

Community Development Department

Director: Lauren Prentice

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Submit to: planning@co.walla-walla.wa.us

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NOTICE OF DECISION (NOD)

Date of Notice: 11/23/2022
Applicant: YELLOWHAWK RESORT WW LLC Attn: Scott Clark
Type of Application: CUP/CRITICAL AREAS
File Number: CUP22-003/CAP22-006
Decision: APPROVED WITH CONDITIONS

Pursuant to Walla Walla County Code (WWCC) 14.09.090(F), enclosed is the Hearing Examiner's decision. This decision shall be effective on the date of this notice (WWCC 14.09.090(H)).

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 our Planning Technician, Michael Maret, or the assigned planner, Jennifer Ballard, by phone at 509-524-2610 or by email at planning@co.walla-walla.wa.us between 10 AM and 3 PM Monday through Friday to make arrangements to access the files.

APPEAL

This decision will be considered final if no appeals are filed within the allowed time frame described in [Walla Walla County Code \(WWCC\) Chapter 14.11, Appeals](#). Firstly, WWCC 14.11.060 allows for the applicant or party of record to seek reconsideration of the final decision. An appeal/reconsideration request 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.

Submittal Requirements for Reconsideration Requests

The following must be submitted to the Department by the end of business (5 PM) on **DECEMBER 5TH 2022**, by email to planning@co.walla-walla.wa.us or via the Department's drop-box at 310 W. Poplar, Walla Walla, WA.

- A. [Appeal/Reconsideration Application](#)
- B. **Written Notice of Appeal/Reconsideration** containing a concise statement identifying:
 1. The decision being appealed;
 2. The name and address of the appellant and his or her interest(s) 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.

- C. The **Appeal/Reconsideration Application fee (\$745 + 3% technology fee if applicable)**, payable by cash, check, or credit card. If you wish to pay by credit card, notify the department at 509524-2610 and they will help you make arrangements to pay by credit card once the request is entered into the County's tracking system.

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.

**BEFORE THE HEARING EXAMINER
FOR WALLA WALLA COUNTY**

Application for a Conditional Use Permit)
and Critical Areas Permit to authorize a)
Type II Bed and Breakfast with ten)
detached guest units and an owner/)
operator dwelling on Adjusted Lot 1 of)
BLA22-002, known as Applicant's)
"North Parcel", at the applicant's existing)
Type 2 Winery property, submitted by)
YELLOWHAWK RESORT WW, LLC,)
Applicant)

File Nos. CUP 22-003; CAP 22-006

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION APPROVING
REQUESTED PERMITS**

*(Location: In the south portion of Walla Walla County,
south of the City of College Place, between Highway
125 to the east and Old Milton Highway on the west, a
56+ acre site addressed as 2853 Old Milton Highway,
tax parcel no. 350611110004)*

I. SUMMARY OF DECISION.

The requested Conditional Use Permit and Critical Areas Permit to develop a Type II Bed and Breakfast on part of the applicant's existing winery property is approved, subject to conditions.

II. BACKGROUND AND RELEVANT CODE PROVISIONS.

The applicant, Yellowhawk Resort WW, LLC ("Yellowhawk", with Scott Clark, as primary Applicant representative), submitted a conditional use permit application for the

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND
DECISION – APPROVING CONDITIONAL USE
PERMIT FOR TYPE II BED AND BREAKFAST ON
THE NORTH PARCEL OF THE YELLOWBACK
WINERY – FILE NO. CUP22-003**

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

1 purpose of receiving authorization to develop and operate a Type II Bed and Breakfast (B&B)
2 on part of the applicant's existing winery property. Yellowhawk operates as a Type 2 Winery
under prior approvals granted by the County.

3 ***Basis and Criteria for approval of Conditional Use Permit.***

4 There is no dispute that the Yellowhawk property is located in the County's Rural
5 Residential (RR-5) zoning district, and that a Type II Bed & Breakfast use is classified as a
6 Conditional Use in the RR-5 zoning district. (See "Permitted Uses" table found at WWCC
17.16.014).

7 ***Special development standards for Bed and Breakfast uses.***

8 There is no dispute that the applicant's proposed Bed and Breakfast use falls within
9 the County Code's definition of "Bed and Breakfast Guesthouse" and is subject to specific
conditions found in WWCC 17.08.074, which reads as follows:

10 "Bed and breakfast guesthouse" means an establishment located in a primary dwelling unit
11 or accessory building providing overnight accommodations and food services to transients
12 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:

13 A. Number of Guest Rooms. A bed and breakfast guesthouse establishment shall not have
14 more than ten guest rooms; travelers or transient guests may not stay longer than thirty
consecutive days;

15 B. Occupancy. Property owner or operator occupied;

16 C. Parking. One off-street parking space must be provided for each guest room in addition
17 to any other parking requirements;

18 D. Food Service. Except in the case of Type III bed and breakfasts, only limited food service
19 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
20 III bed and breakfast guesthouses, 50 guests at a time;

21 E. Signs. Signs associated with this use shall be limited to four square feet in size, except
22 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.
23 Signs shall meet all setback requirements for the zone in which the bed and breakfast
24 establishment is located.

1 ***Cumulative Impacts on Critical Areas.***

2 WWCC 18.08.020 defines "Cumulative impacts or effects" as follows: "The
3 combined, incremental effects of human activity on critical areas functions and
4 values. Cumulative impacts result when the effects of an action are added to or interact with
5 other effects in a particular place and within a particular time. It is the combination of these
6 effects, and any resulting environmental degradation, that should be the focus
7 of cumulative impact analysis and changes to policies and permitting decisions."

8 Where critical areas are considered as part of a development proposal in a particular
9 area, if a Critical Areas Report is required, such report must include: "An assessment of the
10 probable cumulative impacts to critical areas resulting from development of the site and the
11 proposed development". (See WWCC 18.08.095(C)(6)).

12 ***Jurisdiction of Hearing Examiner:***

13 The County Code vests the Hearing Examiner with authority to hear and issue
14 decisions on applications for Conditional Use Permits. See WWCC 2.50.070(A)(3);
15 14.09.020(C), and 14.09.025. The Hearing Examiner may grant or deny the application, or
16 may attach reasonable conditions, modifications and restrictions found necessary to make the
17 project compatible with its location and to carry out the goals and policies of the applicable
18 comprehensive plan, or other applicable plans or programs adopted by the board of county
19 commissioners. See WWCC 2.50.070(C) and WWCC 14.09.090.F.3.

20 **III. RECORD.**

21 All exhibits entered into evidence as part of the record, and an audio recording of the
22 public hearing, are maintained by the County, and may be examined or reviewed by
23 contacting the County's public records officer.

24 ***Exhibits:***

- 25
- 26 1. *Staff Report* – Walla Walla County Community Development Department Staff Report and
Recommendation of Approval to the Hearing Examiner for the Doubleback Winery Type II Bed and
Breakfast application, prepared by Senior Planner, Jennifer Ballard, dated October 13, 2022 (nine
pages, with the following attached Exhibits);
 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

27 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND
28 DECISION – APPROVING CONDITIONAL USE
PERMIT FOR TYPE II BED AND BREAKFAST ON
THE NORTH PARCEL OF THE YELLOWBACK
WINERY – FILE NO. CUP22-003**

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

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. Written Public Comment from Susan Bicknell dated 10/7/2022
20. Written Public Comment from RL McFarland, day of hearing, 10/20/2022
21. Written Public Comment from C Vinti, day of hearing, 10/20/2022
22. Written Public Comment from B Brown, day of hearing, 10/20/2022
23. Applicant's Response to Public Comments, dated 10/25/2022
24. Site Plan sheet showing 50-foot steep slope buffer, dated 10/27/2022
25. Plat of Applicant's property before BLA in following exhibit, Amended Mussman Short Plat 2003-23 Recorded on 11/03/2003, with recording number AFN 2003-17039 [*Added by the Examiner]
26. Boundary Line Adjustment BLA22-002, modifying lot configurations on Applicant's property, Recorded on 09/16/2022, under recording number AFN 2022-07726 [*Added by the Examiner]

Testimony: The public hearing for this matter was conducted using a hybrid in-person and online audio/video platform coordinated by County staff, accessible to parties and members of the public using sign-in details provided in public notices. The Hearing Examiner presided in-person with numerous participants and members of the public present in a Department conference room, and several members of the public observed or testified via the online platform. The applicant confirmed that they would like the hearing for both applications, for CUPs on the North and South parcels, consolidated into a single hearing. The following persons provided testimony under oath as part of the record during the open-record consolidated hearing held on October 20, 2022:

1. Jennifer Ballard, Senior Planner, and primary Staff Contact for the pending application, for Walla Walla County;
2. Scott Clark, Applicant, Yellowhawk co-owner, lead applicant representative;
3. Philip Chistofides, project architect, Yellowhawk co-owner;
4. JaiDee Taruscio, local property owner, expressed general concerns about noise from concerts and the like that she hasn't complained about but hears from her property, luxury project with expensive cabanas could cause agricultural type businesses to move away;
5. Mike Eggleston, read letter from the Brower's into record, expressed general concerns about possible noise, traffic, light at night, septic impacts on wells, feels this is a hotel and not a true B&B;
6. Brenda Brown, owns property along Hwy 125, opposes project, expressed general concerns about too many tourists in Ag area, traffic, noise, wells, crime, luxury resort causing property values to increase causing her taxes to go up, littering, does not want luxury resort "in her back yard";
7. Lon Ferguson, local resident, expressed concerns about traffic along Old Milton Hwy., not a

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND
DECISION – APPROVING CONDITIONAL USE
PERMIT FOR TYPE II BED AND BREAKFAST ON
THE NORTH PARCEL OF THE YELLOWBACK
WINERY – FILE NO. CUP22-003**

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

win-win for folks in the area, concern about negative impacts on surrounding area, notes that he has called Sheriff's Dept. to report noise problems from the Yellowhawk property, concern that more project like this will come, general concerns about cumulative impacts from multiple projects like this one;

8. Connie R Vinti, local resident, opposes applications, notes this is a Commercial venue that does not fit in the Rural Residential zone;
9. R.L. McFarland, appeared online, summarized written comments included as part of Ex. 20, opposes applications noting that two B&B permits might allow for more units than would be allowed under the County's Type III winery codes and amendments proposed by the applicant, expressed concerns about steep slopes, wants only buildable acreage used to determine if enough acreage is available for project;
10. Linda Washington-Fory, opposes applications, believes the project will cause bad impacts with nothing good for local residents.

Site Visit: The Examiner personally visited the Yellowhawk winery property and conducted a site visit to the project location and surrounding road network on the day of the hearing.

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 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. This application for a Conditional Use Permit is for the purpose of authorizing development and operation of a Type II Bed and Breakfast establishment on a portion of the applicant's existing Winery property, known as the Yellowhawk Resort and Sparkling Winery, located on the east side of Old Milton Highway and west of Highway 125, in the south part of unincorporated Walla Walla County. (*Staff Report, page 3*) This Decision addresses the B&B proposed on the "North Parcel", a 56+acre site. (*Id.*)

3. The applicant's website provides the following history regarding the property, once known the Basel Cellars winery:

Yellowhawk Resort is an 84-acre hillside retreat featuring Walla Walla's only sparkling winery and tasting room with farm-to-table dining, swimming pool and cabanas, lodging and event space for weddings, reunions, and corporate retreats. The elevated hilltop setting provides a sweeping outlook on the fields of wheat, lush vineyards, and Blue Mountains.

Originally built in 1997 as a private residence, the Estate House at Basel Cellars was once one of the finest homes in the Walla Walla valley. It was purchased in 2002 and converted to Basel Estate Winery & Resort. In December 2020, Pacific Northwest hospitality leaders Dan Thiessen, Chad Mackay, Scott Clark, Philip Christofides and Paul Mackay purchased the property and changed the name to Yellowhawk Resort, and the winery shifted to a sparkling wine program led by winemaker George-Anne Robertson.

(Excerpt from Yellowhawkresort.com, page captioned "About Yellowhawk Resort").

4. Notes on the applicant's proposed Site Plans (*See Ex. 24*) include the following explanation:

NOTE TO REVIEWER

UNDER A SEPARATE APPLICATION, THE PROPERTY OWNER IS REQUESTING THE APPROVAL OF A BOUNDARY LINE ADJUSTMENT OF THE TWO EXISTING PARCELS. THE APPLICANT IS PROPOSING TO CONSTRUCT A TYPE 2 BED AND BREAKFAST FACILITY ON EACH RECONFIGURED PARCEL. THE SOUTHERN PARCEL GUEST UNITS ARE SHOWN HEREON AS "FIG 2". THE NORTHERN PARCEL GUEST UNITS ARE SHOWN AS "FIG 1" UNDER A SEPARATE APPLICATION.

5. Given such circumstance, this application was not complete and could not have been approved as designed before a boundary line adjustment was approved. In any event, Boundary Line Adjustment No. BLA22-002, modifying lot configurations on the Applicant's property, was approved and recorded on September 16, 2022, under recording number AFN 2022-07726, and has been added into the record by the Examiner as *Ex. 26*.

6. This Decision addresses the application for the applicant's "North Parcel." There is a separate CUP application that was consolidated into the same hearing process for this permit, for a Type II B&B on the applicant's "South Parcel." The Site Plan for both applications on the Yellowhawk property is provided below (*Ex. 6, Sheet A1.1*):

7. This application seeks approval to develop 10 (ten) detached guest units, and one detached unit for an on-site B&B operator/manager, each with its own restroom, ranging in size 550 – 600 square feet. The proposed Site Plan includes a chart providing a description of the units proposed on both the North and South parcels, unit type/design (shown on other pages), and approximate sizes, which is enlarged and republished below (*screenshot from Ex. 6, on Sheet A1.1*):

UNIT MATRIX					
UNIT TYPE ORIENTATION REFERS TO LOCATION OF ENTRY DOOR WHEN OUTSIDE FACING UNIT FRONT					
PARCEL 1 NORTH PARCEL				GSF	porch
UNIT #	UNIT TYPE	ENTRY	DESCRIPTION		
1	A1	RIGHT	COUPLES KING/DELUXE BATHROOM	550	265
2	A1	RIGHT	COUPLES KING/DELUXE BATHROOM	550	265
3	A1	RIGHT	COUPLES KING/DELUXE BATHROOM	550	265
4	B1	RIGHT	KING W SITTING AREA/PULL OUT SOFA	550	265
5	B1	RIGHT	KING W SITTING AREA/PULL OUT SOFA	600	265
6	B3	RIGHT W RAMP	KING W SITTING AREA/ADA	600	265
7	B1	RIGHT	KING W SITTING AREA/PULL OUT SOFA	600	265
8	B2	RIGHT	KING W SITTING AREA/KITCHENETTE	600	265
9	A2	LEFT	COUPLES KING/DELUXE BATHROOM	550	265
10	A2	LEFT	COUPLES KING/DELUXE BATHROOM	550	265
11	A2	LEFT	COUPLES KING/DELUXE BATHROOM	550	265
				6,250	2,915
PARCEL 3 SOUTH PARCEL				GSF	porch
UNIT #	UNIT TYPE	ENTRY	DESCRIPTION		
1	B2	RIGHT	KING W SITTING AREA/KITCHENETTE	600	265
2	B1	RIGHT	KING W SITTING AREA/PULL OUT SOFA	600	265
3	B1	RIGHT	KING W SITTING AREA/PULL OUT SOFA	600	265
4	A1	RIGHT	COUPLES KING/DELUXE BATHROOM	550	265
5	A1	RIGHT	COUPLES KING/DELUXE BATHROOM	550	265
6	B3	RIGHT W RAMP	KING W SITTING AREA/ADA	600	265
7	A1	RIGHT	COUPLES KING/DELUXE BATHROOM	550	265
8	A1	RIGHT	COUPLES KING/DELUXE BATHROOM	550	265
9	A4	RIGHT/SIDE STAIR	COUPLES KING/DELUXE BATHROOM	550	265
10	A5	LEFT/SIDE STAIRS	COUPLES KING/DELUXE BATHROOM	550	265
11	N/A	N/A	EXISTING SINGLE FAMILY HOME	N/A	N/A
				5,700	2,650

8. Any subsequent plans to expand the number of guest units, or other significant modifications, will require a separate Conditional Use Permit, requiring a new application, public notices and opportunities for comment, staff review, and a public hearing before the County's Hearing Examiner.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
 DECISION – APPROVING CONDITIONAL USE
 PERMIT FOR TYPE II BED AND BREAKFAST ON
 THE NORTH PARCEL OF THE YELLOWBACK
 WINERY – FILE NO. CUP22-003

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

1 9. This Conditional Use Permit is limited in scope, and it is expressly conditioned in this
2 Decision to authorize only the number and nature of structures identified in the application
3 materials and available for public review and comment in connection with notices, SEPA
4 environmental reviews, and the public hearing process for this application. This Decision is
in no way affected by the applicant's recent requests for changes in the County's zoning
codes, as mentioned by various hearing witnesses.

5 10. Staff reviewed the application materials, including the SEPA Checklist (*Ex. 3*) and
6 relevant environmental information, resulting in the County's final SEPA threshold Mitigated
7 Determination of Non-Significance (MDNS) for the project, issued on or about October 5,
8 2022 (*Exhibit 14*). Public notices and requests for comments, regarding the pending
9 application and environmental review, from members of the public, adjacent property
10 owners, and relevant state and local agencies, were provided in accord with standard County
practices. (*Staff Report, Exs. 15-16, public noticing materials; all written comments from
agencies and members of the public*). No one appealed the MDNS, so the threshold
determination stands unchallenged for purposes of issuing this Decision.

11 11. As noted above, a Conditional Use Permit is required for Type II Bed and Breakfast
12 establishment located on land zoned RR-5. The criteria for approval of a conditional use
13 permit (CUP) are found at WWCC 17.40.020. The Hearing Examiner is delegated specific
14 authority to hear, consider, and decide on applications for conditional use permits. *See*
15 *WWCC 17.16.014 and 2.50.070(A)(3)*. The Examiner is also delegated specific authority to
condition or modify a proposal to make the project compatible with its location, provisions
of the County's Comprehensive Plan, or county development regulations. *See WWCC*
2.50.070(C) and WWCC 14.09.090.F.3.

16 12. In accord with applicable county project review regulations, Jennifer Ballard, the
17 County's designated planner for this matter, reviewed the application materials, and
generated a Staff Report, which was issued to the Examiner before the public hearing.

18 13. The open-record public hearing for the conditional use permit was duly noticed in
19 accord with law and the hearing occurred on October 20, 2022.

20 14. During the public hearing, Ms. Ballard summarized the Staff Report, describing the
21 scale of the project, limits on B&B operations, a SEPA condition requiring a Cultural
22 Resources Report, steep slope considerations as part of the Critical Areas review, traffic
23 impact analysis with no additional mitigation required, Fire Marshall comments requiring
24 sprinkler systems in cottages unless exemptions/exceptions apply, and her recommendation
of approval subject to conditions. She clarified that the hearing was not intended to cover
proposed code amendments pursued by the applicant, only the CUP requested for a Type II
B&B.

25 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND**
26 **DECISION – APPROVING CONDITIONAL USE**
PERMIT FOR TYPE II BED AND BREAKFAST ON
THE NORTH PARCEL OF THE YELLOWBACK
WINERY – FILE NO. CUP22-003

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

1 15. The Examiner finds that public comments opposing a bed and breakfast as generally
2 incompatible with Agricultural uses run counter to County codes that allow such uses in the
3 RR-5 zone subject to requirements for a conditional use permit, noting that another B&B
4 permit was recently issued for another winery in the County. The Examiner is only aware of
5 two wineries with separate approvals to operate a Type II Bed and Breakfast, and both of
6 those wineries have adequate space to comply with applicable standards, including
7 restrictions on allowed units per acre that could be permitted for a Type III winery, and
sufficient undeveloped "agricultural land" on each site. While this is NOT a Type III winery
application, the Examiner notes that the two CUP applications addressed in this consolidated
hearing process would not result in density or loss of agricultural lands exceeding limits for
a Type III winery. Subsequent applications, if any, may need to address such situation.

8 16. The applicant witnesses, Mr. Clark and Mr. Christofides, clarified a few issues raised
9 by Ms. Ballard, noting that the project is designed to satisfy all applicable steep slope
10 setbacks/buffers. After the hearing, as authorized by the Examiner during the hearing, Mr.
11 Clark submitted a page from the project Site Plan illustrating this point, showing steep slopes,
12 buffers, and building locations. (See Ex. 24). Applicant witnesses explained that the existing
13 kitchen in the "pool-house" on the South Parcel will be removed, and the pool house will not
14 be offered for-rent. Mr. Christofides noted that the applicant intends to comply with
applicable Fire Codes, but they intend to pursue any exemptions/exceptions that may apply
to sprinkler requirements. This Decision does not limit the Fire Marshall's authority to
address the topic in accord with applicable County codes and policies at the time of building
permit reviews for this project.

15 17. The Staff Report and exhibits included in the record constitute a preponderance of
16 evidence that demonstrates how the pending CUP application, as conditioned, is consistent
17 with the County's Comprehensive Plan. *Staff Report, at pages 5 and 6, citing relevant
Comp. Plan Goals and Policies.*

18 ***As Conditioned, the pending application satisfies the approval criteria for a Conditional
19 Use Permit.***

20 18. Based on evidence in the record, the Examiner finds and concludes that, as
21 conditioned, the proposed Type II Bed and Breakfast satisfies all of the approval criteria for
22 a Conditional Use Permit set forth in WWCC 17.40.020(A – F). Except as modified in this
23 Decision, the Staff Report's explanations of how the pending application complies with such
24 criteria are expressly adopted as findings of the Hearing Examiner. (Staff Report, pages 7
and 8).

1 ***Critical Areas considerations.***

2 19. Critical areas in Walla Walla County are regulated under WWCC Chapter 18.08. As
3 provided in WWCC 18.08.060.B, if a project requires another permitting action by the county
4 that requires a public hearing (like the Conditional Use Permit addressed in this Decision),
5 consideration of critical areas will be integrated with the underlying permitting process. The
6 Examiner finds and concludes that Staff's review of the requested permit appropriately
integrated consideration of potential critical areas issues associated with the proposed Bed &
Breakfast use.

7 20. The applicant's Geotech Report and Ex. 24 establish that the project has been
8 designed to avoid impacts on steep slopes. Other Critical Areas and buffers, for creeks,
9 streams and the like, are located well outside any jurisdictional limits for this application.
10 Thus, the applicant's requested critical areas permit should be approved for this project,
11 noting that subsequent applications for additional uses on the applicant's larger winery/resort
property, may trigger the need for new or additional Critical Areas Reports, and such reports
must include an analysis of cumulative impacts, as explained in applicable County codes. An
additional condition of approval has been added to clarify this subject.

12 ***Bed and Breakfast Development Standards; Concerns expressed by local residents.***

13 21. Bed and Breakfast establishments must comply with special conditions found in
14 WWCC 17.08.074. The Conditions of Approval for this permit are written to ensure that the
15 applicant's proposed Bed and Breakfast establishment will be consistent with these
16 requirements, including those limiting guest stays to not more than thirty consecutive days,
mandating owner/operator occupancy on the site, and parking, among other things.

17 22. Witness testimony provided a preponderance of credible evidence establishing the
18 need for better ways to "enforce" reasonable conditions after B&B operations commence.
19 Surrounding property owners described legitimate concerns about potential noise, smoke,
20 possible trespassers, and the like – all among the sorts of issues that a call to an on-site
property manager/agent might resolve more quickly than calls for service directed to the
Sheriff's Office.

21 23. Accordingly, the Examiner has added a condition of approval, requiring the applicant
22 to provide the Director and all property owners within five hundred (500) feet of the project
23 site the name and contact information for a designated local property representative who lives
24 on-site where the B&B is located and will respond to complaints and emergencies; and a
valid telephone number where the local property representative can be reached twenty-four
(24) hours per day. *(See Condition of Approval No. 13).*

24. Based on the record, the Examiner finds that the underlying project has been reviewed in substantial compliance with applicable SEPA procedures. Witness testimony expressing displeasure with provisions of the County's zoning code are outside the Examiner's jurisdiction. No one submitted a preponderance of evidence that would serve as a basis to deny the pending permit. However, subsequent applications for a similar use on the same winery property may be subject to additional conditions, limits on units, and the like, or could be denied, if they are inconsistent with then-applicable County codes or policies.

25. Except as modified in this Decision, all Findings, 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, includes a preponderance of evidence that the pending permit application satisfies all applicable decision criteria specified in the County's code.

2. 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, and the examiner's previous site visits to the area in connection with other matters, the undersigned Examiner APPROVES the Conditional Use Permit for the Yellowhawk Type II Bed and Breakfast, North Parcel Project (File No. CUP22-003), subject to the following Conditions of Approval:

CONDITIONS OF APPROVAL

1. As provided in Walla Walla County Code Section 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 and all 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 and are hereby incorporated as Conditions of Approval for this permit.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND
DECISION – APPROVING CONDITIONAL USE
PERMIT FOR TYPE II BED AND BREAKFAST ON
THE NORTH PARCEL OF THE YELLOWBACK
WINERY – FILE NO. CUP22-003**

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

1 3. For the duration of this permit, all operations and activities conducted on the property
2 shall be in accord with applicable local, state and federal health and occupational safety
3 regulations, and Washington codes and regulations regarding Transient
4 Accommodations, including without limitation those found in RCW 70.62 and WAC
5 146-360, as currently written or may subsequently be amended, which are also
6 incorporated herein as Conditions of approval for this CUP.

7 4. Pursuant to Walla Walla County Code Section 14.13.110, at any time during the life
8 of the permit, the Community Development Department Director may ask the Hearing
9 Examiner to revoke the permit if the project is not in compliance with any of the
10 conditions of approval and/or required permits.

11 5. Future changes in operations, plans, or additions will require an amendment to the
12 CUP issued herein, which shall be processed as a quasi-judicial review before the
13 County's hearing examiner, consistent with applicable county codes and requirements
14 for a new conditional use permit, as currently written or as may be subsequently amended
15 by the Walla Walla County Board of County Commissioners and in effect as of the date
16 of filing a complete application for an amendment to the CUP issued herein. (*See* WWCC
17 14.03.050 and Ch. 14.09 WWCC).

18 6. Because the applicant's property is located within an area with a "high potential for
19 archaeological resources," the applicant shall comply with the recommendations of the
20 Washington State Department of Archaeology and Historic Preservation (*Exhibit 10*) and
21 commission a professional archaeological survey of the project area and submit a report
22 of such survey with any recommendations to the Director, DAHP, and any affected tribes.
23 No ground disturbing activities will be authorized on the site until the cultural resources
24 report is approved by the Director and all recommendations from such report are
25 implemented. If the report includes a recommended Inadvertent Discovery Plan, such
26 plan shall be posted and/or available for review on-site by contractors and applicant
representatives during ground disturbing activities.

7 7. Consistent with County standards for similar uses, outdoor lighting should be shielded
8 to minimize spillage of glare to adjacent properties, roadways, and the night sky. Exterior
9 lighting shall be directed and shielded in a manner that minimizes its visibility at the site's
10 boundaries. Exterior lighting shall not be used in a manner that produces glare on public
11 streets and neighboring residential properties.

12 8. The Bed and Breakfast establishment shall comply with WWCC Chapter 17.20,
13 Parking Requirements. No parking is allowed off-site or on a County right-of-way. A
14 parking plan demonstrating compliance with Ch. 17.20 WWCC must be submitted for
15 review and approval by the Director before issuance of any building permit associated
16 with this project.

17 9. The permittee's Bed and Breakfast establishment shall comply with applicable
18 conditions for such uses found in WWCC 17.08.074, including the following:

19 A. Number of Guest Rooms. This permit authorizes no more than ten (10) guest

rooms on the parcel addressed in this application, and travelers or transient guests may not stay longer than thirty consecutive days;

B. Occupancy. One of the on-site cottages/units must be occupied by the Property Owner or Bed and Breakfast operator;

C. Parking. One off-street parking space must be provided for each guest room in addition to any other parking requirements;

D. Food Service. 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.

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.

10. No access relating to this Type II Bed & Breakfast use is permitted from State Route 125.

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

12. Subsequent applications for additional Bed & Breakfast or hospitality related uses on the Yellowhawk property must include a full Critical Areas Report and such report must provide "An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development". (See WWCC 18.08.095(C)(6)). WWCC 18.08.020 defines "Cumulative impacts or effects" as follows: "The combined, incremental effects of human activity on critical areas functions and values. Cumulative impacts result when the effects of an action are added to or interact with other effects in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions."

[Final Condition on following page]


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2 13. Prior to operation and occupancy of any unit by a guest, the owner/operator must
3 provide the Director and all property owners within five hundred (500) feet of any
4 boundary of the subject property and including any property within 500 feet of any
5 contiguous property in the applicant's ownership, the name and contact information for
6 a designated local property representative/B&B operator who lives onsite where the B&B
7 is located and will respond to complaints and emergencies; and a valid telephone number
8 where the local property representative can be reached twenty-four (24) hours per day.

9 ISSUED this 22nd Day of November, 2022

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Gary N. McLean
Hearing Examiner

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
DECISION – APPROVING CONDITIONAL USE
PERMIT FOR TYPE II BED AND BREAKFAST ON
THE NORTH PARCEL OF THE YELLOWBACK
WINERY – FILE NO. CUP22-003

Page 15 of 16

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

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3 **FINALITY OF DECISION AND NOTICE OF RIGHTS OF 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 pursuant to Chapter 14.11 of the Walla Walla County Code.*

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
17 Finally, WWCC 2.50.130 addresses appeals of a hearing examiner decision, and reads as follows:
18 *The final decision by the hearing examiner on any matter within his or her jurisdiction may be appealed in*
19 *accordance with Chapter 14.11 of the Walla Walla County Code.*

20
21 **NOTE:** The Notice provided on this page is only a short summary, and is not a complete
22 explanation of fees, deadlines, and other filing requirements applicable to appeals.
23 Individuals should confer with advisors of their choosing and review all relevant codes,
24 including without limitation the code provision referenced above and state law, particularly
25 the Land Use Petition Act (Chapter 36.70C RCW), for additional information and details that
26 may apply.

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