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ORDINANCE NO. 469 DENYING A REQUEST BY ROBERTA CAVALLI FOR SITE-SPECIFIC APPLICATIONS TO CHANGE THE LAND USE DESIGNATION FROM AGRICULTURE RESIDENTIAL TO RURAL RESIDENTIAL 5, AND REZONE A 18.27-ACRE PARCEL AT THE INTERSECTION OF WALLULA AVENUE AND MCKINNEY ROAD FROM AR-10 TO RR-5 (APN 350727420010)

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

ORDINANCE NO. 469

DENYING A REQUEST BY ROBERTA CAVALLI FOR SITE-SPECIFIC APPLICATIONS TO CHANGE THE LAND USE DESIGNATION FROM AGRICULTURE RESIDENTIAL TO RURAL RESIDENTIAL 5, AND REZONE A 18.27-ACRE PARCEL AT THE INTERSECTION OF WALLULA AVENUE AND MCKINNEY ROAD FROM AR-10 TO RR-5 (APN 350727420010)

WHEREAS, RCW 36.70A.470 requires that the County include a procedure 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; and

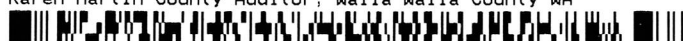
WHEREAS, the Growth Management Act requires that updates, amendments, or revisions to the comprehensive plan may not be considered more frequently than once a year except for certain limited circumstances.

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 December 19, 2016, pursuant to Walla Walla County Code (WWCC) Title 14, the Board of County Commissioners established the criteria and deadline (March 31, 2017) for applications to be included on the 2017 Preliminary Docket of Comprehensive Plan and development regulations amendments.
2. On March 30, 2017, the Walla Walla County Community Development Department received applications from Roberta Cavalli to amend the County's zoning map and the Comprehensive Plan land use map.
3. The subject property currently has a land use designation of Agriculture Residential and is zoned Agriculture Residential 10-acres (AR-10). The applicant proposed to change the land use and zoning to Rural Residential 5. The property is about 18.27-acres and is located at the southwest corner of the intersection of Wallula Avenue and McKinney Road (APN 350727420010).
4. On May 3, 2017, the Planning Commission reviewed the amendment applications and background materials in an open public meeting.



5. On May 22, 2017, a Notice of Public Hearing was posted on the Community Development Department website.
6. On May 24, 2017, a Notice of Public Hearing was mailed to the applicant.
7. On May 25, 2017, a Notice of Public Hearing was published in the Waitsburg Times, the Walla Walla Union Bulletin and the Tri-City Herald.
8. On June 1, 2017, the Planning Commission held a public hearing to consider the proposed amendments and whether they should be included on the 2017 Final Docket; the only member of the public who provided testimony was the applicant's representative.
9. On June 1, 2017, after conducting a public hearing, the Planning Commission voted 3-2, with two members absent, to recommend to the Board of County Commissioners that the application be placed on the 2017 Final Docket.
10. On June 20, 2017, the Chairman of the Planning Commission signed Planning Commission Resolution 17-03, which documented the Planning Commission's recommendation from June 1, 2017.
11. On June 26, 2017, the Board of County Commissioners reviewed the amendment application and the Planning Commission's recommendation in an open public meeting.
12. On July 24, 2017, the Board of County Commissioners set the 2017 Final Docket of Comprehensive Plan and development regulations via Resolution 17-197 to include the Roberta Cavalli applications (CPA17-001 and REZ17-001).
13. On August 2, 2017, the Planning Commission reviewed and discussed the amendment applications and background materials in workshop meeting, which was open to the public.
14. On August 31, 2017, the Department of Commerce acknowledged receiving the proposed amendment.
15. On September 19, 2017, a SEPA Determination of Non-significance was issued by the Community Development Director. No appeal was filed.
16. On September 19, 2017, a Notice of Informational Public Meeting and Public Hearing was published on the Community Development Department website.
17. On September 20, 2017 a Notice of Informational Public Meeting and Public Hearing was mailed to parties of record and to property owners of record located within 500-feet of the property.

18. On September 21, 2017, a Notice of Informational Public Meeting and Public Hearing was published in the Waitsburg Times and Tri-City Herald.
19. On September 22, 2017, a Notice of Informational Public Meeting and Public Hearing was published in the Walla Walla Union Bulletin and Tri-City Herald.
20. On October 4, 2017, an Informational Public Meeting was held by Community Development Department staff.
21. On October 4, 2017, a public hearing was held by the Planning Commission. The only testimony at the public hearing was from the Applicant's representative, Mr. Greg Flowers.
22. On October 4, 2017, after closing the public hearing, the Planning Commission voted 4-3 to recommend denial of the application by the Board of County Commissioners. This recommendation was documented in Planning Commission Resolution No. 17-04 which was signed by the Chairman of the Planning Commission on October 30, 2017. The resolution states that that "the applications by Cavalli (CPA17-001/REZ17-001) should be denied because the proposed amendments do not meet a public need and the change may create pressure on other properties to change land use designations from agricultural designations. De-designating this agricultural land does not appear to be consistent with the Growth Management Act."
23. On October 9, 2017, the Growth Management Services division of the Washington State Department of Commerce submitted a comment letter to the County. The letter states that "counties should not review natural resource lands designations in an isolated fashion... the request is inconsistent with the recommended process to review designated natural resource lands under the GMA... In accordance with WAC 365-190-040(10), counties and cities should not review natural resource lands designations solely on a parcel-by-parcel basis."
24. On October 31, 2017, Community Development Department Staff presented the Planning Commission's recommendations to the Board of County Commissioners in a workshop meeting.
25. On November 7, 2016, the Board of County Commissioners adopted Resolution 17-292, setting a public hearing on this application for November 27, 2017.
26. A Notice of Public Hearing was issued by the Community Development Department. This notice was published, posted and mailed as required by WWCC Title 14, however, the notice listed the wrong time for the hearing.
27. On November 27, 2017, the Board of County Commissioners held a Public Hearing as required by WWCC 14.10.070C(2) and 14.15.070C(2). Staff presented the Planning Commission's recommendation that the Board of County Commissioners deny the applications by Roberta Cavalli. There was testimony in support of the application from the Applicant's representative. One written public comment letter opposing the applications was also provided to the Board.



Because of the public notice error, the Board continued the public hearing to allow for another hearing to be scheduled.

28. A continued public hearing was scheduled for December 12, 2017.
29. On November 29, 2017, a Notice of Public Hearing for the continued public hearing was mailed to parties of record and property owners of record within 500-feet of the property. This notice was emailed to the applicant on November 28, and published in the Walla Walla Union Bulletin and Waitsburg Times on November 30. The notice was published on the Community Development Department website on November 29 and in the Tri-City Herald on December 1. On November 29, the notice was published on the property.
30. On December 12, 2017, the Board of County Commissioners held the continued Public Hearing. There was testimony in support of the application from the Applicant's representative; no other members of the public spoke at the hearing.
31. On December 12, 2017, after closing the public hearing, the Board of County Commissioners voted unanimously to concur with the Planning Commission's recommendation to deny the amendments and to direct staff to prepare an ordinance for adoption.

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

1. With regard to the Comprehensive Plan amendment criteria in WCCC 14.10.070(B)(3):
 - a. *The amendment meets a definable public need; and*
Discussion: In its recommendation, the Planning Commission was unable to identify a clear public need for changing the land use and zoning on this property. The Board concurs. The applicant presented that the proposal will provide an opportunity to create small 5-acre farms and that allowing the creation of 5-acre rural lots will provide a buffer between rural and resource lands; the applicant presented that this meets a public need. There is already zoning and land use designations in place elsewhere in the County that provides such buffers and opportunities for 5-acres rural lots to be created.
 - b. *The public need was not recognized in the existing comprehensive plan due to:*
 1. *A change in circumstances in the community not anticipated or contemplated when the applicable section(s) of the comprehensive plan was last adopted; or*
 2. *An error in development of the comprehensive plan as it currently exists; and***Discussion:** As stated above, the Board has not found there to be an identifiable public need to support approval of the application. No error in development of the Comprehensive Plan has been identified. The Board concurs with the Planning Commission's recommendation.
 - c. *The defined need conforms to the policy directives of the comprehensive plan and countywide planning policies; and*
Discussion: As stated above, the Board has not found there to be an identifiable public need to support approval of the application. The Board concurs with the Planning Commission's recommendation.

- 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; and*

Discussion: The applications would not require amendment of policies or other areas of the Comprehensive Plan.

- 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 Growth Management Services division of the Washington State Department of Commerce stated in their letter that "... the request is inconsistent with the recommended process to review designated natural resource lands under the GMA... In accordance with WAC 365-190-040(10), counties and cities should not review natural resource lands designations solely on a parcel-by-parcel basis." The Board concurs with the recommendation of the Planning Commission and the Department of Commerce and concludes that the applications are not consistent with the Growth Management Act.

2. With regard to the site-specific land use map amendment criteria in WWCC 14.10.070(B)(4):

- a. *The subject parcel(s) is suitable for development under the requested land use designation and the zoning standards of one or more potential implementing zoning district(s); and*

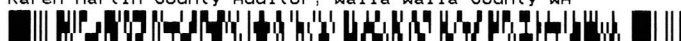
Discussion: The subject property was not found to be unsuitable for development under the proposed rural designation.

- b. *The proposed site-specific amendment will not create pressure to change the land use designation of other properties in the area and*

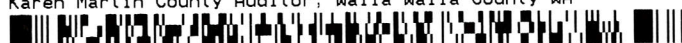
Discussion: It is unknown whether the proposed amendments would create pressure to change the land use designation of nearby or adjacent properties; however, the Board finds that there is a possibility that it would happen. The Planning Commission expressed concerns that it is likely that the application would result in such pressure. The applicant presented that one reason this proposal should be approved is that the adjacent Muro property was rezoned in 2009 to Rural Residential 5. If the rezone of the adjacent property created pressure to rezone the subject property, it is possible the current rezone proposal could result in the same type of pressure on other properties.

- c. *The proposed site-specific amendment does not adversely affect the adequacy of existing or planned public facilities and services in the immediate area or the applicable urban growth area.*

Discussion: The Board does not find that the proposed amendments would be likely to adversely affect the adequacy of existing or planned public facilities and services in the area.



3. With regard to the rezone criteria in WWCC 14.15.070(B)(3):
- a. Criteria: The amendment is consistent with the comprehensive plan; and
Discussion: As the proposed Comprehensive Plan land use map amendments are denied, based on the criteria in WWCC Chapter 14.10 stated above, then the proposed rezone is inconsistent with the Comprehensive Plan.
 - b. Criteria: The amendment meets a definable public need; and
Discussion: As stated above, Board has not found the amendments to meet a definable public need.
 - c. Criteria: The amendment is in the long term interest of the County.
Discussion: The amendment does not appear to be in the long-term interest of the County at this time. The property has been used for onion production in the past, with other crops during rotation years. The property has a surface water irrigation right for 17.2-acres. The property is currently designated as agricultural land of long-term commercial significance and the Board has not found it to be in the long-term interest of the County to de-designate it. If these amendments were approved, it could result in transferring viable agricultural resource land to a higher density, rural type development.
4. With regard to the rezone criteria in WWCC 14.09.010(B):
1. Criteria: Is consistent with the goals and policies in the land use, rural and resource lands, and/or Burbank subarea plan elements of the comprehensive plan including the land use maps; and
Discussion: The Board did not find the proposal to be consistent with the goals and policies of the Comprehensive Plan.
 2. Criteria: Is consistent with WWCC Title 16 Subdivisions, Title 17 Zoning, Title 18 Environment, the Walla Walla County Shoreline Master Program and other applicable land use laws and policies of Walla Walla County; and
Discussion: The Community Development Director has issued a SEPA Determination of Non-Significance on the proposal as required until Title 18. The property is not within jurisdiction of the Shoreline Master Program. The proposal is not inconsistent with Title 16 or Title 18. However, the Board has found the proposal to be inconsistent with the Growth Management Act and the County's Comprehensive Plan.
 3. Criteria: Is not materially detrimental to uses or property in the immediate vicinity of the proposed rezone and to the general public; and
Discussion: The Board did not find that the proposal would be materially detrimental to uses or property in the immediate vicinity although the rezone would make it possible for the property to be developed with non-resource uses, which may be more intensive.



4. Criteria: Does not create excessive additional requirements at public cost for public facilities and services; and

Discussion: The Board did not find that the proposal would create any immediate requirements for public facilities or services although the rezone would make it possible for the property to be developed with non-resource uses, which may be more intensive.

5. Criteria: Is warranted:

- a. To achieve consistency with the comprehensive plan; or
- b. To meet county population and/or employment projections because of a need for additional property in the proposed zoning district; or
- c. Because there are changed conditions since the zoning in the area was adopted to warrant the proposed rezone. "Changed conditions" include public improvements, permitted private development or other conditions or circumstances affecting the subject property that have undergone substantial and material changes not anticipated or contemplated when the zoning and/or subarea plan was last adopted. "Changed conditions" do not include actions taken by the current or former property owners to facilitate a more intense development of the property.

Discussion: The proposal is not necessary to achieve consistency with the Comprehensive Plan and it is not necessary to meet employment or population projections. Lastly, the Board has not found there to be "substantial or material changes not anticipated or contemplated when the zoning and/or subarea plan was last adopted." The Board concurs with the Planning Commission; these criteria have not been met.

- 5. As described above, the proposed amendments have been reviewed pursuant to Walla Walla County Code Sections 14.10.070B(3), 14.10.070(B)(4), 14.15.070B(3), and 14.090.010(B). The Board concludes that the proposed amendments are not consistent with these criteria.
- 6. The proposed amendments are not consistent with Walla Walla County's Comprehensive Plan at this time.
- 7. As proposed, the amendments are not likely to have a significant adverse impact on public welfare and safety.
- 8. The proposed amendment is not in compliance with RCW 36.70A at this time.

Section III. Denial of the proposed zoning and land use map amendments.

Based on its review of the requirements of RCW 36.70A and the Walla Walla County Code, the proposed amendment prepared by the applicant, staff analysis, and the recommendation by the Planning Commission, the Board of County Commissioners hereby denies Comprehensive Plan amendment application CPA17-001 and rezone application REZ17-001.

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 26th day of December, 2017.

Attest:


Diane L. Harris, Acting Clerk of the Board


James L. Duncan, Chairman, District 3


James K. Johnson, Commissioner, District 1


Todd L. Kimball, Commissioner, District 2



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

Approved as to form


Jesse D. Nolte, Deputy Prosecuting Attorney

