations set forth in the Don Nelson covenant updated April 2, 2019.
20. Pursuant to the WCC 11.20.060, the applicant shall comply with all project mitigation measures set forth in the traffic impact analysis dated September 17th, 2019, prepared by Michael Read, PE, for TNEW.
21. Prior to final approval of this subdivision, applicant must obtain a release from Wenatchee Reclamation District which states that irrigation shares have been segregated. RCW 58.17.310 prohibits any city, town or county from approving a short plat or final plat for property in the District unless the entity has provided an irrigation water easement for each parcel of land. Rights-of-way must be shown on the final plat submitted for recording. If applicable; any on or off-site construction of irrigation improvements must meet or exceed the Wenatchee Reclamation District's design and construction specifications. Written verification of conformance with these standards, from the Wenatchee Reclamation is required, prior to final plat approval.
22. The subject property and final Plat shall conform to the comments and conditions of approval as found in the Chelan County Fire Marshal Agency Comments dated March 14, 2019.
23. The subject property and final Plat shall conform to the revised comments and conditions of approval as found in the Chelan County Public Works Department Agency Comments dated July 22, 2019.

Approved this 20th day of September, 2019.

CHELAN COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Chelan 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.

Chelan County Code Section 1.61.130 provides that any aggrieved party or agency may make a written request for reconsideration by the Hearing Examiner within ten (10) days of the filing of the written record of decision. The request for reconsideration shall be submitted to the Community Development Department. Reconsideration of the decision is wholly within the discretion of the Hearing Examiner. If the Hearing Examiner chooses to reconsider, the Hearing Examiner may take such further action deemed proper and may render revised decision within five (5) days after the date of filing of the request for reconsideration. A request for reconsideration is not a prerequisite to filing an appeal under Section 1.61.160.

The complete case file, including findings, conclusions, and conditions of approval (if any) is available for inspection during the open office hours at Chelan County Department of Community Development. Their address is 316 Washington Street, Suite 301, Wenatchee, WA 98801. Their telephone number is (509) 667-6225.