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Ordinance No. 412 - Denying a request by Norm McKibben to amend the land use and zoning designations for 120 acres generally located south of Old Milton Highway and west of Peppers Bridge Road, Walla Walla County

Auditor File Number(s) of document being assigned or released:

Grantor

1. **Walla Walla County Commissioners**
- 2.
- 3.

Additional names on page ____ of document.

Grantee

1. **The Public**
- 2.
- 3.

Additional names on page ____ of document.

Legal description (i.e.: lot and block or section township and range)

Non-Real Estate

Additional legal is on page ____ of document.

Assessors Parcel Number *N/A*

Additional parcel number is on page ____ of document.

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**BOARD OF COUNTY COMMISSIONERS
WALLA WALLA COUNTY, WASHINGTON**

ORDINANCE NO. 412

DENYING A REQUEST BY NORM MCKIBBEN TO AMEND THE LAND USE AND ZONING DESIGNATIONS FOR 120 ACRES GENERALLY LOCATED SOUTH OF OLD MILTON HIGHWAY AND WEST OF PEPPERS BRIDGE ROAD, WALLA WALLA COUNTY.

WHEREAS, the Growth Management Act requires that the County take legislative action to review and revise, if necessary, its comprehensive land use plan to ensure that it complies with the requirements of the Growth Management Act, as described in RCW 36.70A.130; and

WHEREAS, the Growth Management Act requires that updates, amendments, or revisions to the comprehensive plan may not be considered more frequently than once a year except for certain limited circumstances; and

WHEREAS, RCW 36.70A.470 requires that the County include a procedure that for any interested person to suggest amendments to the comprehensive plan or development regulations, and that the amendments must be docketed and considered on at least an annual basis.

NOW THEREFORE,

BE IT ORDAINED, by the Walla Walla County Board of County Commissioners that:

Section I. The Board of County Commissioners Makes the Following Findings of Fact:

1. On March 30, 2012 the application was submitted to the Walla Walla Joint Community Development Agency.
2. On May 2, 2012 the Planning Commission held a public workshop.
3. On May 22, 2012 the Board of County Commissioners held a public workshop.
4. On May 24, 2012 a Notice of Public Hearing was published in the Waitsburg Times, Walla Walla Union-Bulletin, and Tri-City Herald.
5. On June 6, 2012 the Planning Commission held a public hearing and recommended the proposed amendment be included on the County's 2012 final docket.
6. On June 11, 2012 the Board of County Commissioners concurred in the recommendation of the Planning Commission.



7. On June 14, 2012 the Department of Commerce acknowledged receiving the proposed amendment.
8. No comments were received from the Department of Commerce or any other public agency during the 60-day comment period.
9. On August 16, 2012 a Notice of Informational Public Meeting and Public Hearing was published in the Waitsburg Times, Walla Walla Union-Bulletin, and Tri-City Herald.
10. On August 21, 2012, the Walla Walla Joint Community Development Agency issued a SEPA determination of non-significance. No appeal of the determination was filed.
11. On September 5, 2012 the informational public meeting and public hearing was held.
12. At the September 5, 2012 public hearing, the applicant requested that the proposed amendment be reduced from 276 acres to 120 acres.
13. On September 5, 2012 the Planning Commission held a public hearing and recommended the proposed amendment be denied by the Board of County Commissioners.
14. On November 15, 2012 the Notice of Public Hearing was published in the Waitsburg Times and Walla Walla Union-Bulletin.
15. On November 16, 2012 the Notice of Public Hearing was published in the Tri-City Herald.
16. The Board of County Commissioners held the 2012 Comprehensive Plan and Development Regulations Amendment Final Docket hearing on December 3, 2012.

Section II. The Board of County Commissioners Makes the Following Conclusions of Law:

1. With regard to the criteria in WWCC 14.10.070(B)(3):

a. The proposal meets a definable public need.

Discussion: Planning staff reports that development in this area has been limited; mostly large agricultural properties, with a scattering of smaller sized properties left over from past zoning practices. Vineyards and wineries have developed in this area. It is located well outside of the Walla Walla and College Place Urban Growth Areas. It is not expected to become included into any urban growth area any time soon, particularly as population estimates for the County have recently been revised to reflect a slowing growth rate. Previous ordinances that increased density on agricultural lands has been limited to properties that were no longer viable for farming; such as where the owners had lost their irrigation water rights. Also, those properties have been much smaller in size. At the present time,



planning staff is unable to identify a clear public need for changing the zoning on this property. The Board concurs in the staff's analysis.

b. The public need was not recognized in the existing comprehensive plan due to: A change in circumstances in the community not anticipated or contemplated when the applicable section(s) of comprehensive plan was last adopted; or an error in development of the comprehensive plan as it currently exists.

Discussion: The Board is not aware of any changes in circumstances to the community or that an error was made in the development of the Comprehensive Plan. The Comprehensive Plan adopted in 2007 reinforced the agricultural land use designation assigned to the property.

c. The defined need conforms to the policy directives of the Comprehensive Plan and countywide planning policies.

Discussion: Planning staff reports that the property is outside the Urban Growth Areas established for the Cities of Walla Walla and College Place. It is agricultural, and historically developed at a low density characteristic of agricultural areas. Historically this property has successfully sustained the raising of crops. If this amendment is approved, it would allow this 120-acre property to be divided into approximately 24 five-acre lots (a new street network would be required to provide access to all the lots). Likely the lots would develop with new homes, and possibly as vineyards as the applicant hopes, though there is no regulation in place that would require that. With approximately 24 new homes on this land, a large street network, and approximately 24 new septic tanks and drain fields, the value of this land as an agricultural resource would be significantly diminished. While approval of this proposal could meet a specific demand for smaller sized vineyards, planning staff was unable to locate any policy of the Comprehensive Plan and county-wide planning policies, or any recent population projections that indicate a need to increase the density of this property, in this manner. No clearly defined public need can be identified at this time. The Board agrees with planning staff's analysis.

d. The proposed amendment does not require amendment of policies in other areas of the Comprehensive Plan except to resolve inconsistencies or unnecessary duplication among policies.

Discussion: As noted in other sections, the subject land still meets the criteria for agricultural land of long term commercial significance; therefore, conversion to a rural land designation would be contrary to Comprehensive Plan Policies RL-43, RL-44, RL-46 and RL-47.

e. The proposed amendment is consistent with the Growth Management Act (Chapter 36.70A RCW), any other applicable inter-jurisdictional policies or agreements, and any other state or federal laws.

Discussion: The proposed amendment is not in compliance with RCW 36.70A because the land in question still meets the definition, guidelines and designation

for agricultural land that is described in RCWs 36.70A.030, 36.70A.050 and 36.70A.170 and WAC 365-190-050.

2. With regard to the criteria in WWCC 14.15.070(B)(3):

a. The amendment is consistent with the comprehensive plan.

Discussion: The Board is of the opinion that the proposed amendment would not be consistent with the Comprehensive Plan because the site still meets the criteria to be considered a resource land.

b. The amendment meets a definable public need.

Discussion: Planning staff was unable to clearly identify a definable public need to increase the density of this property, based on the lack of any supporting policies for this kind of development on agricultural lands. Additionally, recent population projections indicate a reduction in forecasted increase in population (i.e., no pressure for higher density property outside of urban growth areas). The Board concurs with the staff's analysis.

c. The amendment is in the long term interest of the county.

Discussion: The County could be supportive of the development of smaller sized vineyards, particularly in areas where the current zoning already allows the development of 5-10 acre lots such as the adjacent zone (RR-5) where a comprehensive plan and zoning code amendment would not be needed. There are smaller vineyard and winery developments in the Mill Creek Canyon (RRMC-5), and in Burbank (RA-10, RA-5, RR-5, and RR-2). The difference is that those zone designations do not emphasize agricultural protection, so development options are more flexible. If this amendment is approved, it would result in transferring viable agricultural resource land to a higher density, rural type development.

3. The Board concludes the proposed amendment is not in compliance with the criteria in Walla Walla County Code Sections 14.10.070(B)(3) and 14.15.070(B)(3), outlined above.
4. The proposed amendment is not consistent with the Walla Walla County Comprehensive Plan at this time.
5. As proposed, the amendment will not have a significant adverse impact on public welfare and safety.
6. The proposed amendments are not in compliance with RCW 36.70A and WAC 365-190-050 at this time.

Section III. Denial of Proposed Land Use and Zoning Designations for 120 Acres Generally Located South of Old Milton Highway and West of Peppers Bridge Road, Walla Walla:

Based on its review of the requirements of RCW 36.70A and the Washington Administrative Code, the County Comprehensive Plan, the proposed amendments prepared by the applicant, staff analysis and the recommendation proposed by the

Ordinance No. 412



Planning Commission, the Board of County Commissioners hereby denies the following proposed Comprehensive Plan and Zoning amendments:

CPA2012-002; The amendments to Walla Walla County Comprehensive Land Use Maps LU-1 and LU-3 as presented to the Board of County Commissioners.

REZ2012-001; The amendments to the Walla Walla County – County Zoning Map and College Place / Walla Walla Area Zoning Map as presented to the Board of County Commissioners.

Section IV. Effective Date and Savings.

This Ordinance is effective upon signing.

Section V. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section VI. Publication.

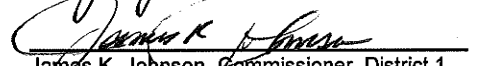
This Ordinance will be published by an approved summary consisting of the title.

PASSED by the Walla Walla County Board of County Commissioners in regular session at Walla Walla, Washington, then signed by its membership and attested by its Clerk in authorization of such passage this 24th day of December, 2012.

Attest:


Diane L. Harris, for the Clerk of the Board



Gregory A. Tompkins, Chairman, District 2


James K. Johnson, Commissioner, District 1


Perry L. Dozier, Commissioner, District 2

Constituting the Board of County Commissioners
of Walla Walla County, Washington

Approved as to form


Jesse Nolte
Deputy Prosecuting Attorney

