

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

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

IN THE MATTER OF)	FINDINGS OF FACT,
CUP-2022-02)	CONCLUSIONS OF LAW,
Inn and Spa at Rocky Pond)	DECISION AND
)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on November 17, 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 Rocky Pond Hospitality Ventures, LLC/ David Dufenhorst.
2. General Description: This is an application for a Conditional Use Permit (CUP) to allow for development of resort/ tourist facilities and accommodations. The resort area within the project boundary will include up to 80,000 square feet of construction. The CUP will incorporate a main lodge, a restaurant with a bar and lounge, a meeting center, fitness area, pool, spa, river club and barn. The subject property is approximately 34.72 acres in size. The subject property is located in the Rural Service Center (RSC) zoning district under Douglas County Code.
3. Location: The subject property is located off of Edgewater Dr, Orondo WA. The subject property is further described as being located within Section 12, Township 26N, Range 21E, W.M. Douglas County Assessor's Parcel Number: 26211230026.
4. Site Characteristics: The subject property is currently vacant with existing access roads traversing through the site. The property includes a gentle slope leading to the Columbia River.
5. Site Access: The subject property will be accessed via a private extension of Edgewater Drive. The resort will include an interconnected, private, internal road system.
6. Zoning: The subject property is located within the Rural Service Center (RSC) zoning district.
7. The Douglas County Comprehensive Plan designates this property as Rural Service Center and is zoned Rural Service Center (RSC) 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-4: Concentrations of development will be encouraged in designated Master Planned Resorts (MPRs), fully contained communities, cluster developments and/or in designated rural service centers.
- 7.2.3 POLICY R-6: Encourage development in rural areas to be served by rural levels of service.
- 7.3 RURAL SERVICE CENTER:
- 7.3.1 POLICY RSC-4: Encourage agriculturally related commercial and/or industrial uses to locate in established rural service centers.
- 7.4 RURAL DEVELOPMENT:
- 7.4.1 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.
- 7.4.2 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.
- 7.5 ECONOMIC DEVELOPMENT
- 7.5.1 POLICY ED-1: Support the retention and expansion of existing business and the recruitment of new businesses that provide family-wage jobs.
- 7.5.2 POLICY ED-2: Encourage the local agencies and economic development partners to support the County's natural resource-based industries and to attract a more diversified base of non-resource industries.

- 7.5.3 POLICY ED-3: Encourage economic development partners to recruit and promote employment opportunities that enhance the existing economy of the county.
 - 7.5.4 POLICY ED-7: Develop and implement land use regulations that are flexible enough to recognize the changing nature of business and industry.
 - 7.5.5 POLICY ED-14: Promote the development of entertainment and recreational facilities that to attract and capture tourism dollars within the County.
- 7.6 Applicable provisions of DCC 18.80.030 "Evaluation Criteria":
- 7.6.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
 - 7.6.2 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.
 - 7.6.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
 - 7.6.4 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.
 - 7.6.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
 - 7.6.6 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.
 - 7.6.7 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.
 - 7.6.8 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.
 - 7.6.9 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
 - 7.6.10 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 August 5, 2022 in accordance with WAC 197-11-355 (Optional DNS). 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	11/07/2022	Douglas County Transportation	11/07/2022
Douglas County Fire Marshal	08/08/2022	Douglas County PUD	08/12/2022
Douglas County Planning	08/20/2022	WA State Dept. of Ecology	10/24/2022
Chelan Douglas Health District	08/09/2022	Douglas County Assessor	N/R
Douglas County Treasurer	N/R	Douglas County GIS	08/12/2022

10. One public comment was received by Speidel Bentsen, legal counsel representing Lake Entiat Lodge, Associated (Sun Cove). The comment included concerns related to access, increased traffic, and deficiencies in the traffic impact analysis.
11. Comprehensive Plan Consistency: The project is designated *Rural Service Center* 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 4.2 Rural Service Centers, section 4.3 “Rural Development”, and section 9.1 “Economic Development” of the Douglas County Comprehensive Plan.
12. Consistency with DCC Chapter 18.80.030 “Conditional Uses – Evaluation Criteria”. Proposed land uses, within the RSC, are either outright permitted or permitted via conditional use permit. 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.
 - 12.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
 - 12.1.1 The proposed hotel, dining, meeting center, spa, cottages, and barn – referred to collectively as the “resort” – are designed with a focus around the area’s agricultural legacy. With the combined aspect of economic development, tourist/ recreation activity, and agricultural basis, the proposal is supported by a number of policies out of the Douglas County Comprehensive Plan, as set forth within this Decision. A full list of applicable policies can be found within this staff report.
 - 12.2 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.

- 12.2.1 The project design respects the site's natural features and integrates them, both in building placement and construction materiality, to emphasize the resort's connection to its surroundings. The resort is also located at the edge of the RSC designation, forming a suitable transition between the more intensely developed or planned land to its west and the working agricultural land to the east.
- 12.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
- 12.3.1 Two traffic studies (July 12, 2022 and November 1, 2022), completed by TENW analyzed anticipated traffic generated by the resort and found the existing transportation infrastructure (including Sun Cove Road, Edgewater Drive, and US Highway 97) are adequate to accommodate the resort's traffic. The study's recommendations for on-site access and circulation are also incorporated in the resort master plan, assuring safety on site and an organized interface between on-site access and connection to the surrounding road and highway network. All road improvements/ design will meet the standards of the Douglas County Transportation Department and the Washington State Department of Transportation.
- 12.3.2 The traffic studies of both provided analysis assuming full build-out of approximately 100 un-built residential lots within the existing Sun Cove community, as well as 37 un-built lots within the approved Edgewater Estates properties.
- 12.3.3 A concept site plan dated November 11, 2022 was admitted into the record as Exhibit "A". This demonstrates that the roundabout in the southeast portion of the subject property will be relocated.
- 12.3.4 The November 1, 2022 traffic analysis utilized industry standard professional methodologies and procedures to provide level of service estimates at peak hour, both existing and with full build-out. The existing level of service during afternoon peak hour is level B for the intersection of SR97/Sun Cove Road. The traffic analysis indicates that in the year 2030, with full build-out, the afternoon peak hour intersection level of service with special events will be a level C at SR97/Sun Cove Road intersection and a level B at the SR97/Sandy Shores intersection. In other words, in the year 2030, at full build-out and with the maximum use of the property with special events, the per vehicle delay at the intersection would be approximately 16 seconds.
- 12.3.5 The November 1, 2022 traffic analysis sets forth specific mitigation, which mitigation is incorporated as a Condition of Approval.
- 12.4 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 shall provide adequate services.
- 12.4.1 The project will be served by a private road extending from US 97/ Edgewater Drive. All road improvements will meet the standards of the Douglas County Transportation Department and the Washington State

Department of Transportation. Stormwater design will meet the standards of the Douglas County Code and Douglas County Shoreline Master Program. Fire protection will be provided by Douglas County Fire District #4. Domestic Water is provided by an independent water district, with a system and water storage designed specifically to serve the resort and its potential to increase its room count over time. Sanitary Sewer will be addressed through the use of on-site septic systems. Septic system design shall be consistent with the requirements of the Chelan Douglas Health District. Refuse disposal will be coordinated with Waste Management.

- 12.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
 - 12.5.1 All development requirements/ costs will be borne by the developer and will not create excessive additional requirements at public cost for public facilities and services. The resort is intended to contribute to the community's fiscal resilience, creating a significant value-added element to the surrounding vineyards and farming activities and increasing local employment and tax revenues.
- 12.6 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.
 - 12.6.1 The resort's design centers on site compatibility, minimizing the resort's uphill visual impact and working with the existing contours to manage and minimize area wide impacts from light, glare, and noise. Resort activities are those normally associated with a project of this nature, with little to no production of smoke or vibration. Any odors emanating from the resort will likely be confined to those from the kitchens and the limited farming activity conducted on site as part of the project's demonstration and farm-to-table operations.
- 12.7 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.
 - 12.7.1 Resort accesses and roadways will be designed consistent with the standards of Douglas County Code. Proposed access off of US Hwy 97 will be required to meet the standards of the Washington State Department of Transportation. Proposed parking is consistent with the requirements of DCC 20.42.
- 12.8 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place to mitigate and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects. (Refer to DCC Chapter 20.40, Landscaping standards, for specific requirements.)
 - 12.8.1 The resort's conceptual grading, landscape and lighting plans illustrate the resort's approach to working the site's activity areas and various buildings into the site's natural landforms. Topography and the natural landscape will assist in providing a buffer between neighboring uses. Proposed landscaping

will also provide buffers in conformance with the requirements of Douglas County Code.

- 12.9 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
 - 12.9.1 The proposed resort CUP has been conceived and designed to conform to local, state and federal regulations. Proposed development will meet applicable local, state, and federal regulations.
- 12.10 As conditioned, the proposal appears consistent with the requirements of this section.
13. Consistency with DCC 18.32 RSC: The purpose of the RSC district is to preserve the multiuse function and mixed land use pattern in the historic and unincorporated communities in Douglas County, as identified in the comprehensive plan. The RSC district is significant in that it provides support to the surrounding area by offering limited commercial services, lands for resource-based commercial and industrial activities, housing options which help support persons employed in resource-based industries and services for the traveling public. Rural service centers also provide limited services such as rest areas, fuel, emergency services and convenience goods to the general public traveling on rural, federal, state and county roads between urban areas. Rural levels of service provide limits to the density and intensity of uses and constrain the size of rural service centers so that they do not adversely impact surrounding resource-based uses, transportation systems or the natural environment.
 - 13.1 The Rural Service Center (RSC) zoning district allows a variety of the proposed uses via a Conditional Use Permit (CUP). Uses that do not require a CUP are permitted outright in the RSC zoning district. All structures, permitted outright or via CUP, will be required to obtain commercial building permits and meet all applicable codes and regulations.
 - 13.2 As conditioned, the proposal appears consistent with the requirements of the zoning district.
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. As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 18, 19 and 20 of the Douglas County Code, and the Douglas County Countywide Comprehensive Plan.
17. Douglas County Code Section 18.80.030 establishes minimum criteria for Conditional Use Permits.
18. Surrounding property owners were given the opportunity to comment on the proposal, and can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
19. 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.

20. Initial application materials reviewed by Douglas County Transportation and Land Services and admitted into the record at the open record public hearing include:
- 20.1 Ex. 1 Master Application prepared by the applicant, received June 20, 2022
 - 20.2 Ex. 2 Project Narrative prepared by SCJ Alliance, submitted on June 20, 2022.
 - 20.3 Ex. 3 Project Site Plan prepared by SCJ Alliance, dated June 16, 2022.
 - 20.4 Ex. 4 Rock Pond Resort Traffic Impact Analysis prepared by Transportation Engineering Northwest (TENW), submitted July 12 2022
 - 20.5 Ex. 5 TIA Memorandum prepared by TENW, submitted November 1, 2022
 - 20.6 Ex. 6 Preliminary Civil Plans prepared by Pacific Engineering, dated February 2022
 - 20.7 Ex. 7 SEPA Checklist prepared by SCJ Alliance, submitted on June 20, 2022
 - 20.8 Ex. 8 Preliminary Storm Report prepared by SCJ Alliance, dated February 10, 2022.
 - 20.9 Ex. 9 Preliminary Storm Drainage Concept Plan prepared by SCJ Alliance, dated February 2022
 - 20.10 Ex. 10 Geotechnical Evaluation prepared by Nelson Geotechnical Associates, submitted June 20, 2022
 - 20.11 Ex. 11 Conceptual Water Design prepared by the applicant, submitted June 20, 2022
 - 20.12 Ex. 12 Conceptual Wastewater Plan prepared by the applicant, submitted June 20, 2022.
21. Domestic water will be by expansion of the Double D Water District Water System.
22. The Washington State Department of Ecology has indicated the subject property has potential for high lead and arsenic levels due to historical agricultural use of the site.
23. The preliminary civil plans include a layout and conceptual grading for a network of private roads to provide access from Edgewater Drive (public) to the proposed parking areas and features in the resort. The public portion of Edgewater Drive currently terminates in a cul-de-sac. The cul-de-sac is not adequate to accommodate the number of proposed private roads to serve this development and the existing adjacent properties. A public intersection improvement to construct a roundabout (or equivalent) and dedicate additional right of way at this location is proposed in the traffic study.
24. The internal network of private roads is proposed to connect to the adjacent property to the north. The connection will be gated and serve as an emergency egress and for access to the parking lot for the adjacent Rocky Pond Event Venue. The Rocky Pond Event Venue was originally permitted in 2016 via Conditional Use Permit (CUP 16-02). The property owner applied for an amendment to CUP-16-02 to increase the number of attendees to 500 for special events at the Rocky Pond Event Venue. This amendment was approved with conditions by the Hearing Examiner on August 23, 2022. The following condition (#14) was included in the CUP-16-02A Hearing Examiner decision:
- 24.1 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.

25. The Traffic Impact Analysis associated with CUP-16-02A, dated July 12, 2022 was submitted with the application for CUP-2022-02-Rocky Pond Resort as it was originally prepared with the intent to be a comprehensive analysis that included the Rocky Pond Resort uses. It was determined through staff's review of this TIA and Site Plan/Narrative submitted with the application materials for CUP-2022-02 that an additional event venue with an event barn and amphitheater was added to the Rocky Pond Resort. The event venue on the Rocky Pond Resort was not included in the July 12, 2022 TIA. Staff requested the TIA be updated to include this use and to address how the Resort event venue will be managed in coordination with the CUP-16-02A Rocky Pond Event Venue.
26. The TIA, dated November 1, 2022, was updated to include the Rocky Pond Resort Event Venue, evaluate existing traffic conditions on the weekend, and to address comments provided by the Washington State Department of Transportation (WSDOT). WSDOT requested the percent of trucks in the traffic counts be increased from 2% to 8%, perform a safety analysis at the intersection of Sun Cove Road and SR 97, and provide clarifications on how future traffic counts were derived. The applicant confirmed their intention to construct a left turn lane on SR 97 at Sandy Shores Drive. WSDOT is not requiring the Sandy Shores Drive left turn lane to be a condition on the conditional use permit as the left turn lane warrants are not met. The TIA also states that the total combined number of attendees will not exceed 500 if events are held simultaneously at the Rocky Pond Event Venue (CUP-16-02A) and the Rocky Pond Resort event venue (CUP-2022-02). This will be included as a recommended condition on this CUP along with requiring an agreement be created and recorded to bind both event venues to this condition.
27. The applicant proposes to allow up to 150 attendees for an event at the resort to enter from Sandy Shores Drive. All other attendees are to access the resort from Sun Cove Road/Edgewater Drive/new private access road. Attendees for these special events will exit generally through Edgewater Drive/Sun Cove Road with the traffic being metered by resort staff from the parking areas. 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.
28. The TIA includes analysis of the cumulative impacts of the expansion of the Rocky Pond Event Venue, the full build out of the proposed resort hotel with a spa and restaurant, resort event venue, 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.

29. 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 (or equivalent) and removal of the cul-de-sac is proposed. This will 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 site shall be completed prior to the resort hotel, spa, event venue, and convenience store occupancy.
30. The preliminary stormwater report adequately demonstrates stormwater management feasibility for the subject property through the use of qualitative analysis, sub-basin delineation, and calculations.
31. After due legal notice an open record public hearing was held on November 17, 2022.
32. The entire Planning Staff file was admitted into the record at the public hearing.
33. Appearing and testifying on behalf of the Applicant was William Grimes of SCJ Alliance. Mr. Grimes testified that he was the agent for the Applicant and property owner and was authorized to appear and testify on its behalf. Mr. Grimes stated that he agreed with all the representations in the staff report and that all of the proposed Conditions of Approval were acceptable. He testified about the "value added" agricultural benefit that is part of the project. He testified as to facts that the project is compatible with the Rural Service Center zoning and that the project will boost economic development in the area.
34. Testifying from the public were the following individuals:
 - 34.1 Danielle Ross. Ms. Ross and her family own property with an airstrip near the subject property. She testified that the FAA no longer has their airstrip on their map. Her family did not request that the airstrip be removed and they are investigating why their airstrip was removed from FAA records. She asked that the hearing be postponed until the FAA resolves the situation. She does not want the project to interfere with their longstanding airstrip.
 - 34.2 Clay Waseen. Mr. Waseen lives in the Sun Cove neighborhood. He stated that he did have traffic analysis expertise and that there had been no traffic analysis of the entire project with all separate areas and separate components evaluated.
 - 34.3 John McQuiag. Mr. McQuiag testified on behalf of Water Works property. He testified in favor of the project due to its Rural Service Center zoning and that the fact that it is close to SR97 with good ingress and egress.
 - 34.4 David Bentsen. Mr. Bentsen is the attorney for Sun Cove. Mr. Bentsen stated that the traffic analysis is insufficient pursuant to Douglas County Code 18.80.030(C) and (E). These code sections refer to conditional use permit evaluation criteria. Mr. Bentsen testified that there had been effort to mitigate for Sun Cove Road backups on SR97. He related to recreational vehicles and both egress and ingress. He claimed that the updated traffic study done in September after Labor Day, also did not adequately count the number of vehicles using the roads. He suggested that the Applicant be required to extend the left turn lane onto Sun Cove Road, off of SR97, that there be an acceleration lane onto southbound SR97 from Sun Cove Road, and that the highway speed should be reduced in this area.

- 34.5 The Hearing Examiner would note that neither Mr. Bentsen, nor his clients, provided their own traffic analysis by an expert witness who performed a separate study. The concerns of Mr. Bentsen and his clients are not supported by expert witnesses, and in fact, are discounted by the expert witnesses. The Hearing Examiner would note that the remedy suggested by Mr. Bentsen regarding changes to speed limits, turning lanes and acceleration lanes, would be up to the Washington State Department of Transportation. The Washington State Department of Transportation has not recommended any of these suggestions into their comments regarding mitigation of traffic impacts as a result of this project.
- 34.6 Bill Tucker. Mr. Tucker is a Sun Cove resident. He thinks that because permits are required for events of 150 people or more, that these events are therefore acknowledged to have greater impact and they should have additional mitigation.
- 34.7 The Hearing Examiner allowed Mr. Waseen to testify for a second time. The Hearing Examiner admitted Exhibits B, C, D, and E submitted by Mr. Waseen.
- 34.8 Jerry Kyle. Mr. Kyle is a neighbor and is in favor of the project. However, he was concerned about the removal of the cul-de-sac on Edgewater and how it was to be redesigned.
- 34.9 Dan Russell. Dan Russell attempted to testify via Zoom, but was not able to submit oral comments because of technical problems. The Hearing Examiner left the record open to allow Mr. Russell to submit written comments. Mr. Russell did submit his written comments on November 18, 2022. This written comment is admitted into the record as Exhibit F.
- 34.10 At the conclusion of the hearing, the Hearing Examiner kept the record open until Wednesday, November 23, 2022 at 5:00 p.m. to allow the Applicant an opportunity to submit any rebuttal testimony they wish to make as to Mr. Russell's testimony, or the exhibits submitted by Mr. Waseen.
- 34.11 On November 22, 2022 the Hearing Examiner was advised by County staff that the Applicant did not wish to submit any additional written rebuttal materials.
- 34.12 Michael Read. Testifying at the hearing on behalf of the Applicant was Michael Read. Mr. Read is the traffic engineer who performed the above referenced traffic analysis. He stated that the traffic counts did include summer weekday counts for Sun Cove Road and Sandy Shores Road. He said experts do not do vehicle counts on holidays because these days are not typical. He testified that summer counts are sufficient to provide expert analysis. Regarding safety he stated that the Sun Cove problem is that this development only has one access point and was not required to have multiple access points. He stated that there were emergency vehicle access plans submitted by SCJ Alliance. He stated that they are following the WSDOT design manual, as well as their Transportation Management Plan, that is part of the proposed Conditions of Approval.
35. 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 meets the goals, policies and implementation recommendations as set forth in the Douglas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 18 "Zoning", Title 19 "Environment", and Title 20 "Development Standards" of the Douglas County Code.
6. 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. 2022-02 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 including but not limited to:
 - 2.1 Commercial Building Permit(s)
 - 2.2 NPDES Construction Stormwater General Permit
3. The applicant shall abide by all recommended noise mitigation measures as outlined in the Rocky Pond Inn and Spa Event Lawn Property Line Noise Report prepared by SSA Acoustics.
4. The applicant, vendors, guests, and any outside entity utilizing the resort facilities shall comply with all policies, procedures, and plans identified within the Special Event Emergency Plan (SEEP) prepared by SCJ Alliance. A copy of the plan shall be kept on site at

- all times. The plan shall be provided to any outside vendors/ entities utilizing the resort facilities.
5. The applicant shall abide by the conclusions, recommendations, and mitigation measures identified within the Geotechnical Evaluation prepared by Nelson Geotechnical Associates, dated August 19, 2021. All grading, earthwork, and construction shall meet the parameters set forth within the evaluation.
 6. Concurrent with the submittal of a commercial building permit, the applicant shall provide a letter from a licensed geotechnical professional stating that the construction is consistent with the recommendations of the original Geotechnical Evaluation prepared by Nelson Geotechnical, dated August 19, 2021.
 7. The applicant shall submit commercial building permit(s) for all structures.
 8. No disturbance is allowed within the established riparian buffer, except with an approved shoreline permit.
 9. Any element(s) of the project that occurs within Douglas County shoreline jurisdiction will require the submittal of a shoreline substantial development permit.
 10. Concurrent with the submittal of a commercial building permit(s), the applicant shall provide a final landscaping plan. The plan shall be proportionate to the building being applied for. The plan(s) shall be consistent with DCC 20.40 - Landscaping Standards.
 11. Concurrent with the submittal of a commercial building permit(s), the applicant shall provide a final parking plan. The plan shall be proportionate to the building being applied for. The plan(s) shall be consistent with DCC 20.42 - Off Street Parking and Loading.
 12. The applicant shall acquire approval of the water system from the Washington State Department of Health – Drinking Water.
 13. The applicant shall coordinate with the Douglas County GIS Department to address the proposed structures as they are developed.
 14. 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.
 15. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet exclusive of shoulders.
 16. Per DCC 17.10.040.c, an all-weather access road approved by the fire marshal shall be provided to within one hundred fifty feet of every linear foot of the exterior wall on the first floor of each building prior to any construction.

17. Buildings or facilities exceeding 30 feet or three stories in height shall have not fewer than two (2) means of fire apparatus access for each structure.
18. Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet, approved aerial access roads shall be provided. The highest roof surface shall be determined by the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of the parapet wall, whichever is greater.
19. The applicant shall coordinate with the Washington Department of Ecology to address soil testing/ remediation in relation to the historical agricultural use of the site. If clean-up/ remediation is required by Ecology, the remediation shall take place prior to issuance of any commercial building permits.
20. The applicant shall coordinate with the Washington State Department of Ecology to ensure appropriate water resources are available to supply the project.
21. The applicant shall coordinate with the Douglas County PUD to address electrical/ fiber design for the project.
22. Final construction plans designed by a Professional Engineer licensed in the State of Washington shall be submitted to Douglas County.
23. 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(s). The applicant shall coordinate this design with Douglas County Transportation staff. The design shall be completed and accepted for construction by Douglas County prior to construction. Construction of the improvements shall be completed prior to occupancy. Right of way dedication shall be completed via a statutory warranty deed prior to occupancy.
24. The private access shall be designed in accordance with the private road standards in Douglas County Code 12.52.020.B.
25. The total combined number of attendees shall not exceed 500 if events are held simultaneously at the Rocky Pond Event Venue (CUP-16-02A) and the Rocky Pond Resort event venue (CUP-2022-02). A reciprocal access easement agreement shall be created, executed, and recorded prior to any events being held at the Resort event venue. This agreement shall include language to limit the number of attendees to 500 total for events being held simultaneously.
26. Unless otherwise approved in writing by WSDOT and Douglas County, up to 150 attendees may enter the Resort 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.

27. 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.
28. 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.
29. The Engineer of Record shall monitor construction and shall provide as-built drawings and report as necessary along with certification that the transportation and stormwater improvements have been completed in accordance with the applicable codes, regulations, and accepted plans. UIC registration shall be provided as applicable.
30. Prior to occupancy, 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.
31. 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 28th day of November, 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.