



## Community Development Department

Director: Lauren Prentice

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Date: September 13, 2023

To: Walla Walla County Planning Commission

From: Lauren Prentice, Community Development Director

RE: **Public Hearing Agenda Item #1** – Preliminary Docket Review, Application ZCA23-002, to amend sections of Walla Walla County Code Chapter 17.31 to allow cluster developments on lands zoned Exclusive Agriculture-120 (EA-120)

### **Docketing Process for Annual Amendments**

The purpose of the Preliminary Docket is to review the amendments based on initial criteria (shown below), staff does not complete a thorough technical analysis of the merits for each of the applications until the Final Docket.

Once the Final Docket is established by the Board of County Commissioners, the development regulations amendments on the Final Docket will be reviewed pursuant to Walla Walla County Code (WWCC) Sections 14.15.070, including environmental analysis under the State Environmental Policy Act (SEPA). Later a public information meeting will be held as required by Section 14.15.050B(2), followed by possible workshops and required public hearings with the Planning Commission and the Board of County Commissioners.

### **Review Criteria**

*WWCC Section 14.15.060D(3) – Development Regulation Amendment Criteria*

- a. The amendment is consistent with the comprehensive plan;
- b. The amendment is consistent with other development regulations, unless accompanied by amendments to such other development regulations; and
- c. The amendment is appropriate for consideration at this time.

### **Staff Recommendation**

Staff recommends that if the Planning Commission finds that the application, docket number ZCA23-002, is consistent with WWCC 14.15.060D(3), it should be recommended to the Board of County Commissioners for inclusion into the Final Docket.

### **Motion Option 1: recommendation for inclusion on Final Docket as presented (revised proposal)**

“I move that the Planning Commission concur with the findings of fact and conclusion of law in docket number ZCA23-002 and recommend to the Board of County Commissioners that the revised application be included in the Final Docket with the condition that application documents will need to be modified prior to Final Docket review to remove clustering references (e.g. SEPA Checklist).”

### **Motion Option 2: recommendation for inclusion on Final Docket with modifications**

“I move that the Planning Commission concur with the findings of fact and conclusion of law in docket number ZCA23-002 and recommend to the Board of County Commissioners that the revised application be included in the Final Docket with the following modifications: **MUST LIST HERE.**”

### **Motion Option 3: recommendation not to include in Final Docket**

“I move that the Planning Commission concur with the findings of fact and conclusion of law in docket number ZCA23-002 and recommend to the Board of County Commissioners that the application NOT be included in the Final Docket.”

### **Attachments and Documents**

Application materials and other documents available [online](#) and in the Planning Commission May 3, 2023 meeting packet. Items with an asterisk are not provided in the current packet.

- A. Revised proposal, dated July 28, 2023
- B. Email from applicant’s representative regarding Comprehensive Plan dated July 25, 2023
- C. Walla Walla County Code (WWCC) 14.15.070 - Final docket—Review and recommendation
- D. ZCA23-002 Application\*
- E. SEPA23-008 Environmental Checklist\*

### **Public Comments**

No written comments have been received.

### **Proposed Amendments**

The initial application proposed that Chapter 17.31 be amended to make clustering allowable in the Exclusive Agriculture 120 (EA-12) zoning district. Currently clustering is permitted in the other three resource zones, but not the EA-120. As initially proposed, the amendments would apply the same standards in the EA-120 zone as in the PA-40 and GA-20 zones. Staff was concerned that moving this application to the Final Docket might not be possible because it appears to generally conflict with existing code (purpose of EA-120 zone) and also Comprehensive Plan statements which say that clustering ***is not allowed*** in the EA-120 zone. However, it appears that the applicant’s intent was not to allow all clustering in the EA-120, it was to provide an option for landowners to divide off existing residential development.

For that reason, the applicant has submitted a revised (alternative) proposal to amend the Density and Dimensional Standards (Chapter 17.18) to add a new section, titled Section 17.18.080 – One-time Land Divisions in the Exclusive Agriculture Zone. The new section would be similar to the one-time land division provision in the clustering code. If the application is placed on the Final Docket, there will be opportunities to revise or fine-tune the amendment language, and do in depth an analysis and environmental review. Also, the application could be recommended with specific modifications at this time.

### **Analysis**

The Planning Commission shall recommend that the amendments be approved, approved with modifications, or denied based on the applicable criteria from WWCC Chapter 14.15. In deliberating and making a recommendation to the Board of County Commissioners, the Planning Commission should discuss and make findings and conclusions related to these criteria, which will be documented in the Planning Commission Resolution.

### **Criteria: The amendment is consistent with the comprehensive plan; and**

**Staff Discussion:** The proposed amendment is consistent with the following Walla Walla County Comprehensive Plan goals and policies:

- Goal HS 3      Encourage diversity in type, density, and location of housing within the county, while protecting public health, safety, and the quality of life.*

*Policy HS 3.6 Encourage innovative design (clustering, planned unit developments) through development regulations that recognize geographic constraints or amenities and allow for a variety of development and housing types.*

*Goal HS 4 Support efforts to maintain the quality of the existing housing stock.*

*Policy RL 17.5 Provide landowners and their employees a means of residing on their property.*

The following is the description of the Exclusive Agriculture land use designation from the Comprehensive Plan. As stated in the plan on Page 6-28, the designation is “implemented by [a] similar zoning district...” as described below. Per the Comprehensive Plan, approximately 20,959 acres of land are located within the EA land use designation/zoning district, representing about 2.9% of the County’s designated agricultural land of long-term commercial significance.

**Exclusive Agriculture**

*All lands designated as Exclusive Agricultural lands are lands of long-term commercial significance. This designation is intended to be characterized only by land uses that are distinctive of the agricultural sector. Historically, this zone designation resulted from a rezone at the request of land owners in the Russell Creek area. Residences are an allowed use in this area, with limited home occupations that are clearly incidental to the agricultural nature of these areas. Agricultural accessory uses and non-agricultural accessory uses and activities that support, promote, or sustain agricultural operations and production are permitted so long as they are consistent with the provisions of Chapter 36.70A.177 of the GMA. Accessory uses having a high nuisance value, safety issues, or environmental implications should be allowed only by conditional use permit. Natural resource-related industry is considered as a priority compatible use, with those uses having a high nuisance value, safety issues, or environmental implications being allowed only by conditional use permit. The allowed density in this designation is one dwelling unit per 120 acres.*

*Land divisions up to four lots that comply with the minimum lot size of 120 acres will be allowed, provided that adequate public facilities, utilities, and services such as water, wastewater disposal, and access to public roads are available concurrent with the final approval of the plat. There are no other land division opportunities or clustering provisions allowed in this land use designation.*

The proposed amendments do potentially conflict with the second paragraph in two ways. The first sentence states that short plats (land divisions up to four lots) that comply with the minimum lot size of 120 acres will be allowed. The revised amendment would allow lots to be created that do not meet the minimum lot area. Secondly, the final sentence says there “are no other land division opportunities or clustering provisions allowed...” The revised proposal would still allow a different “land division opportunity.” In discussions with the applicants and their representatives it was suggested that this land use designation description could be read as merely a statement of what is presently allowed rather than a policy statement.

**Criteria: The amendment is consistent with other development regulations, unless accompanied by amendments to such other development regulations; and**

**Staff Discussion:** The applicant represents that the revised amendment is generally consistent with other development regulations. The following is a description of the purpose of the EA-120 zoning district. Note, the original proposal conflicted with the description because of the last phrase which

states that clustering is not allowed. Unlike the Comprehensive Plan designation description, there is nothing else in this purpose statement about other types of divisions.

*WWCC 17.12.040(B). Exclusive Agriculture. All lands in this district are lands of long-term commercial significance. This district is intended to: preserve agriculture lands of long-term commercial significance; protect and preserve land for agricultural use in areas of large holdings with a minimum of roads and other utilities and services; recognize the desire of owners of large commercial agricultural operations to maintain those operations and limit the creation of nonfarm parcels. Natural resource related industries are priority compatible uses. Limited outdoor recreation uses and agricultural accessory uses and non-agricultural accessory uses and activities that support, promote, or sustain agricultural operations and production consistent with RCW 36.70A.177 are permitted uses. Residences are an allowed use in this district, but clustering of residential development is not allowed.*

Allowing EA-120 zoned land to be divided on a limited basis to accommodate existing development meets definable public need due to the pattern of land ownership where multiple people in families or a corporation owns interest in a property that is often several hundred acres in size. It is difficult to arrange 120-acre properties to allow multiple homes to be in proximity while each home has to be on a property that is a minimum of 120 acres in size and 330 feet in width. Financing property or building a home on a property that multiple people own interest in is also challenging. For people that are working on an EA-120 zoned property, being able to own an acre that has a residence on it in full, while still being able to work the larger agricultural that they only own a percent interest in is often the only way an individual would be able to own a property zoned EA-120 outright given the cost of purchasing a 120-acre parcel.

Per the Applicants “the proposed change encourages better use and maintenance of farm center parcels by allowing owners to separate the homes from the surrounding farm resource parcel. Rather than these homes becoming uninhabited or falling into disrepair, under the proposed change they could be sold and maintained by property owners desiring a rural lifestyle. This practice would contribute to, or at least avoid the reduction in, the inventory of available housing in the County.”

Additionally, per the Applicants, “as farms grow, it becomes less and less likely that current farmsteads will be fully utilized for primary residences by the farm owners...The proposed amendments would ...create the possibility of allowing families and individuals to buy, improve, and better maintain these farmsteads as their residence, separate and distinct from the large farm parcels.”

The revised proposal would allow the one-time land division only where there was a lot that is larger than 120 acres and smaller than 240 acres. This would result in a density bonus. Also, the revised proposal is not limited to dividing off existing residential uses and would allow new lots to be created where there is no development.

**Alternative:** The amendment could be recommended for inclusion on the Final Docket with modifications (Option 2 above), for example to disallow a division that would be a density increase (e.g. require that the residential density not exceed 1 per 120 acres). Also, there could be a modification to only allow these divisions where there is existing residential development.

**Criteria: The amendment is appropriate for consideration at this time.**

**Staff Discussion:** The County accepts zoning code text amendments annually until March 30. The application (ZCA23-002) was submitted during the application acceptance window and therefore is appropriate for consideration.

**1. Findings of Fact**

1. On May 3, 2023, the Walla Walla County Planning Commission reviewed the application materials in workshop at their regular public meeting.
2. On August 29, 2023, a Notice of Public Hearing was posted on the Community Development Department website, [Public Notices webpage](#).
3. On August 31, the Notice of Public Hearing was published in the Walla Walla Union Bulletin, Tri-City Herald, and in The Times (Waitsburg).

**2. Conclusions of Law (approval)**

1. The proposed amendments have been reviewed pursuant to Walla Walla County Code Sections 14.15.070D(3).
2. The proposed amendments are consistent with the Walla Walla County Comprehensive Plan.
3. The amendment meets a definable public need; and
4. The amendment is in the long-term interest of the county.

**3. Conclusions of Law (denial)**

1. The proposed amendments have been reviewed pursuant to Walla Walla County Code Sections 14.15.070D(3).
2. The proposed amendments are not consistent with the Walla Walla County Comprehensive Plan.
3. The amendment does not meet a definable public need; and
4. The amendment is not in the long-term interest of the county.

**ATTACHMENT A**  
**Development Regulations Amendment Process**  
14.15.070 - Final docket—Review and recommendation.

A. Required Information. The community development department shall compile a preliminary docket of proposed amendments. The preliminary docket shall include at least the following information for each proposed amendment:

1. Docket number; and
2. Name and address of the person or agency proposing the amendment; and
3. Summary of the proposed amendment; and
4. Date of application; and
5. Address or section, township and range of the location of the amendment, if applicable.

B. Available for Public Review. The community development department shall keep the preliminary docket available for public review during normal business hours.

C. Community Development Department Review. After compiling the preliminary docket, the director shall review the suggested amendments and prepare a staff report to the planning commission recommending which proposed amendments should be placed on the final docket. The staff report shall address the following criteria:

1. The amendment is consistent with the comprehensive plan; and
2. The amendment is consistent with other development regulations, unless accompanied by amendments to such other development regulations; and
3. The amendment is appropriate for consideration at this time.

D. Planning Commission Review. All proposed amendments shall be reviewed and assessed by the planning commission, which shall make a recommendation to the board of county commissioners after considering the staff report prepared by the director.

1. Workshop Meeting. The planning commission may first review the recommendations of the director in a workshop meeting(s)
2. Public Hearing. The planning commission shall conduct a public hearing on the proposed amendments on the preliminary docket as set forth in Sections 14.09.065 and 14.09.070 of this title.
3. Recommendations. Following the hearing, the planning commission shall make a recommendation to the board of county commissioners on each proposed amendment as to whether or not the amendment should be placed on the final docket. The planning commission's recommendation shall be based upon the following criteria:

- a. The amendment is consistent with the comprehensive plan; and
- b. The amendment is consistent with other development regulations, unless accompanied by amendments to such other development regulations; and
- c. The amendment is appropriate for consideration at this time.

E. Board of County Commissioner's Decision—Adoption of Final Docket.

1. Review and Decision Process. The board of county commissioners shall review and consider the planning commission's report and recommended final docket at a regularly scheduled commissioner's meeting. The board of county commissioners may adopt the planning commission's recommended final docket without a public hearing; however, in the event that a majority of the board of county commissioners decides to add or subtract proposed amendments, it shall first conduct a public hearing as set forth in Sections 14.09.065 and 14.09.070 of this title.
2. Effect of Final Adopted Docket. The decision of the board of county commissioners to adopt the final docket does not constitute a decision or recommendation that the substance of any recommended amendment should be adopted. No additional amendments shall be considered after adoption of the final docket for that year except for exceptions as set forth in Section 14.15.030.

July 28<sup>th</sup>, 2023

Dear Lauren,

Thank you for taking time to meet with me this week to provide an update on our application. It sounds like the Planning Commission's recent conversations surrounding our application have revealed a conflict between our proposal and the County's Comprehensive Plan. In light of the discovery that Cluster Developments are not permitted in the Exclusive Agriculture 120 zone, we would like to amend our application in the following 2 ways:

- We would like to remove any text surrounding Section 17.31 - DEVELOPMENT STANDARDS - CLUSTER DEVELOPMENTS ON RESOURCE LANDS from our proposal.
- We propose the creation of Chapter 17.18.080 - ONE-TIME LAND DIVISION IN THE EXCLUSIVE AGRICULTURE 120 ZONE.

**17.18.080 – ONE-TIME LAND DIVISION IN THE EXCLUSIVE AGRICULTURE 120 ZONE.**

Property owners of a parcel in the EA 120 zone, that is larger than the minimum parcel size and smaller than twice the minimum parcel size permitted in specific zones, shall be permitted a one-time land division, consistent with all of the following provisions:

A. A lot created via the one-time land division can be up to ten acres, when used to divide off an existing farmstead, provided the new property line follows the existing farm center footprint comprised of such structures as a home, outbuildings, equipment storage areas, barns and corrals; and

B. Sufficient surface and/or ground water rights shall be available to the new smaller parcel to permit for domestic use, reasonable irrigation, such as yard, garden, and caring for animals, fire suppression, and to avoid a portion of the smaller lot becoming a nuisance with regard to such concerns as dust, and weed control.

Sincerely,

*Andrea Jones Unck*

## Lauren Prentice

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**From:** Jared Hawkins <jared@hawklaw.biz>  
**Sent:** Tuesday, July 25, 2023 9:22 AM  
**To:** Lauren Prentice  
**Cc:** Andrea Unck  
**Subject:** RE: Exclusive Agriculture

Lauren,

Thank you for sharing that with us. What options do you think we have?

That wording is interesting to me. While I know that the Comp Plan governs and sets the policy for underlying code language, that statement you've identified seems to be more of a recitation of what is **presently allowed by the code than it does a statement of policy as to what should or should not be allowed**. So many other provisions of the Comp Plan seem to favor cluster zoning—even the sentence before it would support cluster zoning to some extent. I'm not trying to be argumentative, I'm just concerned that so many other provisions of the code that support cluster zoning could be outweighed by that poorly worded sentence.

I'd love to discuss what we can do to preserve the application.

Jared

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**From:** Lauren Prentice <lprentice@co.walla-walla.wa.us>  
**Sent:** Tuesday, July 25, 2023 8:41 AM  
**To:** Andrea Unck <abunck@hotmail.com>  
**Cc:** Jared Hawkins <jared@hawklaw.biz>  
**Subject:** Exclusive Agriculture

This is a link to the Comprehensive Plan, which I know you had reviewed, the conflict we identified is that this description of the Exclusive Agriculture designation says that cluster developments are not allowed in the Exclusive Agriculture zone.

[https://files4.1.revize.com/wallawalla/document\\_center/commdev/planning/comp%20plan/FINAL%20Walla%20Walla%20County%20Comp%20Plan%20\(080519\)%20\(complete\).pdf](https://files4.1.revize.com/wallawalla/document_center/commdev/planning/comp%20plan/FINAL%20Walla%20Walla%20County%20Comp%20Plan%20(080519)%20(complete).pdf)



## Exclusive Agriculture

All lands designated as Exclusive Agriculture are lands of long-term commercial significance. This designation is intended to be characterized only by land uses that are distinctive of the agricultural sector. Historically, this zone designation resulted from a rezone at the request of land owners in the Russell Creek area. Residences are an allowed use in this area, with limited home occupations that are clearly incidental to the agricultural nature of these areas. Agricultural accessory uses and non-agricultural accessory uses and activities that support, promote, or sustain agricultural operations and production are permitted so long as they are consistent with the provisions of RCW 36.70A.177. Accessory uses having a high nuisance value, safety issues, or environmental implications should be allowed only by conditional use permit. Natural resource-related industry is considered as a priority compatible use, with those uses having a high nuisance value, safety issues, or environmental implications being allowed only by conditional use permit. The allowed density in this designation is one dwelling unit per 120 acres.

Land divisions up to four lots that comply with the minimum lot size of 120 acres will be allowed, provided that adequate public facilities, utilities, and services such as water, wastewater disposal, and access to public roads are available concurrent with the final approval of the plat. There are no other land division opportunities or Cluster developments are not allowed in this land use designation.

## Primary Agriculture

All lands designated as Primary Agriculture are lands of long-term commercial significance. This land use designation is primarily intended for areas that are designated as agricultural lands characterized to some degree by limited irrigated acreages. This designation is intended to maintain the viability of agricultural resource lands of long-term commercial significance. This land is to be characterized by land uses that are distinctive of the