

Walla Walla County Community Development Department

310 W. Poplar Street, Suite 200, Walla Walla, WA 99362 / 509-524-2610 Main

File No. SUB20-003
CAP20-014

NOTICE OF DECISION

Date of Notice: 1/21/2021
Date of Decision: 1/15/2021
Applicant: THE VINES AT DOUBLEBACK, LLC
Type of Application: SUBDIVISION
File Number: SUB20-003

Enclosed is the Hearing Examiner's decision for applications SUB20-003 and CAP20-014.

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 **02/01/2021**. 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. Pursuant to Walla Walla County Code Sections 14.11.020 and 14.11.040 the Hearing Examiner's decision may be appealed to the Walla Walla County Superior Court. The appeal must be submitted to the Walla Walla County Superior Court within twenty-one (21) days of the final decision or action date. The Hearing Examiner's decision will be considered final if no appeals are filed within the allowed time frame described in Walla Walla County Code Chapter 14.11.

Please review Chapter 14.11 for the County's appeal requirements.

The complete project file is available for inspection at the Walla Walla County Community Development Department (CDD) office by appointment or we can provide electronic copies. Please contact the CDD at the phone number above regarding the project documents.

Feel free to contact me at 509-524-2620 if you have any further questions.



Lauren Prentice, Director
Walla Walla County Community Development Department

Enc. SUB20-003, CAP20-014 Findings, Conclusions and Decision



Walla Walla County Hearing Examiner

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

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

**FINDINGS, CONCLUSIONS AND DECISION
APPROVING**

**PRELIMINARY PLAT APPLICATION FOR
THE VINES AT DOUBLEBACK
(20-LOT CLUSTER SUBDIVISION)**

FILE NUMBER: SUB 20-003

OWNER/APPLICANT: The Vines at Doubleback LLC, c/o Josh McDaniels

SURVEYOR: PBS Engineering and Environmental

TYPE OF APPLICATION: Preliminary Subdivision – 20-lot cluster development of 211+ acres in unincorporated Walla Walla County. The proposed subdivision contains 19 residential lots which would be located off of Powerline Road on three new private roads; the remaining 179 acres would be preserved in a designated resource parcel. The entire project is in the County’s Agriculture Residential 10-acre (AR-10) zoning district.

LOCATION/TAX PARCELS: The 211+ acre project site includes 4 (four) adjoining tax parcels, APNs 360605410015, 3608130001, 360609210015, 360609230000, west of Powerline Road and south of Cottonwood Creek, in unincorporated Walla Walla County.

STAFF RECOMMENDATION: Approval.

SUMMARY OF DECISION: APPROVED, subject to conditions

DATE OF DECISION: January 15, 2021

I. CONTENTS OF RECORD.

Exhibits:

1. Community Development Department Staff Report and Recommendation (of APPROVAL) to the Hearing Examiner regarding The Vines at Doubleback Subdivision Preliminary Plat Application File No. SUB20-003, prepared by Lauren Prentice, CD Dept. Director, dated December 14, 2020 [hereinafter referenced as the “*Staff Report*”];
2. Preliminary Subdivision application (SUB20-003) dated June 15, 2020;
3. Preliminary Plat Map dated May 27, 2020;
4. Geotechnical Engineering Report dated January 10, 2020;
5. Preliminary Private Road Maintenance Covenant;
6. Storm Drainage Report dated January 16, 2020;
7. Title Report issued May 21, 2020;
8. Trip Generation Report dated June 5, 2020;
9. Environmental Checklist (SEPA20-006), dated June 11, 2020;
10. Critical Areas Permit application (CAP20-014) dated July 17, 2020;
11. Notice of Application ODNs and publishing and mailing affidavits;
12. SEPA Determination of Non-Significance dated November 27, 2020;
13. Notice of Public Hearing and publishing and mailing affidavits;
14. Email from CTUIR dated November 30, 2020;
15. Letter from Department of Ecology dated December 10, 2020; and
16. Letter from Department of Archaeology and Historic Preservation dated December 2, 2020

Testimony/Comments: The following persons participated in the open-record hearing held on December 14, 2020, and provided testimony under oath as part of the record:

1. Lauren Prentice, Director of the Walla Walla County Community Development Department;
2. Josh McDaniels, designated applicant representative;
3. Jason Maddox, with PBS engineering, the applicant’s engineering and survey firm;
4. Julie Batson, local resident, offered question addressed by applicant team; and
5. Scott Byerley, selling/sold property addressed in the application to applicants, supports project.

No one offered written comments or testimony at the public hearing opposing the pending application.

II. SUMMARY OF PROCEEDINGS.

The applicant, The Vines at Doubleback LLC, seeks approval of a development project known as *The Vines at Doubleback Preliminary Plat*, a 20-lot subdivision of a 211+ acre site, with 19 single-family residential lots and a 179-acre lot to be preserved as a designated resource parcel, generally designed to comply with County cluster development requirements found in Chapter 17.31 WWCC, the only type of land division permitted in the County’s Agriculture Residential 10-acre (AR-10) zoning district, where the project is located. (*See WWCC 17.31.020(C)*).

The County's SEPA Responsible Official issued a final SEPA Determination of Non-Significance (DNS) for the project on November 27, 2020. (*Ex. 12*). No one appealed the SEPA DNS issued for the project within the time period provided by law or otherwise.

III. APPLICABLE LAW.

Jurisdiction.

Under WWCC 2.50.070(A)(1) and (B), the Hearing Examiner is granted jurisdiction and authority to conduct public hearings and issue final decisions for preliminary subdivision applications. The hearing examiner's decision shall be based upon the policies of the comprehensive planning documents of the county, the standards set forth in the various development regulations of the county or any other applicable program adopted by the board of county commissioners. When addressing a preliminary subdivision, the hearing examiner may grant or deny the application, or may attach reasonable conditions, modifications and restrictions found necessary to make the project compatible with its location and to carry out the goals and policies of the applicable comprehensive plan, or other applicable plans or programs adopted by the board of county commissioners. *WWCC 2.50.070(C)*.

Approval Criteria for Preliminary Plat (also known as a preliminary subdivision).

As provided in WWCC 16.14.030, decisions on applications for a preliminary subdivision or preliminary short subdivision shall be based on a determination as to whether:

- A. The proposed subdivision of land complies with the applicable codes, plans and policies in Chapter 16.04.050 or their successors; and
- B. The proposed lots are served with adequate means of access, fire protection, water supplies and means of sanitary sewage disposal; and
- C. The proposed division of land provides adequate measures for the control of drainage and stormwater; and
- D. The public health, safety and general welfare will be served by permitting the proposed division of the land.

WWCC 16.14.050, referenced above, reads as follows:

Applications shall be approved, approved with conditions or denied based on a determination that the application complies with the following adopted county and state rules, regulations, plans and policies, including, but not limited to:

- A. RCW 43.21C SEPA;
- B. RCW 58.09 Survey— Recording;

- C. RCW 58.17 Subdivisions;
- D. RCW 36.70A Growth Management;
- E. RCW 36.70B Local Project Review;
- F. WWCC Title 11 Stormwater;
- G. WWCC Title 12 Streets, Sidewalks, and Public Places;
- H. WWCC Title 17 Zoning;
- I. WWCC Title 18 Environment;
- J. Walla Walla County Shoreline Master Program;
- K. Walla Walla County board of public health rules and regulations;
- L. Walla Walla County Comprehensive Plan; and
- M. This title.

As required by state law, the County’s preliminary plat approval criteria is substantially similar to state subdivision mandates found in RCW 58.17.110(2), which reads as follows:

“A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. [.]” RCW 58.17.110(2).

Burden of Proof.

As explained in WWCC 14.03.010, applicants for project approvals bear the burden of proof of showing compliance with all applicable standards in the Walla Walla County Code.

IV. ISSUE PRESENTED.

Whether sufficient evidence demonstrates that the applicant has met its burden of proof to satisfy the criteria for preliminary plat approval?

Short Answer: Yes, subject to conditions of approval.

V. FINDINGS OF FACT.

1. Upon consideration of all the evidence, testimony, codes, policies, regulations, and other information contained in the file, the undersigned issues the following findings, conclusions and Decision approving The Vines at Doubleback preliminary plat, subject to conditions, as set forth below.
2. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such, including without limitation the summary of proceedings provided above.
3. The Staff Report and Recommendation of Approval, shared with the Examiner in the week before the hearing, (*the "Staff Report", Ex. 1*), includes a number of findings and conditions suggesting how the underlying plat application satisfies provisions of applicable law, is consistent with the county's Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines. For reasons explained below, with additional conditions necessary to ensure compliance with applicable County requirements, the Examiner finds that the proposal can be approved.

Summary of Public Hearing.

4. Given the ongoing Covid-19 public health emergency and associated directives and proclamations issued by state and local officials, the public hearing for this matter was conducted on December 14, 2020, using an electronic audio-video communication portal coordinated by County staff, with call-in numbers and participation methods explained in public notices issued and posted on the county's website. Since the public hearing, no one submitted any additional written public comments regarding this matter, and, as of the date of this Decision, the Examiner has not been advised of any requests to submit additional public comments. Accordingly, the Examiner is satisfied that the public has had a full and fair opportunity to participate in this hearing process, including ample time to review the Staff Report, public notices, and application materials, all available on the County's website for several weeks since the hearing. The additional time provided is an appropriate way to ensure that public comment has not been stifled by any real or perceived difficulties presented by the public health emergency situation and its impact on regular office hours and the like. In any event, the record includes thoughtful analysis by Staff, specific questions and concerns expressed by neighboring property owners, and hearing testimony offered by applicant representatives in response to written comments. The record for this matter is sufficient to fully inform the decision maker and is hereby closed. This Decision is now in order.

5. The County's Community Development Department Director, Ms. Prentice, testified at the public hearing to provide a summary of the County's staff review process for the proposed preliminary plat application and staff's recommendation of approval, subject to certain conditions of approval. She explained that the proposal is for a clustered development, which is the only type of residential development allowed in the zone where the property is located. She explained that the project is laid out so development work will not occur in any areas where critical area buffers would apply, so no critical areas report was required for review and analysis; that Public Works and County Health staff had no objections or special conditions to apply to the application; that DAHP and local Tribal officials submitted comments that can be addressed using a condition of approval requiring a cultural resources survey prior to land disturbance activities; and that no one appealed the SEPA DNS issued for the applicant's project.
6. Mr. McDaniels and Mr. Maddox both offered testimony for the applicant. Mr. Maddox requested a variance from code requirements that mandate 50-foot of buffer space from any resource parcel created in a cluster development to any dwelling in the cluster development. *(See Staff Report, at page 6, re: "Buffers"; and WWCC 17.31.060(Q), which also requires that "All required buffers between the resource parcel and the smaller development parcels shall be provided within the new lots, and shall not encumber the resource parcel".* Such request, made for the first time during the public hearing, must be denied. County codes do not authorize the Hearing Examiner to grant a variance request that does not comply with Chapter 17.44 WWCC. The applicant failed to submit a formal variance application, so it cannot be considered as part of this preliminary plat application.
7. Just as significantly, the Examiner finds and concludes that the unusual design for this plat application, where lots have been designed with resource land areas lying between most if not all lots, in a "saw-tooth" fashion, amplifies the importance of maintaining and fully enforcing the 50-foot of buffer space between any dwelling and the corresponding lot boundary with the resource parcel. *(See Ex. 3, Preliminary Plat design).* Reducing such buffers would not be consistent with Comprehensive Plan policies and goals intended to preserve the viability of agricultural lands and uses in the AR-10 zone. *(See Staff Report, analysis on pages 4 and 5; Comp. Plan Policies RL-2, RL-47, Goals RL-1, RL-21).*
8. As noted at the public hearing, an administrative variance might be available for some structures on new lots, but not an actual "dwelling" itself. *(Testimony of Ms. Prentice; Compare WWCC 17.31.060(Q) re: dwellings, which does not include any language authorizing a potential administrative variance, and WWCC 17.31.060(R) re: possible administrative variance regarding setbacks for other structures).*
9. Ms. Batson raised a question of personal interest to her, as a nearby property owner, that was addressed by the applicant representatives. She did not oppose the pending application or

offer any testimony or concerns that would serve as a basis for additional conditions or denial.

10. Mr. Maddox also sought to clarify comments regarding studies that needed to occur before earthwork will commence on the site. A condition of approval is included explaining that a cultural resources survey and report must be completed before any ground disturbance activities commence, and that the applicant must comply with any recommendations included in such report.

Site Visit.

11. The Examiner has visited the area where the applicant's property is located on numerous occasions, in all four seasons, over the years, including surrounding wineries, roads, and properties. Since the hearing, the Examiner reviewed online maps and aerial images of the project site. Accordingly, the Examiner is familiar with and adequately informed to assess conditions discussed in the application materials and the hearing record.

Summary of staff review.

12. *Critical Areas/Shoreline regulations:* The Staff Report credibly explains that no significant impacts are expected to occur with respect to critical areas as a result of this proposal since no development is proposed within any designated critical areas, shorelines, or associated buffers. All residential lots will be located more than 100 feet from Cottonwood Creek. The Geotechnical Report (*Ex. 4*) provides conclusions that show how the site is not a seismic hazard area. (*Staff Report, pages 2 and 3*).
13. WWCC 18.08.015(C) provides that the county shall not approve any permit, including a preliminary subdivision, or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of WWCC Ch. 18.08, the County's Critical Areas regulations. Figure 1 of WWCC 18.08.015 explains how review for compliance with county critical areas regulations is incorporated into the application process for an underlying permit, which is in this matter the requested preliminary plat approval. While express authority exists for the Examiner to impose conditions as needed to protect or mitigate potential impacts on critical areas, or shorelines, the proposed subdivision has been designed in a manner to avoid such impacts, so no special critical area or shoreline protection conditions are necessary.
14. Based on the record, including the application materials, particularly the proposed plat design and the Geotech report prepared for the site, the preliminary plat approved by this decision fully-integrates all applicable critical areas considerations associated with this project, which the Examiner finds and concludes will be consistent with WWCC

18.08.060(B), which provides in relevant part: “[i]f a project requires another permitting action by the county that requires a public hearing, consideration of critical areas will be integrated with the underlying permitting process”.

15. *Access:* As shown on the proposed plat map, access to the nineteen residential lots will be via three new private roads that connect with Powerline Road.
16. *Neighborhood Characteristics:* The site is surrounded by agricultural and rural residential uses.
17. *Traffic Impacts:* This proposal is expected to result in additional traffic from nineteen additional dwelling units when fully developed. The applicant submitted a traffic analysis prepared by PBS engineering. Public Works staff reviewed the applicants materials and did not recommend any special conditions. (*Testimony of Ms. Prentice*). Conditions of approval require compliance with County regulations regarding private roads, among other things
18. *Cultural Resources:* Application materials were distributed to DAHP and regional tribes. Written comments from DAHP and CTUIR recommend that a survey of the site should occur prior to development. A condition of approval is included for this project, requiring a cultural resource survey and report on portions of the property where ground disturbance work will occur, and compliance with any recommendations included in such report. (*See Condition of Approval No. 8*).
19. *Stormwater:* The proposal will have to comply with the County’s stormwater regulations and retain all stormwater on site (WVCC Title 11). The Public Works Department did not submit any specific comments about stormwater but will review storm drainage plans prior to construction of any improvements.
20. *Wastewater Disposal:* On-site septic systems will be designed to serve the proposal. Application materials were sent to the Walla Walla County Environmental Health Department, which did not submit comments or raise objections to the proposal.
21. *Water:* The nineteen residential lots will use individual wells as a source of potable water. An existing irrigation well will be used for irrigation on the resource parcel, identified as Lot 20.
22. *Fire Protection.* Staff provided notice of this application to the County’s Fire Marshall and the Walla Walla County Fire District No. 4. No comments or concerns were submitted by the fire district or Walla Walla County’s Building Official/Fire Marshal. (*Staff Report, page 5*).

23. *Comprehensive Plan.* As required by WWCC 16.04.050, the proposed plat is consistent with the Walla Walla County Comprehensive Plan, including without limitation the following goals and policies:

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

Finding: The proposed development meets the requirements and intent of WWCC Chapter 17.31 by preserving land for long term farming activities. Any adjustments made to lot boundaries before final plat approval must be consistent with County policies and regulations intended to preserve the viability of designated agricultural resource lands. “Orphan” fingers of agricultural resource land that are too narrow, remote, or difficult to maintain given their configuration within the plat, should not be approved. Viable is defined to mean: “capable of working [or] functioning”; “capable of existence and development as an independent unit”; “having a reasonable chance of succeeding”; or “financially sustainable”. (Merriam-Webster Dictionary). The final plat design and lot configurations shall not include segments of the “resource parcel” that are too small to be economically viable.

Policy RL-2 *Allow limited new development that is consistent with the current rural character of the County.*

Finding: The subdivision is somewhat similar to other subdivisions that have been approved in the Agriculture Residential 10-acre (AR-10) zoning district, except that the “sawtooth” design pattern for residential lots, leaving segments of the consolidated “resource parcel” in strips between lots, emphasizes the need for any lot configuration adjustments to demonstrate that fingers of agricultural resource land are, in fact, viable for agricultural uses/purposes. Cluster subdivisions are required in the AR-10 zone.

Policy RL-3 *Limit the amount of development in rural areas through density requirements that protect and maintain the existing rural character, natural resource lands, open space, critical areas, and that manage traffic volumes.*

Finding: The proposed subdivision’s density is based on one lot per ten acres, and the applicant is not being allowed a higher density than what the code permits. The proposed development is not impacting or encumbering any adjacent critical areas. Possible traffic impacts have been reviewed by the public works department and have not been determined to be significant.

Goal RL 21 *Protect and conserve long-term, commercially viable forest, agricultural and mineral natural resource lands.*

Finding: As proposed, the development is in general compliance with WWCC Chapter 17.31, which requires the protection of agricultural resource lands. As noted above, any lot configuration changes made before final plat approval must ensure that areas included in the agricultural resource parcel (Lot 20) are, in fact, viable for agricultural uses and purposes.

Policy RL-47 *Allow residential uses near agricultural lands and designated mineral resource lands to be developed only in a manner that minimizes conflicts and discourages the unnecessary conversion of resource land.*

Finding: As proposed, the preliminary plat is designed and conditioned to provide the minimum buffer space between residential uses and agricultural uses. WWCC 17.31.060(Q) mandates a 50-foot buffer space from any resource parcel created in a cluster development to any dwelling in the cluster development. (See Staff Report, at page 6, re: “Buffers”; and WWCC 17.31.060(Q), which also requires that “All required buffers between the resource parcel and the smaller development parcels shall be provided within the new lots, and shall not encumber the resource parcel”).

24. The Comprehensive Plan definition of the “Agriculture Residential” land use designation reads as follows:

“All lands designated as Agricultural Residential lands are lands of long-term commercial significance. This land use designation is intended for areas that are currently in agricultural use, that are located adjacent to existing rural lands, rural activity centers, and urban growth areas. Typically, these areas are in smaller land ownerships with higher density residential development than in other agricultural areas of the County. This land use designation is primarily agricultural with a mix of residential land uses. Limited home occupations that are clearly incidental to the agricultural nature of these areas will be allowed. A limited amount of commercial-tourism activity will be allowed in this district, while limited commercial businesses that support agriculture will be allowed outright, with those uses having a high nuisance value, safety issues, or environmental implications allowed only by conditional use permit. Large-scale natural resource-processing industry is not considered a compatible use, except on a limited basis. The allowed density in this designation is one dwelling unit per 10 acres.

Outside of those lands designated by the Resource Lands Committee as agriculture lands of primary significance or unique lands, as shown on Maps RL-9 and RL-10, land divisions that comply with the minimum lot size of 10 acres will be allowed, provided that adequate provision of public facilities, utilities, and services such as water, wastewater disposal and access to public roads is available concurrent with the final approval of the short plat. The maximum number of lots will continue to be determined at the rate of one unit per ten acres.

Cluster developments that seek to preserve large tracts of resource land while still allowing residential development on smaller lot sizes are the preferred method of residential land development, provided the overall density of development does not exceed one dwelling unit per 10 acres. All cluster developments shall be implemented by development regulations that address the minimum provisions identified in the goals and policies of this sub-element to ensure the resource use is preserved and protected through the development process.” *(emphasis added)*.

25. As explained in the Staff Report, the entire project is located in County’s Agriculture Residential 10-acre (AR-10) zoning district.
26. Based on the record, particularly the Staff Report, the application materials, and the proposed cluster development reflected in the plat design, the Examiner finds and concludes that the applicant’s project qualifies as the “preferred method of residential land development” in an area designated as Agricultural Residential land, where this project is located. Again, any adjustments to residential lot configurations before final plat approval must ensure that all areas included in the agricultural resource parcel (Lot 20) are, in fact, viable for agricultural uses and purposes. *(See previous findings, particularly underlined portions of Finding No. 23)*. An additional condition of approval has been added to ensure compliance with relevant County policies and development regulations intended to protect and conserve long-term agricultural lands. *(See Condition of Approval No. 9)*.

As Conditioned, the application meets requirements for Preliminary Plat approval

27. WWCC 16.14.030 sets forth the County’s approval criteria for this preliminary plat application, which expressly requires a determination that: “A. *The proposed subdivision of land complies with the applicable codes, plans and policies in Chapter 16.04.050 or their successors; and B. The proposed lots are served with adequate means of access, fire protection, water supplies and means of sanitary sewage disposal; and C. The proposed*

division of land provides adequate measures for the control of drainage and stormwater; and D. The public health, safety and general welfare will be served by permitting the proposed division of the land.”

28. WWCC 16.04.050, referenced in the previously cited code provision, requires that applications shall be approved, approved with conditions or denied based on a determination that the application complies with the following adopted county and state rules, regulations, plans and policies, including, but not limited to: A. RCW 43.21C SEPA; B. RCW 58.09 Survey—Recording; C. RCW 58.17 Subdivisions; D. RCW 36.70A Growth Management; E. RCW 36.70B Local Project Review; F. WWCC Title 11 Stormwater; G. WWCC Title 12 Streets, Sidewalks, and Public Places; H. WWCC Title 17 Zoning; I. WWCC Title 18 Environment; J. Walla Walla County Shoreline Master Program; K. Walla Walla County board of public health rules and regulations; L. Walla Walla County Comprehensive Plan; and M. Title 16.
29. As conditioned below, the Examiner finds that the requested preliminary plat application complies with applicable codes, plans and policies found in WWCC 16.04.050. The proposed plat meets the Walla Walla County Code Chapter 16.20-Design Requirements, Chapter 17.18 - Density and Dimensions Requirements, and Chapter 17.31 – Cluster Developments. In addition to Walla Walla County code regulations, the proposed plat is subject to RCW 58.17. Cluster developments are the only type of subdivision allowed in the AR-10 zoning district. *(See WWCC 17.31.020)*. In addition to Walla Walla County code regulations, the proposed plat is subject to RCW 58.17, and satisfies applicable requirements set forth in RCW 58.17.110(2). *(See All Findings herein; Staff Report findings and conclusions, except as modified in this Decision; and all Conditions of Approval)*.
30. As conditioned below, the Examiner finds that the proposed lots in requested preliminary plat application will be served with adequate means of access, fire protection, water supplies and means of sanitary sewage disposal. *See WWCC 16.14.030(B)*. *(See Staff Report findings and conclusions, except as modified in this Decision, which explain that the proposed plat was reviewed by the following agencies: Walla Walla County Department of Public Works, Walla Walla County Health Department, the Walla Walla County Building Official/Fire Marshal, and Walla Walla County Fire District #4, and that no agency officials raised concerns that the plat should not be approved)*.
31. As conditioned below, the Examiner finds that the proposed division of land provides adequate measures for the control of drainage and stormwater. *See WWCC 16.14.030(C)*. The project is required to retain all water onsite and comply with all County stormwater regulations found in WWCC Title 11.
32. As conditioned below, the Examiner finds that the public health, safety and general welfare will be served by permitting the proposed division of the land. *See WWCC 16.14.030(D)*.

(See all Findings in this Decision; all Conditions of Approval; Staff Report findings and conclusions, except as modified in this Decision, see list of agencies listed above that reviewed the application and raised no concerns that would serve as a basis to deny the pending application. The application has been designed in compliance with County development regulations and relevant comprehensive plan provisions, which were all adopted to serve public health, safety and general welfare).

SEPA compliance; Conditions imposed under authority of County Code requirements.

33. The County satisfied its SEPA review process for this preliminary plat application through compliance with applicable review and notice procedures. The county received no appeals of its SEPA DNS determination (*Ex. 12*) issued in connection with the application.
34. Conditions imposed as part of this approval Decision are not based on SEPA, but other County development regulations and requirements, including without limitation WWCC 2.50.070(C), which reads as follows:

When addressing a preliminary subdivision application, the hearing examiner may grant or deny the application, or may attach reasonable conditions, modifications and restrictions found necessary to make the project compatible with its location and to carry out the goals and policies of the applicable comprehensive plan, or other applicable plans or programs adopted by the board of county commissioners.

35. Based on all evidence, exhibits and testimony in the record, the undersigned examiner specifically finds that the proposed plat, as conditioned below, makes appropriate provision for the considerations detailed in WWCC 16.14.030 and that the public use and interest will be served by the proposed plat and associated dedications and improvements.

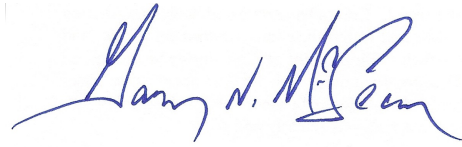
VI. CONCLUSIONS OF LAW.

1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed plat, as conditioned below, conforms to all applicable County codes and policies. Upon reaching such findings and conclusions as noted above, the preliminary plat meets the standards necessary to obtain approval by the County.
2. The recommended conditions of approval, as set forth in the Staff Report and modified below, are reasonable, supported by the evidence, and capable of accomplishment.
3. Any Findings or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

VII. DECISION.

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing and all materials contained in the contents of the record, the undersigned examiner APPROVES The Vines at Doubleback Subdivision Preliminary Plat (Department File Nos. SUB20-003), subject to the attached Conditions of Approval.

Decision issued: January 15, 2021.

A handwritten signature in blue ink, appearing to read "Gary N. McLean". The signature is fluid and cursive, with a long horizontal stroke at the beginning and a distinct loop at the end.

Gary N. McLean
Hearing Examiner for Walla Walla County

FINALITY OF DECISION AND NOTICE OF RIGHTS OF APPEAL

As provided in WWCC 2.50.070(B), *the decision of the hearing examiner on all matters is final and conclusive, unless appealed pursuant to Chapter 14.11 of the Walla Walla County Code.*

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

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

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

CONDITIONS OF APPROVAL

THE VINES AT DOUBLEBACK SUBDIVISION PRELIMINARY PLAT

SUB20-003

General:

- A. The preliminary plat known as The Vines at Doubleback Subdivision shall comply with all applicable provisions of the Walla Walla County Code, whether or not such provisions are enumerated or referenced in the approved preliminary plat plans, in the staff report or in this Decision. The burden is on the applicant to show compliance with applicable provisions of the WWCC at every stage of development. FURTHER, the applicant shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary plat and engineering reviews, as approved and or modified by the County.
- B. The plat shall be developed in substantial conformance with the project plans described, depicted, and identified in *Exhibits 2 and 3*, except as modified by these Conditions of Approval, PROVIDED:
- (i) The Director retains full authority and discretion to consider and approve Minor Revisions to such plans, consistent with WWCC 16.14.040(B);
 - (ii) That Major Revisions – i.e. revisions that result in any substantial changes as determined by the Director, including but not limited to, the creation of additional lots; the elimination of open space; the addition or elimination of a road; a change in the road layout; and material changes to conditions of approval – shall be treated as a new application (WWCC 16.14.040(A)); and
 - (iii) That all changes are subject to the approval criteria for preliminary subdivisions (WWCC 16.14.040(C)).
- C. The Director has discretion to require that some or all of these conditions of approval shall be included as part of CC&Rs or written on the face of the plat to ensure that the applicant, future owners, residents and assigns are mindful of their requirement to comply with conditions of approval for this plat that might regulate or restrict their conduct or activities within portions of the plat.

Conditions derived the Staff Report and public hearing process:

1. Before construction, the applicant must first obtain any other associated permit(s) or approvals required by the County or any other governmental agency or regulatory authority with jurisdiction over a particular aspect of the project. Any conditions of approval or requirements imposed as part of such permits or approvals shall be and are hereby incorporated as Conditions of Approval for this plat.
2. The applicant must comply with applicable County and State stormwater management regulations.
3. The final plat map must show the required 75-foot buffer required by WWCC 18.08.650.
4. *Density Restriction* – As required by WWCC 17.31.060(W), the final plat map shall include a note on the recorded land division instrument stating that the acreage shall not be used more than once for determining the allowable number of units, and shall explain the number of potential/unused dwelling units remaining (only one). The applicant shall denote on the land division instrument the specific acreage used for determining the proposed new lots. The language in such note is subject to review and approval by the Director.
5. Adequate fire protection shall be required pursuant to WWCC 16.14.030(B).
6. Private road improvements must be provided in compliance with Walla Walla County Road Standards established by the Walla Walla County Public Works Department.
7. Consistent with WWCC 16.14.060, this preliminary plat approval shall be null and void if a final plat application is not made within seven years from the date of preliminary plat approval or the date of resolution of all appeals.

8. *Cultural Resources* – Consistent with the Department of Archaeology and Historic Preservation and CTUIR recommendations provided in comment letters that are included in the Record as *Exhibits 16 and 14* respectively, prior to any ground disturbance work, the applicant shall obtain a professional archaeological survey of all portions of the project area, with a report discussing any findings submitted to the Community Development Director for review and approval prior to ground disturbing activities on The Vines at Doubleback Subdivision project site. The Director shall have discretion and authority to exclude some or all portions of the applicant’s property from such survey, provided such areas are located in the designated “resource parcel” and no ground disturbance work will occur on such lands in connection with construction or site development work for the residential lots. The Director shall have authority to impose additional conditions that are consistent with those recommended in the archaeological survey report for the project area. If the archaeological survey report required by this condition recommends that an archaeological monitor should be present for all ground disturbing activities, then consistent with guidance provided by the State’s Department of Archaeology & Historic Preservation, the monitor must be a professional archaeologist who meets the Secretary of the Interior’s standards for prehistoric archaeology. In any event, the applicant must prepare and implement an Inadvertent Discovery Plan; this plan must include the Washington State Department of Archaeology and Historic Preservation (DAHP) recommended language and current contact information for all parties that must be notified under State law. A copy of the plan must be provided to the County for review and approval, and after approval, a copy must be provided to all contractors and be available on-site for reference throughout all phases of the development process. If ground-disturbing activities uncover or reveal objects that might appear to be human skeletal remains during the course of construction, then all activity will cease that could cause further disturbance to such remains, until notifications are made by the applicant to appropriate agencies and the Director, and further direction is provided by relevant authorities.
9. Any proposed changes to lot boundaries or lot configurations before final plat approval must demonstrate that all segments of land included as part of the agricultural resource parcel are viable. All adjustments made to lot boundaries before final plat approval must be consistent with County policies and regulations intended to preserve the viability of designated agricultural resource lands. “Orphan” fingers of agricultural resource land that are too narrow, remote, or difficult to maintain given their configuration within the plat, should not be approved. Viable is defined to mean: “capable of working [or] functioning”; “capable of existence and development as an independent unit”; “having a reasonable chance of succeeding”; or “financially sustainable”. (*Merriam-Webster Dictionary*). The final plat design and lot configurations shall not include segments of the “resource parcel” that are too small to be viable for agricultural uses and purposes, economically or otherwise, as determined by the Director.