



Community Development Department

Director: Lauren Prentice

310 W. Poplar, Suite 200 | Walla Walla, WA 99362

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https://www.co.walla-walla.wa.us/residents/community_development/index.php

NOTICE OF DECISION

Date of Notice: 3/27/2023

File Number(s): SHR22-001

Type of Application: Shoreline, Substantial Development Permit

Applicant: Walla Walla County Public Works c/o Seth Walker

Date of Decision: 3/27/2023

Enclosed is the Hearing Examiner's decision from the 2/13/2023 agenda. Activities pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing has been terminated; except as provided in RCW 90.58.140(5)(a).

Walla Walla County Code Section 14.11.060 allows for the reconsideration of the final decision. The request must be submitted to the administrator within ten (10) days of the final decision or action; the submittal period ends **4/6/2023**. Reconsideration of the final decision must be granted or denied by the Hearing Examiner prior to an appeal being submitted to Walla Walla County Superior Court.

Affected property owner(s) may request a change in valuation for property tax purposes notwithstanding any program of revaluation (WWCC 14.090.090.F.6).

APPLICATION FILE

The file is available for inspection electronically or in person; please contact the assigned planner, Jennifer Ballard, Senior Planner, at 509-524-2626, or by email at planning@co.walla-walla.wa.us to make arrangements to access the files in person between 10 AM and 3 PM Monday through Friday.

APPEAL (Reconsideration Request)

This decision will be considered final if no appeals are filed within the allowed time frame described in [WWCC Chapter 14.11, Appeals](#). WWCC 14.11.060 allows for the applicant or party of record to seek reconsideration of the final decision. A reconsideration request (appeal) must be submitted to the Director within ten (10) days of this notice. If no reconsideration request is submitted by this date, the decision will be final.

The following must be submitted to the Community Development Department by the end of business (5 PM) on **4/6/2023** by email to planning@co.walla-walla.wa.us, or by postal mail or in-person delivery to 310 W. Poplar St, Suite 200, Walla Walla, WA 99362.

- A. [Appeal or Reconsideration Request Application](#)
- B. \$1,715.98 Fee payable by cash, check made out to Walla Walla County, or credit/debit card. (\$1,666 Application Fee and 3% Technology Fee)
- C. Written Statement identifying:
 1. The decision being appealed;
 2. The name and address of the appellant and their interest in the matter;
 3. The specific reasons why the appellant believes the decision to be wrong, including identification of each finding of fact, each conclusion, and each condition or action ordered which the appellant alleges is erroneous. The reconsideration request must be based on one of the following grounds: (1) A material error of law was made; (2) a material error or omission of material fact was made; (3) new material information is presented that was not knowable at the time of hearing. The appellant shall bear the burden of proving the decision was wrong; and
 4. The specific desired outcome or changes to the decision.

Pursuant to WWCC 14.11.020 and 14.11.040, **after/if** a reconsideration request has been considered, the Hearing Examiner's decision may be appealed to the Walla Walla County Superior Court under the Land Use Petition Act (LUPA), RCW 36.70C. A LUPA petition must be submitted to the Walla Walla County Superior Court within twenty one (21) days of issuance of the final decision (on reconsideration) per RCW 36.70C.040(3), unless another time period is established by state law.

Enc SHR22-001 Hearing Examiner's Decision
cc Parties of Record

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II. BACKGROUND AND RELEVANT CODE PROVISIONS.

Walla Walla County Public Works proposes to remove and replace the existing Dell Sharpe Bridge on Pettyjohn Road, which spans the Touchet River. The existing bridge structure was built in 1914 and is considered to be at the end of its useful life, due to stability issues associated with scour of the bridge foundation by the Touchet River, the constrained meander of the river caused by the existing bridge’s design, as well safety concerns due to vehicular line of sight limitations. *(Staff Report, page 1; Application materials, engineering reports included in various exhibits).*

The new bridge location will be approximately 400 feet upstream (east) of the existing bridge location. The existing bridge is 19 feet wide and 155 feet in length, while the replacement bridge will be 32 feet wide and 320 feet in length. Construction is anticipated to run from July 2023 to September 2024. This project is generally located at the Dell Sharpe Bridge on Pettyjohn Road, north of the intersection with Pettyjohn Road and Sharp Road, in the vicinity of parcels 350903110001, 350902210003, 350902240002 and 350902220006. Both the existing and replacement bridges are located within the Primary Agriculture (PA-40) zoning district and Rural Conservancy Shoreline Environment designation of the Touchet River, which is regulated by the County’s Shoreline Master Program (SMP). *(Staff Report; Application materials, including Ex. 6, SEPA Checklist, and Ex. 10, JARPA form; Testimony of Ms. Ballard).*

Basis for Shoreline Substantial Development Permit Requirement.

The “Shoreline Use or Modification Table” applicable for “Transportation and Parking” facilities (like the applicant’s proposal) in the SMP shows that “New Bridges” found in the Rural Conservancy Shoreline Environment (where the bridge is located) require a Shoreline Substantial Development Permit or exemption. *(See SMP, page 50).* There is no dispute that this project does not qualify for a Shoreline exemption, largely because the proposed replacement structure does not substantially conform to the design and location of the original structure. *(Staff Report, page 4, citing RCW 90.58.356(1)(c)).*

Criteria for approval of a Shoreline Substantial Development Permit.

The criteria for approval of a Shoreline Substantial Development Permit are found in Section 7.6.A-B, on page 80, of the County’s Shoreline Master Program.

Consideration of Critical Areas is integrated with the underlying Shoreline Permit Process.

As provided in the “Permit Processing” section of the County’s Critical Areas Ordinance, codified at WWCC 18.08.060(B), “[i]f a project requires another permitting action by the county that requires a public hearing, consideration of critical areas will be

1 *integrated with the underlying permitting process.”* The Shoreline Permit addressed in this
2 Decision fully integrates consideration of applicable Critical Areas code provisions, as
3 explained in the Staff Report and this Decision.

3 ***Jurisdiction of Hearing Examiner:***

4 The County Code vests the Hearing Examiner with authority to hear and issue
5 decisions on applications for Shoreline Substantial Development Permits. See *WWCC*
6 *2.50.070(A)(3); 14.09.020(C), and 14.09.025, Table 14-1.*

6 ***Burden of Proof:***

7 In each proceeding, the Applicant shall have the burden of proof to show compliance
8 with applicable laws and regulations of Washington State and Walla Walla County. *HEx*
9 *Rule 9.8(a); WWCC 14.03.010.*

10 **III. RECORD.**

11 All exhibits entered into evidence as part of the record, and an audio recording of the
12 public hearing, are maintained by the County, and may be examined or reviewed by
13 contacting the County’s public records officer.

13 ***Exhibits:***

- 14 1. Staff Report dated 2/1/2023
- 15 2. Notice of Application with Optional Determination of Non-Significance, dated 3/7/2022, and
16 Certificate of Notification
- 17 3. Notice of Public Hearing, published 2/2/2023, and Certificate of Notification
- 18 4. Washington State Department of Ecology Comments, dated 3/17/2022
- 19 5. Washington State Department of Archeology & Historic Preservation Letter, dated 6/3/2021 and
20 Memorandum of Agreement executed 10/2021
- 21 6. SEPA Environmental Checklist (SEPA22-006) with attachments: vicinity map, shoreline map,
22 iPaC resource list dated 2/7/2022
- 23 7. Cultural Resources Survey prepared by Plateau Archaeological Investigations LLC, dated
24 5/25/2021
- 25 8. Final SEPA Determination of Non-Significance, dated 1/27/2023, and SEPA Staff Evaluation
26 Report
9. Site and Construction Plans submitted 2/11/2022
10. Joint Aquatic Resources Project Approval (JARPA) Form (Shoreline SDP Application) dated
1/25/2022
11. Biological Assessment prepared by PBS Engineering & Environmental Inc, dated 1/2022
12. Critical Areas Assessment Report prepared by PBS Engineering & Environmental Inc, dated
2/2021
13. Critical Areas Mitigation Plan prepared by PBS Engineering & Environmental Inc, dated 1/2022
14. Bridge Replacement Hydraulic Report prepared by MP Stormwater, dated 12/2021

15. Storm Drainage Report prepared by PBS Engineering & Environmental Inc, dated 1/2022
16. Geotechnical Report prepared by PBS Engineering & Environmental Inc, dated 12/16/2022
17. Proposed project Easement locations, dated 1/12/2023
18. Project Limits of Disturbance, submitted 2/2/2023
19. Map CA -5B Priority Habitats and Species
20. US Fish and Wildlife Service letter regarding FWS/R1/2022-0030016, dated 9/23/2022
21. NOAA Letter regarding Endangered Species Act Biological Opinion, NMFS WCRO-2022-00736, dated 10/18/2022
22. Email from J. Ballard regarding Mitigation Plan, dated 2/13/2023
23. Letter from Melvin Talbott, Property Owner, dated 2/17/2023
24. Letter from J. Grant, who spoke during hearing, dated 3/1/2023

Testimony:

The following persons provided testimony under oath as part of the record during the open-record public hearing held on February 13, 2023, in a County Conference Room:

1. Jennifer Ballard, Senior Planner and primary Staff reviewer for the pending application, appeared for the Department, summarized her Staff Report; explained how the project is needed based on safety concerns, among other issues; not exempt from Shoreline permit requirements; SEPA DNS issued, allowed for appeal, no timely appeals were filed by deadline on or about Feb. 10th; how critical area regulations apply, noting that application materials and studies did not address hawk habitat, so condition of approval recommended to satisfy critical areas/potential hawk habitat considerations; how the project, subject to conditions, can satisfy regulations and policies needed for a Shoreline Substantial Development Permit; and recommended approval of the requested permit, subject to conditions.
2. Seth Walker, with the Walla Walla County Public Works Department, the applicant in this matter, appeared and represented the applicant during the hearing, questioned proposed conditions addressing potential hawk habitat, inquired if a qualified expert survey finds the presence of no birds/nests, whether proposed hawk-related work windows should apply; answered project-related questions raised by several hearing participants.
3. Mary Grant Tompkins, descendant of those who built first bridge, noted significance of existing bridge and old schoolhouse, concerns that project and changes might impact schoolhouse, hopes flooding does not impact school structure;
4. Joe Grant, brother of Ms. Tompkins, shares same concerns, worries about wall structure along river, questioned where water will go, towards the school, or elsewhere, wants to assure that the old schoolhouse is protected from flooding;
5. Randy James, expressed concerns about construction impacts on workers and famers in the area who use the bridge, asked for contact information to learn what schedule might be, to communicate about concerns during harvest and the like. Note: Mr. Walker explained that the existing bridge will not be removed until after the new bridge is complete and open for use, so crossing the river will continue on the existing bridge until

the new bridge opens.

6. Monesa Grant, expressed similar concerns expressed by others about protecting the old schoolhouse.

After the public hearing, two individuals submitted written comments, added into the record without objection from Staff. None of the hearing testimony or written comments provided any basis in fact or law that would serve as a basis to deny the requested shoreline permit, subject to conditions. Late last week, the Examiner was able to complete a thorough site visit to the bridge, the school structure, the surrounding road network, and agricultural uses in the project vicinity. The Record is closed, the Examiner is fully informed, and this Decision is now in order.

IV. FINDINGS OF FACT.

Based on the record, and following consideration of all the evidence, testimony, codes, policies, regulations, and other information included therein, the undersigned issues the following findings of fact:

1. All statements of fact included in previous or following sections of this Decision, including without limitation those included in the Background summary, that are deemed to be findings of fact are incorporated by reference into this section as findings of fact issued by the Hearing Examiner.
2. Staff confirmed that all notices required for this matter were provided in accord with applicable county and state regulations. (*Staff Report, pages 2-3; Exs. 2, 3, and 8; Testimony of Ms. Ballard*).
3. In this matter, the Walla Walla County Public Works Department proposes to remove and replace the Dell Sharpe Bridge on Pettyjohn Road, which spans the Touchet River, just south of State Route 124.
4. The Staff Report explains that the Dell Sharpe Bridge was constructed in 1914 and is considered to be at the end of its useful life, related to stability issues from scour of the bridge foundation by the Touchet River, and the constrained meander caused by the bridge's design, as well safety concerns due to vehicular line of sight limitations. The site visit confirms conditions that make the bridge a challenge for two vehicles to cross at the same time; apparent buckling or uneven surface in part of the roadway atop the bridge; and scour at the base of the bridge structure apparent where the river runs up against it.
5. The new bridge location will be approximately 400 feet upstream of the existing bridge location. The existing bridge is 19 feet wide and 155 feet in length, while the replacement bridge will be 32 feet wide and 320 feet in length.

1 6. Construction is anticipated to run from July 2023 to September 2024.

2 7. The project site is generally located at the Dell Sharpe Bridge on Pettyjohn Road,
3 north of the intersection with Pettyjohn Road and Sharp Road, in the vicinity of parcels
4 350903110001, 350902210003, 350902240002 and 350902220006.

5 8. Both the existing and replacement bridges are located within the Primary Agriculture
6 (PA-40) zoning district and Rural Conservancy Shoreline Environment designation of the
7 Touchet River.

8 9. There is no dispute that the Public Works Department's Dell Sharpe Bridge
9 Replacement Project crossing the Touchet River, as described in the Staff Report and
10 application materials, does not qualify for an exception from state and County Shoreline
11 regulations, and that it requires a Shoreline Substantial Development Permit.

12 ***Criteria for Approval of a Shoreline Substantial Development Permit.***

13 10. To receive approval for a Shoreline Substantial Development Permit, this bridge
14 replacement project must demonstrate compliance with the criteria for approval of a shoreline
15 substantial development permit found in Section 7.6 of the County's Shoreline Master
16 Program, on page 80, which reads as follows:

17 **7.6 Shoreline Substantial Development Permits**

18 A. A shoreline Substantial Development Permit shall be required for all development of shorelines,
19 unless the proposals is specifically exempt per Section 7.4 (Exemption from Permit
20 Requirements) or is not subject to the SMP per Section 1.3.3 (Applicability). Shoreline Substantial
21 Development Permit Applications shall be processed consistent with this SMP and WWCC
22 Chapter 14.07 (Project Permit Application Process) and Chapter 14.09 (Project Permit
23 Classification and Review Process).

24 B. A substantial development permit shall be granted only when the development proposed is
25 consistent with:

- 26 1. The policies and procedures of the SMA;
- 27 2. The provisions of WAC 173-27; and
- 28 3. This SMP.

29 C. The County may attach conditions to the approval of permits as necessary to assure consistency of
30 the project with the SMA and this SMP.

31 D. Nothing shall interfere with the County's ability to require compliance with all other applicable
32 plans and laws.

1 E. Construction and activities authorized by a Shoreline Substantial Development Permit are subject
2 to the time limitations of WAC 173-27-090.

3 11. Specific Shoreline Policies and Regulations for Transportation projects are found in
4 Section 6.21 of the SMP, on page 76. All of these policies and regulations are among the
5 provisions of the SMP that any application for a Shoreline Substantial Development Permit
6 must satisfy under approval criteria SMP Sec. 7.6.B.3, provided above. The Staff Report
7 includes a credible and un rebutted explanation and assessment of how this application,
8 subject to appropriate conditions, can satisfy all applicable Shoreline Policies and
9 Regulations. (*Staff Report, pages 4-6*).

10 12. No one presented any evidence, via written comments or during testimony at the
11 public hearing, that would rebut or question the credible application materials, qualified
12 expert reports, environmental documentation, and the like that are all included as part of the
13 record for this matter, and all of which demonstrate how the bridge replacement project is
14 necessary, and how it has been designed or can be conditioned to comply with all applicable
15 county shoreline and critical area regulations. (*Staff Report, all findings and analysis,
16 including without limitation discussion and analysis of Critical Areas issues; Testimony of
17 Ms. Ballard; Ex. 8, unchallenged Final SEPA Determination of Non-Significance, issued on
18 or about January 27, 2023, with SEPA Staff Evaluation Report*).

19 13. Relevant portions of the County's Shoreline Master Program address special
20 protections that apply to areas known to include Ferruginous Hawk nest trees, including the
21 following provisions:

22 "J. In areas designated as Ferruginous Hawk Habitat tree removal connected with a
23 development permit will be restricted to the non-nesting season August through January,
24 and limited to hazard tree removal unless otherwise approved by the department after
25 review of a critical area report.

26 K. Between March 1st and May 31st, clearing and grading activities connected with a
development permit are not allowed within 820 feet of an active Ferruginous Hawk nest.
The applicant may use a species specific survey to demonstrate that a potential nest tree
does not contain an active nest." (*SMP, Appendix A, Sec. 6.4.J and K*).

14. The Staff Report, and Ms. Ballard's hearing testimony, correctly observed that the
application materials failed to address the fact that the project area is mapped as Ferruginous
Hawk Habitat. (*See Ex. 19, County map of Priority Habitats and Species, for SE Walla Walla
County, including the Touchet River area; and Final DNS and Staff Evaluation Report,
included in the Record as Ex. 8, on page 3*). The applicant-Public Works' Department hearing
representative, Seth Walker, questioned language proposed as a condition of approval to
address the issue.

15. Late last week, the Examiner visited the project site to gain a better understanding of the project, and tree issues involved. The site visit confirmed that existing County regulations protecting known hawk nests are especially important in the project area, where the only collection of taller trees in the area is for the most part along the sides of the river for some distance in either direction. So, consistent with other environmental and critical area protection codes and polices applied in the County and State, the Examiner has modified conditions of approval to ensure that priority habitat issues are appropriately studied, and if nesting site(s) are discovered in the project area, various construction activities will be restricted to time-windows established in the County's SMP. On the other hand, if the applicant's species-specific survey demonstrates that no trees in the project vicinity contain an active nest, then hawk-habitat related issues would provide no basis to restrict the timing of tree-removal, or clearing and grading work, associated with the project.

Historic Preservation concerns expressed during the hearing process.

16. While the Examiner appreciates and respects the historic preservation concerns expressed by several hearing participants and written comments about the existing bridge and hopes that the project will avoid potential impacts on the old Pettyjohn Schoolhouse structure located on the west side of Pettyjohn Road as it approaches the existing Dell Sharpe Bridge, no one submitted any qualified consultant reports or other credible evidence that would rebut the engineering designs, reports, and qualified expert materials included in the record, that all support the SEPA Determination of Non-Significance (DNS) issued for this project. The DNS was not appealed, so it stands unchallenged for purposes of considering and issuing this Decision.

17. Individuals with historical details and relevant information about the existing bridge and the schoolhouse may be interested to know that as mitigation for demolishing the existing bridge, the County must comply with terms of a Memorandum of Understanding between Federal, State, and County agencies, included in the record as part of *Exhibit 5*, which includes the "*Preparation of a narrative history and description of the Dell Sharpe Bridge, including information relevant to its historic use and significance*"; and a requirement that "*The COUNTY will coordinate with HistoryLink.org to prepare an essay discussing the Dell Sharpe Bridge, the nearby Pettyjohn Schoolhouse, and the surrounding community.*" (emphasis added). These quotes are taken from a part of the MOU that includes a Stipulation, which reads as follows:

FHWA shall ensure that the following measures are carried out:

1. The COUNTY will complete DAHP Level II Mitigation documentation of the Dell Sharpe Bridge. The standards are similar to those set forth in the Historic American Engineering Record (HAER):

- Archival reproduction of existing historical photographs of the Dell Sharpe

Bridge; and

- Production of three sets of archival-quality, black-and-white digital photographs of elevation views of the Dell Sharpe Bridge; and
- Preparation of a narrative history and description of the Dell Sharpe Bridge, including information relevant to its historic use and significance. Documentation must be reviewed and approved by DAHP prior to replacement of the bridge.

A copy of the documentation shall be provided to each of the following:

- One set shall be provided to DAHP, Olympia.
- One set shall be provided to Walla Walla County Heritage, a project of the Walla Walla County Rural Library District.
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2. The COUNTY will coordinate with HistoryLink.org to prepare an essay discussing the Dell Sharpe Bridge, the nearby Pettyjohn Schoolhouse, and the surrounding community. (emphasis added).

3. The COUNTY will bear the costs of stipulations 1-2. (MOU, included in Ex. 5).

18. Except as modified in this Decision, all Findings, analysis, and statements of fact contained in the Staff Report, are incorporated herein by reference as Findings of the undersigned hearing examiner.

V. CONCLUSIONS OF LAW.

1. As explained above, the record, particularly the Staff Report and recommendation of approval, includes substantial evidence that the pending permit application, subject to appropriate conditions, satisfies all applicable decision criteria specified in the County's code and shoreline master program.

2. As explained in the Findings of Fact, the applicant has satisfied its burden of proof, to demonstrate that its proposal complies with, or can be conditioned to comply with, all applicable approval criteria for a Shoreline Substantial Development Permit and Critical Areas review associated with such permit.

3. Any finding or other statement contained in this Decision that is deemed to be a Conclusion of Law is hereby adopted as such and incorporated by reference.

VI. DECISION.

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the contents of the record, site visits, and the examiner's online review of aerial maps and images of the project site and surrounding area, the undersigned Examiner APPROVES the Shoreline

DECISION APPROVING SHORELINE
SUBSTANTIAL DEVELOPMENT PERMIT FOR THE
DELL SHARPE BRIDGE REPLACEMENT PROJECT
OVER THE TOUCHET RIVER – FILE NO. SHR22-001

WALLA WALLA COUNTY HEARING EXAMINER
310 W. POPLAR STREET, SUITE 200
WALLA WALLA, WASHINGTON 99362

1 Substantial Development Permit for the Dell Sharpe Bridge Replacement Project all as
2 described in the application materials, the Staff Report and all attached exhibits, for File No.
3 SHR22-001, subject to the following Conditions of Approval:

4 CONDITIONS OF APPROVAL

5 1. As set forth in WAC 173-27-190 and the Walla Walla County SMP (Section 7.5(F)),
6 construction pursuant to the permit may not begin and is not authorized until twenty-one days
7 from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all
8 review proceedings initiated within twenty-one days from the date of such filing have
9 terminated; except as provided in RCW 90.58.140(5)(a) and (b).

10 2. Prior to construction, the following revised plans must be submitted to the Community
11 Development Director for review and approval per SMP 5.1, Appendix A Section 1.18 and
12 1.19:

13 a. Revised Mitigation Plan to include additional mitigation for central pier
14 installation; and

15 b. Revised timeline for construction activities, including clearing and grading, as
16 the submitted timeline of March 2023-September 2023 is no longer feasible or
17 accurate.

18 3. Consistent with SMP Appendix A, Sec. 6.4.J and K, before any construction work begins
19 on the project site the Public Works Department must engage the services of a qualified
20 biologist or other consultant to conduct a survey of trees located within 820 feet of the Project
21 site boundaries to determine the presence of any active Ferruginous Hawk nest(s) during
22 nesting season (March 1-May 31) and generate a report confirming the results of such species-
23 specific survey. The report shall be submitted to the Community Development Director for
24 her review and approval.

25 4. If any active Ferruginous Hawk nests are identified within 820 feet of the Project site
26 boundaries in the report required under Condition No. 3:

a) all tree removal work associated with this project will be restricted to the non-nesting
season, August-January, provided the CD Director may allow removal of a hazard tree,
following review and consideration of a critical area report verifying the need to remove
such hazard tree(s);

b) between March 1st and May 31st, clearing and grading activities associated with this
project shall be prohibited within 820 feet of any active Ferruginous Hawk nest(s); and

c) the updated timeline for construction activities required by Condition No. 2 must
reflect consideration of Ferruginous Hawk habitat restrictions addressed in these
conditions.

5. Limits of disturbance will be clearly flagged/marked on site prior to construction to ensure
that no unauthorized intrusion occurs. This shall be verified by the Community Development
Director prior to the commencement of permitted activities. The temporary markings shall
be maintained throughout construction and shall not be removed until construction activities
are complete.

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6. Before construction, the applicant must first obtain all other associated permit(s) or approvals required by the County or any other government 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 and are hereby incorporated as Conditions of Approval for this Permit.

7. Pursuant to Walla Walla County Code Section 14.13.110, at any time during the life of the permit, the Community Development 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 permit(s).

8. Future changes in operations, plans, or additions will require an amendment, approved by the County's Hearing Examiner, to the shoreline substantial development permit pursuant to Walla Walla County Code Section 14.03.050.

ISSUED this 27th Day of March, 2023



Gary N. McLean
Hearing Examiner

1
2 **FINALITY OF DECISION,**
3 **NOTICE OF RIGHTS TO SEEK RECONSIDERATION OR APPEAL**

4 As provided in WWCC 2.50.070(B), *the decision of the hearing examiner on all matters is final and*
5 *conclusive, unless appealed.*

6 WWCC 2.50.120, captioned “Reconsideration”, provides that: *An applicant or party of record to a*
7 *hearing examiner's public hearing may seek reconsideration only of a final decision by filing a written request*
8 *for reconsideration with the community development director within ten days of the final decision. The request*
9 *shall comply with Section 14.11.030 of this code. The hearing examiner shall consider the request at the next*
10 *regularly scheduled meeting, without public comment or argument by the party filing the request. If the request*
11 *is denied, the previous action shall become final as of the date of the decision on the request for*
12 *reconsideration. If the request is granted, the hearing examiner may immediately revise and reissue its decision*
13 *or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should*
14 *be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that*
15 *would change the previous decision.*

16 Before becoming effective, shoreline permits may be subject to review and approval by the
17 Washington Department of Ecology, pursuant to RCW 90.58.140 or WAC 173-27-130.

18 Depending on the subject matter, this decision may be appealable to the Walla Walla County Superior
19 Court or to the Washington State Shorelines Hearings Board.

20 **NOTE:** The Notice provided on this page is only a short summary, and is not a complete
21 explanation of fees, deadlines, and other filing requirements applicable to appeals. State law
22 provides short deadlines and strict procedures for appeals and failure to timely comply with
23 filing and service requirements may result in dismissal of any appeal. See RCW 36.70C and
24 RCW 90.58. Persons seeking to file an appeal are encouraged to promptly review appeal
25 deadlines and procedural requirements and confer with advisors of their choosing, possibly
26 including a private attorney.