

## Walla Walla County Community Development Department

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To: Walla Walla County Hearing Examiner  
 From: Jennifer Ballard, Senior Planner  
 Date Prepared: October 13, 2022  
 Hearing Date: October 20, 2022  
 RE: **Agenda Item #1** – File Number CUP22-003/CAP22-006 - Conditional Use Permit for a Type II Bed and Breakfast on Old Milton Highway.

### **General Information**

Project: Yellowhawk Resort Guest Units North Parcel  
 Proposed Use: Type II Bed & Breakfast  
 Applicant: Yellowhawk Resort WW LLC Attn: Scott Clark  
 Property Owner(s): Yellowhawk Resort WW LLC  
 Assessor's parcel #: APN 350611110004  
 Location: 2853 Old Milton Highway, Walla Walla  
 Zoning: Rural Residential 5 (RR-5)

### **Background and Summary of Proposal**

The Applicant submitted a conditional use permit application, CUP22-003 (Exhibit 2) and critical areas permit application, CAP22-006 (Exhibit 18), to construct Yellowhawk Resort Guest Units North, a Type II Bed and Breakfast consisting of 10 detached guest units and an owner/operator dwelling on Adjusted Lot 1 of BLA22-002. It is not known the extent to which this proposed B&B (North) would share amenities with the proposed Yellowhawk Resort Guest Units South, a Type II Bed and Breakfast, consisting of 10 detached guest units and an owner/operator living in the existing dwelling, on Adjusted Lot 3 of BLA22-002.

The site does contain a Type II Winery with food service. As described by the application, the owners refer to the winery facility as a resort. A 'resort' is not a land use classification in the County Code. Any lodging provided at the existing facility is understood to be short-term rentals of existing residential buildings and has not been permitted by the County, as the County currently does not regulate short term rentals other than not allowing an ADU to be rented if the property owners do not reside in the primary dwelling. Food service at the winery may not be a restaurant and is limited by standards in WWCC Chapter 17.22. The County has previously permit, by conditional use permits, side-by-side B&B operations under common ownership on separate parcels like is proposed here. Each Yellowhawk B&B must individually/separately meet the standards of the zoning code, which is why a separate CUP is under review for the North parcel.

The applicant has applied for an amendment (ZCA21-001) to the County's development regulations to make Type III Wineries, which may have lodging, a conditional use in the Rural Residential 5 (RR-5) zoning district. This is a separate process; the Board of County Commissioners (BOCC) have not made a final decision on these amendments, although the Planning Commission has recommended denial.

This application was submitted on February 1, 2022, and determined to be complete on March 2, 2022. The applicant has also submitted a building permit application for residential cottages (SCRN22-0207), which is considered incomplete.

### **Recommendation**

Staff recommends that the Hearing Examiner approve the Conditional Use Permit with the recommended conditions listed on Pages 7-8.

### **Natural Environment and Critical Areas**

A summary of the natural environment on the site and in the general vicinity is included in the SEPA Environmental Checklist (SEPA22-004, Exhibit 3) and Staff SEPA Evaluation Report (Exhibit 4).

*Topography:* The property contains both flat areas and steep slopes (up to 70%). The adjacent ~600 feet, approximately south of Yellowhawk Creek is flat/gently sloping. There are steep slopes around the farm pond and up to the plateau where the guest and owner/operator units are proposed. Staff does not have records of the existing condition of the property prior development in the 1990s and does not know what slopes are natural and which are manmade. A Geotechnical Report (Exhibit 5) was submitted with Critical Areas permit application CAP22-006.

*Surface Water:* A manmade pond exists in the northeast of the subject property and Yellowhawk Creek forms a portion of the northern boundary of the property. No development is proposed within 600 feet of Yellowhawk Creek.

*Critical Areas:* The following mapped Critical Areas are on the subject property: Critical Aquifer Recharge Areas (CARA)(Walla Walla Shallow Gravel Aquifer, Areas of Moderate and Areas of High Recharge Vulnerability), Geologically Hazardous Areas (Seismic Hazard Areas: Moderate to High and High Liquefaction Susceptibility; Erosion Hazard Areas: Steep Slopes), Frequently Flooded Areas (Flood Zones AE and Floodway). Yellowhawk Creek is a critical area, but as it is also a shoreline of statewide significance regulated by the County's Shoreline Master Program with a shoreline environment designation of Rural Residential.

The proposed construction is not within the CARA area of high recharge vulnerability, frequently flooded areas, seismic hazard areas or within the jurisdictional shoreline. The proposed cabins will be located in the CARA area of moderate recharge vulnerability and in the 50-foot buffer from steep slopes. No additional information is required to address CARA impacts as those impacts are similar to exempt residential uses.

Staff has repeatedly asked the applicant to provide a plan with the 50-foot steep slope buffer delineated but the applicant has repeatedly declined to provide one. Though it does appear that septic systems and guest units are outside of the steep slope buffer, please note that no septic system may be located within slopes greater than 15% or their associated buffer per Walla Walla County Code (WWCC) 18.08.560.A.8.

A Geotechnical Engineering Report was prepared by PBS Engineering and Environmental Inc (PBS) and outlines the construction requirements of any temporary or permanent slopes and general soil/slope stability on the site.

## **Transportation and Land Use**

*Road Access & Circulation:* Existing access to the subject property is via a paved loop driveway providing property access Old Milton Highway. No access to State Highway 125 has been requested for the Bed and Breakfast Type II. The existing State Hwy 125 access is solely for farm use. No access permit is required per Walla Walla County Public Works.

*Neighborhood and Project Area Characteristics:* The property is approximately 56.42 acres on the east side of Old Milton Highway and west of State Highway 125. Land uses in the vicinity are generally rural in character, with residential and agricultural/commercial uses.

*Parking:* The site plan shows 22 parking spaces, including two ADA accessible spaces, will be provided. Per WWCC 17.20.060, when a property or building contains a mix of uses, the total parking requirements for the various uses shall be computed separately. Per WWCC 17.20.100, single family residential uses require two off-street parking spaces per dwelling unit, and WWCC 17.08.074 requires one off-street parking space per guest room.

Per WWCC 17.20.110, the final parking plan shall be reviewed by the County (administratively) at the time of review of the building permit application.

*Traffic Generation:* The applicant provided trip generation memo on September 9, 2022 (Exhibit 7) showing in Red the total trip generated using the Institute of Transportation Engineers Land Use Code 311, All Suites Hotel. The total number of trips generated by both CUP22-003 and CUP22-004 is 107. The Public Works Department has reviewed the application and Traffic Impact Analysis and did not raise concerns about estimated traffic generation.

## **Utilities**

*Stormwater:* A stormwater management plan has not been submitted. The Public Works Department will complete a stormwater review for the proposal and planning staff will review point discharges for compliance with Critical Areas regulations per WWCC 18.08.560.A.6 at the time of building permit review.

*Wastewater Disposal:* The project will be served by a new on-site sewage disposal systems.

*Potable Water:* The site is proposed to be served by a Group A water system (regulated by Washington State Department of Health). The property has a ground water right of 80 gallons per minute, 60 acre-feet per year (Exhibit 13).

## **SEPA Environmental Review/Agency Review**

The County used the optional threshold determination process under the State Environmental Policy Act (SEPA) authorized by WAC 197-11-355 and issued a combined Notice of Application /ODNS for the conditional use permit on March 13, 2022 (Exhibit 15). The comment period on the NOA/ODNS ended on May 27, 2022. The NOA ODNS was distributed to the following agencies for review and comment:

- Confederated Tribes of Umatilla Indian Reservation (CTUIR)
- Walla Walla Valley Metropolitan Planning Organization (WWVMPO)
- Walla Walla County
  - Public Works Department (PWD)
  - Health Department, Environmental Health Division (WWCDCH Environmental

- Health)
  - Building Official/Fire Marshal
  - GIS Department (911 Addressing Authority)
  - Fire District 4
  - Sherriff
- Washington State
  - Department of Archeology & Historic Preservation (DAHP)
  - Department of Ecology (Ecology)
  - Department of Fish & Wildlife
  - Department of Natural Resources
  - Department of Transportation (WSDOT)

*Agency Comments:*

Written comment letters from Ecology (Exhibit 8), WSDOT (Exhibit 9), DAHP (Exhibit 10), Walla Walla County Building Official/Fire Marshal (Exhibit 17), and Walla Walla County Public Works Department (Exhibit 11) were submitted during the NOA ODNS comment period. The Walla Walla County Watermaster from the Department of Ecology provided comments (Exhibit 12) after the NOA ODNS comment period was closed.

The Department of Ecology letter provided standard (template) comments, none of which need to be addressed prior to conditional use permit issuance.

WSDOT Comments Summary:

- According to WSDOT records, Lot 1 has the right to an existing Type B at milepost 1.21 left and is restricted solely to the normal use and operation of a farm.
- Any proposed lighting should be direct down towards the site and away from SR 125.
- Any outdoor advertising or motorist signing considered for this project will need to comply with state criteria.

DAHP Comments Summary

- The statewide predictive model indicates that there is a high probability of encountering cultural resources within the proposed project area due, in part, to the proximity of the proposed project area to the confluence of Yellowhawk Creek and the Walla Walla River, resources that may have been important to both Native Americans and settlers.
- The scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays and damage to the resource.
- We recommend a professional archaeological survey of the project area be conducted and a report meeting DAHP's Standards for Cultural Resource Reporting produced prior to ground disturbing activities.

Walla Walla County Watermaster (Department of Ecology ) Summary

- Domestic water right for 80 gallons per minute
- With the correct system the water right is sufficient for the proposed development

County Building Official/Fire Marshall Comments Summary

- The occupancy type is an R-1 for transient housing per 2018 IBC Section 310. The IBC is a performance-based code and requires the construction documents to be submitted by a registered design professional.
- Fire sprinklers are required per IBC 903.8 unless all 7 exceptions are met.
- Plans and construction documents must meet the local design criteria.
- The access road to the guest units is required to meet the requirements of Appendix D in the 2018 IFC.
- The fireflow requirements will be per Appendix B and the distribution of the hydrants will be per Appendix C. Onsite water is required.

#### WWCDCH Environmental Health Comments Summary

- Site evaluation of the property needed to determine on-site sewage requirements
- Test holes will be required in the proposed drain field areas
- A Group A Water System is required; permitted by the Washington State Department of Health Office of Drinking Water
- The pool will need to be permitted by County Environmental Health through the plan review process with the Washington State Department of Health Water Recreation Program.
- Contact Environmental Health re: food service for Bed & Breakfast guests

#### Public Works Comments Summary

- All Stormwater must be retained & infiltrated on site
- If construction activities disturb more than 1 acre of ground submit a Stormwater Site Plan and obtain coverage under Ecology's Construction Stormwater General Permit.
- Traffic Impact Analysis: no further analysis is warranted.

The following County representatives reviewed the materials and recommended approval in the County's electronic permitting system Addressing Authority, and Access.

#### *Final SEPA Threshold Determination:*

On October 5, 2022, a Final SEPA Mitigated Determination of Non-Significance (MDNS) was issued by the Director of the Walla Walla County and SEPA Responsible Official (Exhibit 14). A Cultural Resources Survey will be required prior to any ground disturbing activities. No appeals of the SEPA determination have been filed as of the date this report was written.

#### **Public Hearing Notice**

The Walla Walla County Community Development Department issued a Notice of Public Hearing on October 7th, 2022, (Exhibit 16). This notice was published in the Walla Walla Union Bulletin on October 9, 2022, and on the Walla Walla County website on October 7, 2022. The notice was also mailed to property owners within 500 feet of the site on October 7, 2022.

#### **Public Comments**

Public comment from Sue Bicknell of 2904 Old Milton Highway submitted comments on October 7, 2022 (Exhibit 19). She supports the project but believes that if the project is built the speed limit on Old Milton Highway should be lowered.

#### **Comprehensive Plan**

Pursuant to WWCC 17.40.020.E, all proposed conditional use permits for sites located in the County shall be reviewed to ensure compatibility with the Walla Walla County Comprehensive

Plan. RR-5 is considered 'Rural' land. Below is a selection of applicable Comprehensive Plan statements, goals and policies from Chapter 6, the Rural and Resource Lands Element.

Staff has reviewed the Comprehensive Plan and is of the opinion that the following goals/policies are applicable to the project.

*Policy 10.11 A certain level of mixed uses in rural areas and rural service centers is acceptable and may include limited commercial, service, and industrial uses.*

*Goal RL 1 In rural areas consider both human uses and the natural environment by encouraging rural development that maintains the rural character of the land and supports natural resource-based economic activities, fish and wildlife habitats, rural lifestyles, outdoor recreation, and other open space.*

*Policy RL-1 Give preference to land uses in rural areas that are related to agriculture, mining, rural residential development, tourism, outdoor recreation, and other open space activities.*

*Goal RL 5 Provide opportunities to strengthen the economic well being of rural areas through home-based occupations; home-based and small resource-based industry; commercial and public facilities designed to serve the communities in which they are located; and traveler and tourist attractions provided that they are rural in character and can be supported by rural-level services.*

**Staff Conclusion:** Staff finds the proposed Bed and Breakfast is an appropriate use within the RR-5 zone, consistent with the goals and policies of the Comprehensive Plan.

### **Applicable Statutes/Codes**

#### *Chapter 17.12 - Establishment of Districts*

The subject site is in the RR-5 zoning district; below is WWCC 17.12.040(H) which establishes the purpose of the district:

***Rural Residential.*** *The purpose of this district is to provide a transition or a buffer between existing rural developments and areas of higher densities and higher or lower densities in the Burbank Rural Activity Center. Land in this district typically is too far from an urban area to enable cost-effective provision of public services at this time. Typical uses include small-scale farms, dispersed single-family homes, recreation, and other uses that do not require urban services. Within the Burbank Rural Activity Center limited recreational and community-oriented cultural uses are allowed.*

#### *17.08.074 - Bed and breakfast guesthouse.*

*"Bed and breakfast guesthouse" means an establishment located in a primary dwelling unit or accessory building providing overnight accommodations and food services to transients for compensation or utilized by the owner or operator as short-term lodging for travelers and*

*transient guests. A bed and breakfast guesthouse establishment is subject to the following conditions:*

- A. Number of Guest Rooms. A bed and breakfast guesthouse establishment shall not have more than ten guest rooms; travelers or transient guests may not stay longer than thirty consecutive days;*
- B. Occupancy. Property owner or operator occupied;*
- C. Parking. One off-street parking space must be provided for each guest room in addition to any other parking requirements;*
- D. Food Service. Except in the case of Type III bed and breakfasts, only limited food service as permitted under Washington Administrative Code (WAC) Chapter 246-215, Food Service, may be provided. Food service is limited to overnight guests, or, in the case of Type III bed and breakfast guesthouses, 50 guests at a time;*
- E. Signs. Signs associated with this use shall be limited to four square feet in size, except bed and breakfast establishments in a zone which allows signs larger than four square feet may have a larger sign, provided it is in compliance with the size standards for that district. Signs shall meet all setback requirements for the zone in which the bed and breakfast establishment is located.*

17.08.074B - Bed and breakfast guesthouse type II.

*"Bed and breakfast guesthouse type II" means a bed and breakfast guesthouse located in or utilizing one or more accessory building(s).*

**Staff Conclusion:**

Chapter 17.16 - Permitted Uses

Per WWCC 17.16.014, 'Bed & Breakfast Type II' is classified as a conditional use in the RR-5 zoning district.

Chapter 17.40. Conditional Uses

Section 17.40.020 states that a conditional use permit shall be approved, approved with conditions, or denied based on the following criteria.

- A. That the use will not endanger the public health or safety;*  
Conclusion: The proposal will have to meet all applicable health, access, stormwater, building, and fire codes. The Walla Walla County Public Works and Environmental Health Departments and the Fire Marshal/Building Official have reviewed the project and noted specific requirements that must be met for building permit approval.
- B. That the use will not generate significant nuisance conditions such as noise, dust, glare, vibration;*  
Conclusion: Staff concludes that the project will not generate significant nuisance conditions. Conditions are not expected to be significant or different than other uses in the Old Milton Highway corridor, which includes rural residences, a large multi-family apartment complex, and agricultural uses. Operations will be subject to compliance with Chapter 9.20, the County's noise ordinance. A recommended condition of approval would require outdoor lighting is down-shielded to prevent spillage onto adjacent properties, Old Milton Highway, State Route 125 and the night sky. It is unlikely that the completed project will generate significant amounts of dust or glare.

C. *That the use meets all required conditions and standards set forth in the district where it proposes to locate;*

Conclusion: A Conditional Use Permit (CUP) is required in the RR-5 zone for all Bed & Breakfast Type IIs per WWCC 17.16.014. The proposed configuration shown in the submitted development plans is consistent with applicable development standards including setbacks and building height limits.

D. *That the location and character of the use is compatible and consistent with the character of the area in which it is to be located;*

Conclusion: The proposed use is within an area marked by rural residential properties, and rural commercial/tourism-oriented, and agricultural uses. The location and character of the use is compatible and consistent with the character of the area.

E. *That the use is in conformance with the Comprehensive Plan; and*

Conclusion: Staff concludes that the use is in conformance with the Comprehensive Plan. As described above, the proposal is consistent with Goals RL 1 and RL 5 in addition to Policies RL-1 and 10.11 of the Comprehensive Plan.

F. *That the use will be supported by adequate public facilities or services.*

Conclusion: The review of this proposal by all agencies potentially affected and lack of comments received by Staff has indicated that the proposed use will not require additional public facilities or services.

### **Recommended Conditions of Approval**

1. Pursuant to WWCC 17.40.025, the action for which the conditional use permit is required shall begin within one year of approval unless extended for up to one year by the Director. Failure to begin such action within the time limits specified shall void approval of the conditional use.
2. Before construction, the applicant must first obtain any/other associated permit(s) or approvals required by the County or any other governmental agency or regulatory authority with jurisdiction over a particular aspect of the project. Any conditions of approval or requirements imposed as part of such permits or approvals shall be are hereby incorporated as Conditions of Approval for this permit.
3. Pursuant to WWCC 14.13.110, at any time during the life of the permit, the Community Development Department Director may ask the Hearing Examiner to revoke the permit if the project is not in compliance with any of the conditions of approval and/or required permits.
4. Future changes in operations, plans, or additions will require an amendment, approved by the County's Hearing Examiner, to the conditional use permit pursuant to Walla Walla County Code Section 14.03.050.
5. Bed and Breakfasts shall comply with WWCC 17.08.74 – Bed and breakfast guesthouse.
6. The Applicant and all successors shall comply with WWCC 17.20, Parking Requirements. No parking is allowed off-site or on a County right-of-way.
7. No access relating to the Bed and Breakfast Type II is permitted from State Route 125.
8. Exterior lighting shall be directed and shielded in a manner which minimizes its visibility at the site's boundaries. Exterior lighting shall not be used in such a manner that it produces glare on public streets and neighboring residential properties.



9. The applicant must comply with all requirements of WWCC 18.08, Critical Area Protection, for any portion of the project within a critical area or a critical area buffer. New or updated Critical Areas Reports may be required.

**Exhibits**

1. Staff Report dated 10/10/2022
2. Conditional Use Permit application (CUP22-003) and Exhibit A dated 1/26/2022
3. SEPA Checklist (SEPA22-004) dated 1/14/2022
4. SEPA Checklist Staff Evaluation Report dated 9/19/2022
5. Geotechnical Report by PBS Engineering dated 1/17/2022
6. Site Plan submitted 7/5/2022 and Plans submitted for SCR22-0207
7. Trip Generation Letter/Tier 1 Traffic Impact Analysis dated 7/1/2022
8. Comments from the Department of Ecology dated 3/24/2022
9. Comments from WSDOT 3/22/2022
10. Comments from DAHP dated 3/23/2022
11. Comments from Walla Walla County Public Works dated 3/29/2022 (Stormwater) and 9/21/2022 (Traffic)
12. Email from Department of Ecology Watermaster dated 4/14/2022
13. Ground Water Certificate 2982-A
14. SEPA Determination of Mitigated Non-Significance dated 10/5/2022
15. Notice of Application ODNs and Certificate
16. Notice of Public Hearing and Certificate
17. Comments from County Building Official/Fire Marshal
18. Critical Areas Application, CAP22-006
19. Public Comment from Susan Bicknell dated 10/7/2022