

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

140 19th Street NW
East Wenatchee, WA 98802-4109

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-16-02A)	DECISION AND
DOUBLE D VINEYARDS, LLC.)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on August 18, 2022, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. The applicant is Double D Vineyards, LLC.
2. General Description: This is an application to amend an existing Conditional Use Permit (CUP-16-02). The purpose of the amendment is to increase the allowable developable square footage to 12,000 sq. ft. to accommodate the event center, bridal "Green Room" and other small structures. The amendment will also acknowledge the availability of a new primary access point, in effect eliminating the 150 - attendee limit.
3. Location: The subject properties are located at 105 Orchard Pl., Orondo WA 98843, and can be further described as being located in section 12, township 26, range 21 E. Douglas County Assessor's Parcel Numbers: 26211230027, 26211210035, and 26211210031.
4. Site Characteristics: The subject properties include multiple parcels of land located between US 2 and the Columbia River. The properties were previously used for orchard/ tree fruit production and includes multiple existing structures.
5. Site Access: The subject property will be accessed via Pond Lane and Orchard Place.
6. Zoning: The subject property is located within the Rural Resource 5 (RR-5) zoning district.
7. The Douglas County Comprehensive Plan designates this property as Rural Resource 5 and is zoned Rural Resource 5 (RR-5) under Douglas County Code. The following goals and policies set forth in the comprehensive plan are relevant to this development:
 - 7.1 GENERAL LAND USE: GOAL: Maintain and improve the quality of life, attitude, and character of Douglas County by encouraging the long-term public commitment to the stewardship of historical/cultural resources, natural resources, critical areas and the full range of land uses desired by the public.

- 7.1.1 POLICY G-9: Rural developments should only occur where adequate access to transportation systems, rural levels of utilities and facilities are available. Appropriate facilities/services may include domestic water, sewage disposal, fire and police protection, schools, and power, etc. depending on the scale and impact of the development.
- 7.1.2 POLICY G-11: Establish siting and design criteria to provide buffering or other mechanisms that will protect adjacent land uses from potential conflicts between incompatible uses.
- 7.1.3 POLICY G-15: Encourage the operation of rural commercial businesses, natural resource related industries, recreation and tourism activities, cottage industries, small scale business, and home occupations that are consistent with existing and planned land use patterns and are of an appropriate size and scale to maintain rural character.
- 7.2 RURAL LANDS:
 - 7.2.1 POLICY R-3: Establish land use designations that represent rural character and that protect the integrity of rural areas.
 - 7.2.2 POLICY R-6: Encourage development in rural areas to be served by rural levels of service.
- 7.3 RURAL DEVELOPMENT:
 - 7.3.1 GOAL: Provide opportunities for continued smaller scale developments outside UGAs that will be compatible with and continue to preserve, maintain and enhance the vital agricultural uses in the County.
 - 7.3.2 POLICY RD-4: Rural developments will not impact existing public facilities/services to the extent that the level of service for that facility is reduced below the adopted threshold and/or an acceptable operation capacity.
 - 7.3.3 POLICY RD-5: The costs associated with implementing a rural development and providing the necessary utilities, facilities and/or services will be borne by the developer.
- 7.4 ECONOMIC DEVELOPMENT:
 - 7.4.1 POLICY ED-7: Develop and implement land use regulations that are flexible enough to recognize the changing nature of business and industry.
- 7.5 Applicable provisions of DCC 18.80.030 "Evaluation Criteria":
 - 7.5.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
 - 7.5.2 The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.
 - 7.5.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
 - 7.5.4 The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use will provide adequate services.
 - 7.5.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.

- 7.5.6 The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
- 7.5.7 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to DCC Title 20 and to the satisfaction of the county engineer.
- 7.5.8 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate, and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects.
- 7.5.9 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
- 7.5.10 The hearing examiner is the review authority and may approve, conditionally approve or deny a request for changing the minimum lot size of a conditional use. Any waiver of minimum lot size shall not be construed as an exemption from the requirements of DCC Title 17 and RCW Chapter 58.17.

- 8. Douglas County issued a Determination of Non-Significance on May 2, 2022 in accordance with WAC 197-11-340(2). No appeal has been filed.
- 9. Applicable agencies have been given the opportunity to review this proposal. These agencies have identified mitigation or project design requirements for the project that have been included as conditions of approval where appropriate.

Agency Notified	Response Received	Agency Notified	Response Received
WSDOT	05/17/2022	Douglas County Transportation	08/03/2022
Douglas County Fire Marshal	05/23/2022	Douglas County PUD	05/20/2022
Douglas County Planning	05/19/2022	WA State Dept. of Ecology	05/16/2022
Chelan Douglas Health District	06/24/2022	Douglas County Assessor	N/R
Douglas County Treasurer	N/R	Douglas County GIS	05/17/2022

- 10. No public comments were received.
- 11. Comprehensive Plan consistency: The project is designated Rural Resource 5 by the Douglas County Comprehensive Plan. The proposal is supported by multiple policies related to general land use, rural development, and economic development. The proposal is consistent

- with Section 4.3 “Rural Development”, section 9.1 “Economic Development” of the Douglas County Comprehensive Plan.
12. Consistency with DCC Chapter 18.80.030 “Conditional Uses – Evaluation Criteria”. RR-5 zoning authorizes this land use as a Conditional Use. The required operational conditions will sufficiently mitigate associated impact. The project will not create excessive demands on public services. Noise impacts, dust control, and adequate buffering must fall within the parameters of Douglas County Code, as well as State standards. As conditioned, the proposal appears consistent with the requirements of this section.
 13. Consistency with DCC 18.30 RR-5: The Rural Resource 5 (RR-5) zoning district allows this use via a Conditional Use Permit (CUP).
 14. Douglas County Transportation Department has evaluated the proposal and recommended approval of the project with applicable conditions
 15. Douglas County Land Services: The application materials demonstrate compliance with adopted codes, standards, and specifications applicable to this project. As conditioned, the proposal is consistent with the provisions of Douglas County Code.
 16. Initial application materials reviewed by Douglas County Transportation and Land Services and admitted into the record at the open record public hearing include:
 - 16.1 Ex. 1 Site Plan prepared by SKB Architects, dated December 3, 2021.
 - 16.2 Ex. 2 SEPA Checklist prepared by the Applicant, dated February 2, 2022.
 - 16.3 Ex. 3 Project Narrative prepared by the Applicant, dated February 1, 2022.
 - 20.4 Ex. 4 Services Description, prepared by the applicant, dated March 25, 2022.
 - 16.5 Ex. 5 Environmental Noise Study prepared by SSA Acoustics, dated January 26, 2022.
 - 16.6 Ex. 6 Landscaping/ Parking Plan prepared by SCJ Alliance, dated January 10, 2022.
 - 16.7 Ex. 7 Emergency Management Plan prepared by SCJ Alliance, dated March 2022.
 - 16.8 Ex. 8 Preliminary Civil Plans prepared by Pacific Engineering, dated March 22, 2022.
 - 16.9 Ex. 9 Preliminary Storm Report prepared by Pacific Engineering, dated May 26, 2022.
 - 16.10 Ex. 10 Traffic Impact Analysis (TIA) prepared by TENW, dated July 12, 2022.
 - 16.11 Ex. 11 Traffic Impact Analysis prepared by TENW, received May 7, 2021
 - 16.12 Ex. 12 Construction plans, prepared by SKB Architects, dated December 3, 2022.
 17. The original CUP Finding of Fact No. 4 identifies access point for the event venue being from Sandy Shores Drive with a stipulation of a maximum event size of 200 people. Sandy Shores Drive is a private road that connects directly to US 97.
 18. The original CUP Finding of Fact No. 12 identifies that the applicant has entered into a memorandum of understanding with the Washington State Department of Transportation (WSDOT) regarding the required improvements to the intersection of US 97 and Sandy Shores Drive.
 19. The original CUP Condition of Approval No. 4 requires the applicant to construct improvements to US 97 to add a left turn only lane and a right turn only lane on US 97 at Sandy Shores Drive within 2 years from the date of the CUP approval.

20. The Applicant's traffic consultant prepared an update to the traffic study, dated December 1, 2017, noting that the events at the venue averaged 100 to 150 attendees. The update further states that events would not exceed 150 attendees and there would be no more than 10 events per year. The conclusion in the updated traffic study states that mitigation measures are no longer warranted or recommended requiring the Applicant to install separate left turn and right run only lanes at the intersection of Sandy Shores Drive and US 97.
21. WSDOT correspondence in January of 2019 acknowledged receipt of the updated traffic study and further noted that improvements to the intersection of Sandy Shores Drive and US 97 would be required at the time turn lane warrants are met.
22. Access at this location is permitted by the Washington State Department of Transportation (WSDOT) via WSDOT access permit 42476. The CUP amendment includes events up to 500 attendees with an additional access being constructed to connect to Douglas County right of way at Edgewater Drive with access to the state highway at Sun Cove Road.
23. The preliminary civil plans include an access from the current terminus of Edgewater Drive. The 26-footwide paved private drive is proposed to traverse parcels 66200000100 and 26211230035. The access drive is to terminate at an expanded parking lot for the Rocky Pond Event Center. A gate is proposed between Sandy Shores Drive and the event venue/resort. The location of the gate shall be approved by Douglas County Transportation and the Douglas County Fire Marshal.
24. The applicant proposes to allow up to 150 attendees to enter the event venue from Sandy Shores Drive. All other attendees are to access the venue from Sun Cove Road/Edgewater Drive/new private access road. Attendees will exit the event venue generally through Edgewater Drive/Sun Cove Road with the traffic being metered by staff from the event venue parking area. Unless otherwise approved in writing by the County, the applicant shall submit a permit application for an event on county roads to Douglas County prior to each event that exceeds 150 attendees. The event permit application shall include a transportation management plan as is proposed in the TIA. The permit application will require written approval from both WSDOT and Douglas County Transportation. Should the event require any traffic management on the state highway, the applicant shall obtain the appropriate permits from WSDOT in accordance with Chapter 7 of the WSDOT Traffic Manual or Chapter 1130.12 of the WSDOT Design Manual.
25. The TIA includes analysis of the cumulative impacts of the proposed expansion of the Rocky Pond Event Venue, the full build out of the adjacent proposed resort hotel with a spa and restaurant, single family residential homes/recreational homes, and a convenience store. The study includes pipeline traffic from planned developments and assumes full build out of the Sun Cove Development.
26. Edgewater Drive currently terminates in a cul-de-sac. As noted in the TIA, the existing cul-de-sac will not sufficiently serve the multiple roadway connections. As such, an intersection improvement to create a roundabout and remove the cul-de-sac is proposed. This will likely require dedication of additional right of way north of the existing cul-de-sac. This intersection improvement, dedication of right of way, and construction of the access road to the event venue site shall be completed prior to events with greater than 150 attendees to be held at the event venue.

27. The TIA evaluated WSDOT turn lane warrants at both the intersections of US 97 with Sandy Shores Drive and Sun Cove Road. The projected traffic volumes with this project and the other pipeline traffic were not found to trigger additional required improvements on US 97. The applicant and the other members of the home owner's association for the residences utilizing Sandy Shores Drive are currently in the process of designing and permitting the addition of a left turn only lane and right turn taper at the intersection of US 97 and Sandy Shores Drive. This improvement is anticipated to be constructed in 2022 per the TIA. Given the current time of year and per discussion with the applicant's engineer, this improvement will likely be constructed in 2023.
28. The preliminary stormwater report adequately demonstrates stormwater management feasibility for the subject property through the use of qualitative analysis, sub-basin delineation, and calculations. The stormwater facilities associated with the access and parking improvements shall be designed, permitted, and constructed prior to any special events in excess of 150 attendees.
29. Domestic water will be by expansion of the Double D Water District Public Water System.
30. Surrounding property owners were given the opportunity to comment on the proposal, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
31. Comments from reviewing agencies have been considered and addressed where appropriate.
32. Proper legal requirements were met and surrounding property owners, affected agencies, and interested parties were given the opportunity to comment on the proposal at a public hearing.
33. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
34. After due legal notice an open record public hearing was held on August 18, 2022.
35. The entire Planning Staff file was admitted into the record at the public hearing.
36. Appearing and testifying on behalf of the Applicant was David Dufenhorst. Mr. Dufenhorst testified that he was the agent for the Applicant and property owner and was authorized to appear and testify on its behalf. Mr. Dufenhorst stated that he agreed with all the representations in the staff report and had no objection to any of the proposed Conditions of Approval.
37. Appearing and testifying on behalf of the public were the following individuals:
 - 37.1 David Bentsen. Mr. Bentsen was not placed under oath. He stated that he represented Lake Entiat Lodge (Sun Cove). He stated his clients had concerns regarding the new access and the Transportation Impact Study. His client's concerns were that the intersection of Edgewater and Sun Cove were not properly analyzed, that the TIS did not discuss the expansion of Sun Cove Road and that traffic volumes were not accurate as samples were taken on a Wednesday afternoon.
 - 37.2 Paul Weeber. Mr. Weeber testified about his concerns regarding the proposed round about.
 - 37.3 Also testifying on behalf of the Applicant was Michael Read, traffic engineer for Transportation Engineering Northwest. He testified that the TIS considered the hotel

and restaurant that are part of the master planned resort application. He testified that the TIS did study peak event impacts. He stated that intersection No. 3 in the TIS was the Sun Cove and Edgewater intersection analysis. He testified that the TIS did study summer peak flows indicating that there is a wide variety of traffic trips throughout the summer in this area. The TIS layered event traffic over the traffic counts.

38. The Hearing Examiner finds that the Traffic Impact Study adequately addressed traffic impacts resulting from the uses proposed by this amendment to the Conditional Use Permit.
39. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Comprehensive Plan.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Public use and interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 “Zoning”, Title 19 “Environment”, and Title 20 “Development Standards” of the Douglas County Code.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, review of all applicable files, including the Planning Department staff file, and after an open record public hearing, the Hearing Examiner has determined that CUP No. 16-02A is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant’s heirs, successors in interest and assigns.

1. The project shall proceed in substantial conformance with the plans and application materials of file except as amended by the conditions herein.

2. The applicant, and site operators are responsible for compliance with all applicable local, state and federal rules and regulations and shall acquire all applicable permits and approvals including but not limited to:
 - 2.1 Commercial Building Permit
 - 2.2 Legacy Pesticide testing with the Washington State Department of Ecology.
3. Proposed landscaping shall be consistent with the plans on file and be maintained for the life of the project.
4. The applicant shall abide by the conclusions and recommendations of the Emergency Management Plan prepared by SCJ Alliance, dated March 2022. A copy of the plan shall be kept on site at all times.
5. Minimum Required Fire Flow is 1500 GPM at a minimum of 20 PSI for no less than a 2-Hour duration. A hydrant must be located no more than 250 feet from the nearest frontage access to each lot. Maximum hydrant spacing is 500 feet and as approved or required by the Fire Marshal. The large-diameter port of all hydrants must be equipped with a 4-inch diameter Storz quarter-turn fitting with the approval of the AHJ and / or Fire Marshal.
6. The applicant shall coordinate with the Douglas County GIS Department to address the future buildings.
7. Prior to issuance of developmental permit a Water Availability letter is required from the system purveyor/ owner stating the water system has the ability to serve new buildings.
8. If the proposal includes landscaped areas that will not have an impermeable cover such as buildings, asphalt or concrete, those landscaped areas must be sampled, and sample results must be submitted to Ecology at formerorchards@ecy.wa.gov.
9. The applicant shall coordinate with the Douglas County PUD if revisions are needed to the electrical design.
10. Final construction plans designed by a Professional Engineer licensed in the State of Washington shall be submitted to Douglas County. The construction plan review will be processed as a full administrative review for the intersection improvements at the public termination of Edgewater Drive, private access road, parking lot expansion, and associated stormwater and utility infrastructure improvements. Construction plans shall be prepared in accordance with the requirements of the Douglas County Code.
11. Edgewater Drive is classified as a Rural Local Access. Transportation improvements within the public right of way shall be designed and constructed in accordance with Standard Figure 3-3. The existing cul-de-sac shall be removed and replaced with an intersection, such as a roundabout, that can accommodate the projected traffic associated with the existing and proposed residential uses, the proposed resort hotel, spa, restaurant, convenience store, and event venue. The applicant shall coordinate this design with Douglas County Transportation staff.

12. The Edgewater Drive intersection improvement, dedication of right of way, construction of the access road to the event venue site, installation of a gate to control access to the event venue, and associated utility and stormwater infrastructure shall be completed prior to events with greater than 150 attendees to be held at the event venue. The location of the gate shall be approved by Douglas County Transportation and the Douglas County Fire Marshal.
13. The private access shall be designed in accordance with the private road standards in Douglas County Code 12.52.020.B.
14. Unless otherwise approved in writing by WSDOT and Douglas County, up to 150 attendees may enter the event venue from Sandy Shores Drive. All other attendees are to access the venue from Sun Cove Road/Edgewater Drive/new private access road. Attendees shall exit the event venue generally through Edgewater Drive/Sun Cove Road with the traffic being metered by staff from the event venue parking area. Unless otherwise approved in writing by Douglas County, the applicant shall submit a Permit Application for an event on County Roads to Douglas County prior to each event that exceeds 150 attendees. The permit application shall include a transportation management plan. The event permit will require written approval from both WSDOT and Douglas County. Should the event require any traffic management on the State Highway, the applicant shall obtain the appropriate permits from WSDOT.
15. A final site-specific stormwater plan and report prepared by a Professional Engineer (PE) licensed in the State of Washington that conforms to Douglas County Code and the current edition of the Stormwater Management Manual for Eastern Washington (SWMMEW) shall be submitted to and accepted by Douglas County prior to construction.
16. Prior to any on-site grading occurring, a Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment Control Plan (TESC Plan) shall be submitted to and accepted by Douglas County. The SWPPP and TESC Plan shall be kept on-site at all times and updated as necessary to address and prevent sediment and sediment laden water from leaving the project site.
17. The Engineer of Record shall monitor construction and shall provide as-built drawings and report as necessary along with certification that the improvements have been completed in accordance with the applicable codes, regulations, and accepted plans. UIC registration shall be provided as applicable.
18. Prior to occupancy or events being held in excess of 150 attendees, a Private Stormwater Operation and Maintenance Agreement shall be executed on standard Douglas County forms. The site plan, details, certification, and operation and maintenance recommendations are provided to the County. County staff then prepares the agreement for signature and recording by the applicant.
19. Individual/common plan development for this proposal may exceed 1-acre of disturbed ground. This would meet the threshold by the Washington State Department of Ecology (WSDOE) in administering their general permit to discharge stormwater associated with construction activity. The applicant is responsible for acquisition of all applicable permits prior to beginning ground breaking activities, including but not limited to: Construction

Stormwater General Permit, Sand & Gravel Stormwater General Permit, and/or Industrial Stormwater General Permit. Compliance with the Washington State Department of Ecology's regulations is the responsibility of the applicant.

Dated this 23rd day of August, 2022.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Any aggrieved party or agency of record may request a reconsideration of this Hearing Examiner's decision. Motions for reconsideration must be filed with the Department within ten (10) days from the date of issuance as defined by RCW 36.70C.040(4)(a). Unless otherwise provided, the filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiners decision to Superior Court. Motions for reconsideration are governed by Douglas County Code 2.13.150.

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.