

Walla Walla County Community Development Department

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

To: Walla Walla County Hearing Examiner
 From: Lauren Prentice, Director
 Hearing Date: July 14, 2021
 RE: **Agenda Item #1** – File Number SUB20-010 – Whisper Rock Subdivision, 9-lot Cluster Subdivision Preliminary Plat

Background and Summary of Proposal

9-lot preliminary subdivision application for a cluster development of 107.6-acres southeast of Frog Hollow Rd and west of Beet Rd, in unincorporated Walla Walla County. The proposed subdivision contains 8 residential lots which would be located off Beet Rd on a new private road; the remaining 91.66-acres would be preserved in the resource parcel, the 9th lot.

Recommendation

Staff recommends that the Hearing Examiner approve the critical areas permit and preliminary plat applications subject to the recommended conditions of approval in this Staff Report.

Attached Exhibits

2. Environmental Checklist (SEPA20-017) dated October 15, 2020.
3. Final Staff Evaluation Report dated June 25, 2021.
4. Preliminary Subdivision (SUB20-010) application dated October 15, 2020.
5. Preliminary Plat Map 3 dated May 18, 2021.
6. Critical Areas Permit (CAP20-027) application dated October 15, 2020.
7. Geotechnical Engineering Report dated June 15, 2020.
8. Short Plat Certificate (title company report) issued September 25, 2020.
9. Declaration of Restrictive Covenants, signed by Charles and Catherine Konen, dated October 5, 2020
10. Letter from Washington State Department of Archaeology and Historic Preservation (DAHP) dated December 15, 2020.
11. Email from DAHP dated February 22, 2021.
12. Email from Rocky Eastman, Walla Walla County Fire District #4 Fire Chief dated February 19, 2021.
13. Email from Washington State Department of Ecology dated February 23, 2021.
14. Public comment with Greystone Subdivision map and written agreement regarding water for the Greystone Subdivision, signed by Steven Shulman, dated December 21, 2020.
15. Public comment with Greystone Subdivision map and written agreement regarding water for the Greystone Subdivision, signed by Mike Smith, dated December 21, 2020.
16. Public comment with Greystone Subdivision map and written agreement regarding water for the Greystone subdivision, signed by Tom Underhill, dated December 21, 2020.
17. Public comment with Greystone Subdivision map and written agreement regarding water for the Greystone subdivision signed by Russ and Lynne Pierce, dated December 21, 2020.
18. Public comment with Greystone Subdivision map and written agreement regarding water for the Greystone subdivision signed by Ron Smith, dated December 21, 2020.
19. Public comment with Greystone Subdivision map and written agreement regarding water for the Greystone subdivision signed by Justin Mason, dated December 21, 2020.
20. Public comment with Greystone Subdivision map and written agreement regarding water for the Greystone subdivision signed by Cary and Jane Rayment, dated December 21, 2020.

21. Public comment from Rosalind Duthie, dated December 21, 2020.
22. Public comment from Stu Ross, resubmitted February 18, 2021.
23. Public comment from Cary and Jane Rayment, resubmitted February 18, 2021.
24. Public comment from Justin Mason, resubmitted February 18, 2021.
25. Public comment from Ron Smith, resubmitted February 18, 2021.
26. Public comment from Russ and Lynne Pierce, resubmitted February 18, 2021.
27. Public comment from Steven Shulman, resubmitted February 18, 2021.
28. Public comment from Tom Underhill, resubmitted February 18, 2021.
29. Public comment from Mike Smith, resubmitted February 18, 2021.
30. Public comment from Stu Ross, resubmitted February 18, 2021.
31. Public comment from the residents of Brickwood Heights subdivision submitted February 12, 2021.
32. Exhibit A, Declaration for the Greystone water delivery system, resubmitted February 18, 2021.
33. Exhibit B, Map of Brickwood Heights subdivision resubmitted February 18, 2021.
34. Decision by Joy Bader, Walla Walla County Public Works, denying a private road variance, dated March 19, 2021 (with attachments).
35. Memorandum from Charles S. Konen to Don Sims, Associate Planner regarding comments from public regarding water on proposed subdivision, dated March 22, 2021.
36. Cultural Resources Report, by Christopher Landreau, M.S., and Andrew Fleming, M.S., RLR Archaeology and Cultural Resources, LLC, dated June 15, 2021.
37. Preliminary Road Civil Plans dated May, 2021
38. Memorandum responding to preliminary plat comments by Michael Melder, P.E., PBS Environmental and Engineering, dated May 27, 2021.
39. Memorandum from Joy Bader, Walla Walla County Public Works, dated June 9, 2021.
40. Memorandum from Darrell Sowards, Walla Walla County Public Works, dated June 9, 2021.
41. Notice of Public Hearing for July 15, 2021 Public Hearing
42. Agenda of Continued Public Hearing rescheduling from July 15, 2021 to July 27, 2021
43. Certificate of Notification, July 15, 2021 Public Notice
44. Certificate of Notification, Public Hearing Rescheduled to July 27, 2021
45. Public Notice Mailing List sent June 28, 2021
46. Public Notice Mailing List sent July 13, 2021
47. Emails from Don Sims notifying of continued public hearing

General Information

<i>Property Owner:</i>	Charles S and Catherine Konen
<i>Applicant:</i>	Charlie Konen
<i>Surveyor:</i>	PBS Engineering and Environmental
<i>Tax parcel #:</i>	350610510017, 350610510018, and 350603510033
<i>Location:</i>	The site is located generally west of Beet Road and south of Frog Hollow Road in the Agriculture Residential 10-acre (AR-10) zoning district.

SEPA Review

This proposal initially was proposed as a 5-lot subdivision, on December 7, 2020 a Notice of Application (ODNS) was issued; this notice had a 14-day comment period. On February 10, 2021 a new Notice of Application (ODNS) was issued for the revised 9-lot proposal. These notices were published in the Walla Walla Union Bulletin, on the Community Development Department website, and posted on site.

On June 29, 2021, the Director of the Walla Walla County Community Development Department, the County's SEPA Responsible Official, issued a final Determination of Non-Significance (DNS). Since the optional DNS process as used, there was no comment period on the DNS. This decision was not appealed.

Public Hearing Notice

A Notice of Public Hearing (Exhibit 40) was issued on July 1, 2021. This notice was published on the Community Development Department (CDD) website and in the Walla Walla Union Bulletin. It was also mailed to property owners within 500 feet of the site, and parties of record.

A Notice of Public Hearing for the Continued Public Hearing (Exhibit 41) was issued on Tuesday, July 13, 2021. This notice was published on the Community Development Department (CDD) website and mailed to property owners within 500 feet of the site, and parties of record.

Agencies Contacted

Application materials were distributed to the following agencies for review and comment.

- Walla Walla Valley Metropolitan Planning Organization (WWVMPO)
- Walla Walla County Public Works Department (PWD)
- Walla Walla County Environmental Health
- Washington State Department of Ecology (Ecology)
- Washington State Department of Archaeology and Historic Preservation (DAHP)
- Washington State Department of Fish and Wildlife (WDFW)
- Confederated Tribes of the Umatilla Indian Reservation (CTUIR)
- Fire District No. 4

Comments were submitted from Fire District No. 4, Ecology, DAHP, and members of the public. See Exhibits 10-33, 39 and 40 and additional summary in this staff report by issue.

Natural Environment

A summary of the natural environment on the site and in the general vicinity is included in the SEPA Environmental Checklist (Exhibit 2).

Critical Areas

The following mapped or identified critical areas are located within or adjacent to the project area:

- Erosion Hazard Areas – Under WWCC 18.08.500D, areas designated by the Washington State of Natural Resources (DNR) as having slopes greater than 15% are classified as erosion hazard areas. The applicant provided a Geotechnical Engineering Report which concludes that "...The site is located on a small hill that rises from the Walla Walla River valley floor at an elevation of approximately 700 feet above mean sea level (amsl) to approximately 775 feet amsl. The subsection of the proposed development area ranges in elevation between approximately 735 feet amsl and 765 feet amsl (WADNR, 2020). Outside of the site, ground surface elevations fall gently to the southwest with composed slopes of approximately 10 degrees but fall sharply to the northeast where slopes are composed of approximately 30 degrees (p. 2)." See Exhibit 7.
- Seismic Hazard Areas – While the specific lots to be used for residences are not designated by the Washington State Department of Natural Resources (DNR) as having a moderate to high liquefaction susceptibility rating are classified as seismic hazard areas. The applicant provided a Geotechnical Engineering Report which concluded that "...based on expected deep groundwater,

our current opinion is that the risk of structurally damaging liquefaction settlement and structurally damaging lateral spreading at the site is low.” See Exhibit 7.

- Fish and Wildlife Habitat Areas – There are no fish and wildlife habitat areas on this property.
- Frequently Flooded Areas – There are no frequently flooded areas on this property.
- Critical Aquifer Recharge Areas – The site is located within the Walla Walla River shallow gravel aquifer recharge area. All residential uses are allowed within the CARA pursuant to WWCC 18.08.220A. Development and improvement of open space and conservation areas would also be allowed within the CARA per WWCC 18.08.220B.

There are not expected to be any significant impacts to critical areas as a result of this proposal since no development is proposed within critical areas and associated buffers.

Transportation and Land Use

Access: Access to the eight residential lots will be via a new private road from Beet Road. Note that on June 23, 2021, the applicant submitted a grading permit application for the road, which is under review.

Neighborhood Characteristics: The site is surrounded by agricultural and residential uses, including other cluster subdivisions.

Traffic Impacts: This proposal is expected to result in additional traffic from 9 additional dwelling units when fully developed. A traffic analysis was not requested by Walla Walla County Public Works Department, see Exhibit 39.

Cultural Resources: Application materials were distributed to DAHP and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR); both agencies recommended that a survey of the site occurs prior to development. The applicant has completed this request. See Exhibits 11 and 37.

Utilities

Stormwater: The proposal will have to comply with the County’s stormwater regulations and retain all stormwater on site (WWCC 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.

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 who did not submit comments or raise objections to the proposal.

Water: All lots would utilize individual wells. An existing irrigation well would be used for irrigation on the resource parcel (Lot 9). Among the public comments received for the proposal were from residents in the vicinity (Greystone Water Association) concerned the applicant would be utilizing irrigation water rights already in use. On a memo dated March 22, 2021, Charles Konen states that a prior connection to this pipe is permanently disconnected. See Exhibit 35.

The clustering code identifies the following water requirements (WWCC 17.31.060K).

K. Sufficient water to serve both domestic and residential irrigation needs must in fact be present and shall be required. With regard to provision of domestic water and consistent with the

requirements regulating the number of smaller parcels allowed on an overall site, the following requirements shall be met:

1. Where there are sufficient existing domestic and irrigation water rights to serve the development, a community water system shall be implemented for the smaller parcels;
2. Where there are existing irrigation water rights only, or where there are no existing water rights (domestic nor irrigation), an exempt well(s) may be utilized to serve the smaller parcels with domestic water, provided all applicable regulations governing exempt wells are met, as demonstrated by approval from the Washington State Department of Ecology.

Comprehensive Plan

Pursuant to Walla Walla County Code Section 16.04.050, all proposed preliminary subdivisions shall be in compliance with the Comprehensive Plan. Staff has reviewed the Comprehensive Plan and is of the opinion that the following goals and policy are applicable to the project:

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-based economic activities, fish and wildlife habitats, rural lifestyles, outdoor recreation, and other open space.

Staff Conclusion: The proposed development meets the requirements and intent of WWCC Chapter 17.31 by preserving land for long term farming activities.

Policy RL-2

Allow limited new development that is consistent with the current rural character of the County.

Staff Conclusion: The subdivision is similar to other subdivisions that have been approved in the Agriculture Residential 10-acre (AR-10) zoning district. 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.

Staff Conclusion: The proposed subdivision's density is based on one lot per ten acres, the applicant is not being allowed a higher density than what the code permits. The proposed development is not encumbering any critical areas that are adjacent to it. 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.

Staff Conclusion: The development is in compliance with WWCC Chapter 17.31 which requires the protection of agricultural resource lands.

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.

Staff Conclusion: The proposed development establishes the required buffer space between the residential uses and the agricultural uses.

Applicable Statutes/Codes

Preliminary Plat Criteria

Walla Walla County Code Section 16.14.030 – Preliminary approval criteria states the following: Decisions on applications for a preliminary subdivision or preliminary short subdivisions 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

Staff Conclusion: 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.

- B. The proposed lots are served with adequate means of access, fire protection, water supplies and means of sanitary sewage disposal; and

Staff Conclusion: The proposed preliminary plat has been 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. No concerns were submitted by the agencies stating that the plat should not be approved based on inadequate means to protect the public health, safety, and welfare.

- C. The proposed division of land provides adequate measures for the control of drainage and stormwater; and

Staff Conclusion: The proposed development has been reviewed by the Walla Walla County Department of Public Works; the development will be required to retain and infiltrate storm water on-site.

- D. The public health, safety and general welfare will be served by permitting the proposed division of the land.

Staff Conclusion: The plat has been reviewed by the Walla Walla County Health Department to ensure that all applicable health requirements are being met. The subdivision will be served by a water system and on-site sewage disposal systems. The Walla Walla County Department of Public Works and Walla Walla County Fire District #4 have reviewed the plat to ensure that access and fire safety standards are met. As proposed, the plat is in compliance with the Walla Walla County Comprehensive Plan and Walla Walla County Code to ensure the general welfare of the general public. See Exhibit 12, comments from Rocky Eastman, Fire Chief District 4.

Lot Pattern and Density

WWCC 17.31.060 (Design requirements) contains several dimensional standards for cluster subdivisions.

- *Density* – “Within the Agriculture Residential-10 acre zone, the maximum number of lots will be calculated at a rate of one unit per ten acres.” (WWCC 17.31.060J). The total project area is approximately 105 acres which would allow for 9 lots. Nine have been proposed.
- *Lot Width* – Per WWCC 17.31.060E, “Cluster development lot width shall be a minimum of one hundred fifty feet. “The proposed lot sizes comply with this requirement.

- *Lot size* – The lot area of a cluster lot cannot be more than 3-acres (WWCC 17.31.0600); the proposed lot sizes comply with this requirement. Sheet 2 of preliminary Map 3 indicates Lot acreage of the 9 proposed lots and average residential lot size.
- *Average lot size* – The average lot size of the smaller parcels within a cluster subdivision cannot exceed 2-acres per WWCC 17.31.060P). The average acreage of the lots is currently 1.99-acres.
- *Area reserved for resource use* – WWCC 17.31.060H requires that 85% of the overall development site within a cluster subdivision be maintained for resource use, which includes “all permitted and conditional uses and buffer requirements in the Agriculture Residential-10 other than residential lots.” Sheet 2 of preliminary map 3 contains a table to indicate the acreage of the resource parcel, 85.2% of the total development.
- *Location of residential lots* – Per WWCC 17.31.060G states that residential lots in a cluster subdivision in the AR-10 district may not be located in more than “four sites.” Most cluster subdivisions cluster the residential lots with shared side property lines in order to leave the largest possible resource parcel that can be more easily farmed without having to navigate strange configurations or small areas between residential lots. The configuration proposed in this subdivision has not positioned the lots to share property lines in this way.
- *Buffers* – Per WWCC 17.31.060Q, a 50-foot buffer must be provided between the resource parcel and any dwelling within the subdivision. This will mean that dwellings on the residential lots will have to be setback 50-feet from most of their side and rear property lines.
- *Agricultural Setbacks* – Per WWCC 17.31.060R, all nonfarm development (structures) within the subdivision must be setback 50-feet from adjacent resources lands outside the subdivision. None of the residential lots are located closer than 50-feet to adjacent resource lands.

Recommended Conditions of Approval

Staff recommends that the Hearing Examiner approve the submitted preliminary plat application, subject to the following recommend conditions of approval:

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 hereby incorporated as Conditions of Approval for this decision.
2. The applicant must comply with applicable County and State stormwater management regulations.
3. Adequate fire protection shall be required pursuant to WWCC 16.14.030B.
4. Private road improvements must be provided in compliance with Walla Walla County Road Standards established by the Walla Walla County Public Works Department.
5. The applicant must comply with applicable County and State surveying requirements within WWCC Chapter 16.14 and WWCC Chapter 16.36.
6. Pursuant to Walla Walla County Code Section 16.14.060, approval of a preliminary subdivision shall expire seven years after the date of approval or the date of resolution of all appeals.