

**COUNTY OF YAKIMA, WASHINGTON
HEARING EXAMINER'S DECISION**

May 11, 2021

In the Matter of an Application)
For a Type 3 Conditional Use)
Permit Submitted by:)
)
Mike Heit, with HLA Engineering)
And Land Surveying, on behalf of)
The Town of Harrah and its)
Mayor Barbara Harrer)
)
For Expansion of Harrah's Wastewater)
Treatment Facility in the Agriculture)
Zoning District at 8761 Branch Road)

CUP2021-00007

A. Introduction. The preliminary background findings relative to the public hearing process conducted for this application are as follows:

- (1) The Hearing Examiner conducted a virtual Go-To-Meeting open record public hearing regarding this application on April 27, 2021.
- (2) Julia Loudon, Yakima County Project Planner – Zoning and Subdivision, presented her detailed and thorough staff report recommending approval of the application subject to conditions.
- (3) The representative of the applicant/property owner, Mike Heit with HLA Engineering and Land Surveying, Inc., testified in favor of the application and indicated that there were no objections to the recommended conditions. The Mayor of the Town of Harrah, Barbara Harrer, testified that the Town is pleased to have this project proceed with this

application and that the treatment plant project has been a large improvement which solved an ammonia issue and has resulted in excellent lab tests and reports of all types.

(4) No one else testified at the hearing and no written public comments or comments from outside agencies were submitted at the hearing or prior to the hearing.

(5) This Decision has been issued within ten business days of the public hearing.

B. Summary of Decision. This application is approved subject to the recommended conditions.

C. Basis for Decision. Based on a view of the site with no one else present on April 24, 2021; a consideration of the information contained in the staff report, exhibits, testimony and other evidence presented at the open record public hearing on April 27, 2021; and a review of the Yakima County Comprehensive Plan and the Yakima County Unified Land Development Code, Title 19 of the Yakima County Code (YCC); the Hearing Examiner makes the following findings and conclusions. Any findings more properly considered to be conclusions shall be deemed to be such.

FINDINGS

I. Applicant/Property Owner/Representative. The applicant/property owner is the Town of Harrah by its Mayor Barbara Harrer, P.O. Box 10, Harrah, Washington 98933. The representative of the applicant/property owner for this Wastewater Treatment Facility expansion application is Mike Heit with HLA Engineering and Land Surveying, 2300 River Road, Yakima, Washington 98902.

II. Location. The 3.35-acre triangular-shaped parcel of property is located at 8761 Branch Road on the north side of Branch Road about 100 feet west of the intersection of Branch Road with Harrah Drain Road and about one-half mile west of the City of Harrah. It is Yakima County Assessor's Parcel Number 181127-33002.

III. Hearing Examiner's Jurisdiction. The details regarding the Hearing Examiner's jurisdiction in this matter may be summarized as follows:

(1) The proposal is subject to the Yakima County Unified Land Development Code, Title 19 of the Yakima County Code (YCC). YCC Table 19.14-1 entitled Allowable Land Uses lists sewage treatment plants as Type 3 Conditional Uses requiring Type 3 review in the Agriculture (AG) zoning district.

(2) YCC §16B.03.030 provides that Type 3 applications are quasi-judicial actions that require public notice and an open record hearing by the Hearing Examiner. The Hearing Examiner's written Decision constitutes the final decision which is appealable to Yakima County Superior Court. Public notice is provided for Type 3 review.

IV. Application. The main aspects of this proposal designated as the Town of Harrah Wastewater Treatment Facility Expansion may be summarized in the following manner:

(1) On February 17, 2021, the Yakima County Public Services Department: Planning Division received a conditional use permit application from Mike Heit, with HLA Engineering and Land Surveying, on behalf of the Town of Harrah and its Mayor Barbara Harrer for an expansion of Harrah's wastewater treatment facility. The number of the parcel where it is located is 181127-33002 and its address is 8761 Branch Road. The parcel is within the Agriculture (AG) zoning district and currently contains the Town of Harrah's wastewater treatment facility. This application is to expand that facility by constructing a new 960-square-foot storage building and by permitting an existing 1,280-square-foot Blower and UV structure which is associated with treatment process improvements.

(2) The triangular-shaped parcel is about 3.35 acres in size. Irrigation canals run along the length of the east and northwest property lines. Branch Road, a County-maintained hard-surfaced road, runs along the length of the south property line. The parcel contains the

Town of Harrah's wastewater treatment facility which consists of a 1,350-square-foot Operations building, a 1,280-square-foot Blower/Electrical/UV building, two 13,000-square-foot lined sewage treatment lagoons, two Submerged Activated Growth Reactor (SAGR) cells, two storage containers, and a road and storage area. There are about 3,200 square feet of asphalt for access roads and four undefined parking spaces. Approximately 43,000 square feet of the site has gravel surfacing. A 6-foot-high chain link fence with barbed wire surrounds the bulk of the facility. The facility covers about 2.2 acres of the parcel. There is one access into the fenced facility from Branch Road. A second property access onto Branch Road exists just to the east outside of the fenced portion of the facility.

(3) One purpose of the application is to permit previous modifications to the facility and establish the 1,280-square-foot Blower/Electrical/UV building which was built in 2017 with various approvals except for a Yakima County permit. The building is constructed out of concrete masonry unit blocks and is about 21 feet in height. This building was part of a sewage treatment improvement project that removed an existing lagoon and replaced it with the Submerged Activated Growth Reactor (SAGR) cells. The structure is a treatment building that houses the blower, electrical, and UV treatment components associated with the SAGR cells. It was constructed in an existing gravel-surfaced area as part of an improvement of the facility's treatment process to meet more stringent effluent limits for ammonia.

(4) A second purpose of the application is to obtain approval for a new 960-square-foot storage building as part of this project to replace the two existing cargo containers. This structure will be for the storage of accessory sewage treatment plant equipment. The building will be of a wood pole barn type of construction and will be about 20 feet in height and will also be constructed over a portion of the existing gravel-surfaced area.

(5) Though the facility is primarily unoccupied, there are two maintenance employees who will visit the site occasionally between the hours of 7 am and 4 pm, Monday through Friday. Employees only need to visit the site on Saturday or Sunday as needed for repairs. The facility will continue to operate 24 hours a day, 7 days a week.

V. Notices. Notices of the application and of the public hearing were provided in the following manners:

(1) After the application was submitted, an internal notice of project review was emailed to representatives of the Building and Fire Safety Division, the Code Enforcement

Division, the Long Range Planning Section, the Water Resources Division, the Transportation Division, and the Yakima Health District. Comments are addressed in the findings below.

(2) After the application was determined to be complete, a combined Notice of Application, Notice of Completeness, and Notice of Future Hearing was mailed to adjoining property owners within 300 feet of the property and to agencies having jurisdiction or interest in the proposal on March 15, 2021, with the comment period ending on March 29, 2021.

(3) The Notice of Hearing and legal notice for the April 27, 2021 public hearing was provided in accordance with the applicable ordinance requirements in the following ways:

Mailing of Hearing Notice to property owners within 300 feet and to agencies:	April 7, 2021
Publishing of Hearing Notice in the Yakima Herald-Republic:	April 7, 2021
Posting of Hearing Notice on the property:	April 9, 2021

VI. Environmental Review. A State Environmental Policy Act (SEPA) review for the improvement project was conducted by the Town of Harrah as the lead agency in April of 2015, and a Determination of Nonsignificance was issued on May 14, 2015. WAC 197-11-800(23) relative to utilities provides in subsection (b) that all stormwater, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines 12 inches or less in diameter shall be exempt from SEPA review except for installation, construction or alteration on lands covered by water. This exemption includes installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class. According to information provided by the applicants, the lines associated with this project are less than 12 inches in diameter so that no additional SEPA review is required.

VII. Critical Areas. The Yakima County Critical Areas maps indicate that there are three mapped potential wetlands located on the subject parcel, but these three features align with the locations of the sewage treatment lagoons. Since sewage treatment lagoons are not considered Critical Areas, no Critical Areas review was required.

VIII. Comprehensive Plan, Zoning and Land Uses. The parcel is located within the Agricultural Resource designation of the Yakima County Comprehensive Plan (*Horizon 2040*) and within the Agriculture (AG) zoning district. Surrounding parcels are also all within the Agricultural Resource Comprehensive Plan designation and the Agriculture (AG) zoning district. They vary in size from 37.31 acres to 0.29 acres. The land uses in the area are generally agricultural with pockets of smaller residential lots.

IX. Comments Received. There were no written comments received relative to this proposal from members of the public or from outside agencies.

X. Review Criteria for Type 3 Uses. YCC §19.30.080(7) prescribes the minimum review criteria for consideration of Type 3 Conditional Uses. The requisite written findings and conclusions which state specific reasons upon which this Decision is based are similar to the Planning Division's findings, conclusions and reasons which may be summarized as follows:

(1) The present and future needs of the community will be adequately served by the proposed development and the community as a whole will be benefited rather than injured. The applicants are proposing to construct a new storage building, as well as establish a treatment building that was previously built. The treatment building was associated with upgrades made as part of an improvement project. The new storage building

will consolidate storage and result in the removal of cargo containers. Since the UV/Blower treatment building was part of a project to help improve the water quality treatment process for the treatment plant that serves the Town of Harrah, the needs of the community are adequately served by the development and it will result in a benefit rather than an injury to the community.

(2) The proposed use is compatible with neighborhood land uses, the goals, objectives and policies of the Comprehensive Plan, and the legislative intent of the zoning district. The proposed wastewater treatment facility expansion satisfies this criterion for the following reasons:

(a) The proposed use is compatible with neighborhood land uses which are generally in agricultural production with pockets of smaller residential lots because the new storage building will be in an area already utilized by the facility for storage and it will help consolidate facility storage by allowing for the removal of two existing cargo containers. The SAGR filter was established in an area that had previously been used for a lagoon, with the treatment building being located near the existing operations building. Since the expansion will be confined to the parcel where the existing facility is located, it will not interfere with neighborhood land uses.

(b) Specific Goals and Policies of the Comprehensive Plan (*Horizon 2040*) that support the wastewater treatment facility expansion include the following:

(i) GOAL CF 1: Maintain the quality of life in Yakima County through the planned provision of capital facilities, either directly by the County or through coordination with other public entities and the development industry.

(ii) GOAL CF 5: Protect public health and environmental quality through the appropriate design and installation of capital facilities.

(iii) GOAL CF 6: Preserve and enhance the visual quality of Yakima County through the placement and design of capital facilities.

(c) The Long Range Planning Section stated that there are no long range planning issues with the proposed expansion. According to the Yakima County Comprehensive Plan, capital facilities plans are to contain public facilities, which includes sanitary sewer systems by definition. The expansion of the wastewater treatment facility was essential for the growth of the plant as the community it serves continues to grow. Providing such services is compatible with Goal CF 1. The SAGR aerated rock filter and associated UV/Blower/Electrical building were part of an

upgrade project to improve the facility's treatment process and meet more stringent effluent limits. Improvements of this type are compatible with Goal CF 5 relative to public health and environmental quality. Since the entire wastewater treatment facility expansion will be within the area already devoted to the wastewater treatment facility, it will be compatible with Goal CF 6 regarding visual quality.

(d) The Agriculture (AG) zoning district implements the Comprehensive Plan that calls for the preservation of agricultural lands. (YCC §19.11.010(1)(b)). The proposed wastewater treatment facility expansion will be compatible with the legislative intent of the Agriculture (AG) zoning district. The purpose of the AG zoning district is to preserve and maintain areas for the continued practice of agriculture by limiting the creation of small lots, permitting only those new uses that are compatible with agricultural activities, protection of agricultural lands of long-term commercial significance, and providing measures to notify and separate especially sensitive land uses from customary and innovative agricultural land management practices. There is no agricultural production on the subject parcel. The expansion will not take any agriculture out of production. Since the wastewater treatment facility expansion will be confined to the parcel where that facility already exists, the proposed expansion will not interfere with the continued practice of agriculture on nearby properties.

(3) The site of the proposed use is adequate in size and shape to accommodate the proposed use. The subject parcel is about 3.35 acres in size. The UV/Blower building was already constructed and, according to the site plan, meets the required setbacks. The SAGR cells took the place of the third lagoon. The proposed storage building will meet setbacks and still be within the confines of the facility. The site is therefore adequate in size and shape to accommodate the proposal.

(4) The proposed use will comply with all setbacks, spaces, walls and fences, parking, loading sitescreening, landscaping and other features required by this Title. The proposed wastewater treatment facility expansion will comply with these features in the following ways:

(a) Setbacks, Easements and Right-of-Way (YCC §19.10.040(6) & Table 19.11.010-2): Branch Road is designated as a Rural Major Collector. A designated collector classified road in the AG zoning district requires a twenty-five (25) foot setback from the planned edge of the right-of-way. Buildings and structures in the AG zoning district also have a ten (10) foot interior side setback and a ten (10) foot rear

setback from property lines. Since Branch Road which is a Rural Major Collector requires a total of 70 feet of right-of-way, the planned edge of the right-of-way is 35 feet from the centerline. According to the site plan, the proposed storage building will be 30 feet from the planned edge of the right-of-way for Branch Road, 20 feet from the northwest property line, and more than 450 feet from the east property line. The UV/Blower building is currently 36 feet from the planned edge of the right-of-way, 159 feet from the east property line, and over 200 feet from the northwest property line. Therefore the proposed structures do not encroach on the required road or property line setbacks.

(b) Fences, Walls and Recreational Screens (YCC §19.10.040(9)): The provisions of YCC §19.10.040(9) govern the location and height of fences and walls, to allow access to properties by utility employees and emergency response personnel and to maintain good appearance of residential areas and visual access along residential streets and between lots. According to the application, no fencing is proposed at this time. Any new fencing, walls, and recreational screens installed in the future shall meet the requirements of YCC §19.10.040(9).

(c) Parking and Loading (YCC Table 19.22-2): Per YCC Table 19.22-2 specifying Off-Street Parking Standards, utility services require one parking space for each 800 square feet of gross floor area. The existing operations structure is 1,350 square feet in size and would have required two parking spaces. Since the total structural square footage added to the site will be 2,240 square feet, the expansion will require a total of three parking spaces. According to the application, there are four paved parking areas and a gravel overflow parking area, which is sufficient for this proposal. The applicants shall maintain at least three parking spaces for the proposed expansion. Since the application indicates that the use does not require loading or unloading from trucks or other large vehicles, loading requirements do not apply.

(d) Sitescreening and Landscaping (YCC §19.21.030(1)): Any proposed new use, including any outdoor storage area, shall provide maintained landscape planting and sitescreening under this YCC Chapter 19 to accomplish the legislative intent stated in YCC §19.21.010. According to YCC §19.21.030(2)(b), (c), (f) and (g), sitescreening is not required in the AG zoning district for a wastewater treatment facility. According to YCC §19.21.030(2)(d) and (e), landscaping likewise is not required for the proposed use in the AG zoning district.

(5) The proposed use complies with other development and performance standards of the zoning district and this Title. The proposed wastewater treatment facility expansion will comply with requisite development and performance standards in the following ways:

(a) Conformity with All Regulations Required (YCC §19.10.040(1)): Any development, structure or part shall conform to all of the regulations specified in this Title for the situation and zoning district in which they are located in order to be authorized, erected, constructed, reconstructed, moved or structurally altered. The proposed facility expansion will conform to all the applicable regulations of Title 19 and the AG zoning district, provided the conditions set forth below in this Decision are met.

(b) Yards, Lots and Open Space (YCC §19.10.040(2)(a)): Yards and lots created after the effective date of this Title shall meet at least the minimum requirements established by this Title and shall not be smaller than the minimum standards established in Chapters 19.10 through 19.18. The lot size, width, depth, shape and orientation shall be in accordance with the applicable zoning laws. As proposed, the structures will meet the minimum requirements for setbacks.

(c) Access Required (YCC §19.10.040(3)): All new development shall have a minimum of 20 feet of lot frontage upon a public road or be served by an access easement conforming to the dimensional requirements of Sections 19.23.040 and 19.23.050 to provide for access to the development. The approach location shall be reviewed by the County Engineer for compliance with YCC Chapter 10.08. Approach connections to other public roads are subject to review by the applicable agency. Verification of legal access and a valid road approach permit shall be required prior to final approval of any permit granted under this Title. The Transportation Division provided the following comments:

(i) No existing Road Approach Permit could be located for this property.

(ii) Per title 10.08.020 and 19.10.040 (3) the applicants shall obtain a Road Approach Permit (RAP) from the Yakima County Transportation Division for all existing unrecorded/permitted accesses to the county roadway system. The fact that the road approach application is in conjunction with a CUP must be disclosed by the applicant at the time of application.

(iii) Since the existing accesses predate the County's digital recording system, it cannot be verified as unpermitted accesses and therefore the Road Approach Application will require no fees.

The project is to continue using the existing accesses onto Branch Road. The applicants shall obtain a Road Approach Permit (RAP) from the Transportation Division for all existing unrecorded/permitted accesses to the county roadway system.

(d) Land Uses (YCC §19.10.040(4)): Uses allowed within a zoning district are listed as permitted, administrative or conditional uses in the Allowable Land Use Table 19.14-1 within Chapter 19.14. Per Table 19.14-1 Allowable Land Uses, a sewage treatment plant is considered a Type 3 use in the AG zoning district. Therefore, this proposed wastewater treatment facility expansion is being reviewed under the Type 3 process.

(e) Building Permits Required (YCC §19.10.040(5)): No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Building Official under RCW 19.27 and YCC Title 13. No building permit shall be issued, except in conformity with this Title. The Building and Fire Safety Division provided the following comments:

(i) No flood plains are located on the parcel. Building permits are required for the proposed structures, in addition to fire code and supplemental permits as needed.

(ii) All buildings will need to obtain proper building and fire safety permits.

The applicants will be required to obtain and finalize all necessary permits for the existing Blower/UV building and for the proposed storage building. Permits will also be required for the removal of the containers. For more information on building and fire code permits, please contact the Yakima County Public Services Department: Building and Fire Safety Division at (509) 574-2300.

(f) Vision Clearance Triangles at Intersections and Driveways (YCC §19.10.040(7)(a)): *Intersections*. All corner lots at controlled or uncontrolled public or private street intersections or railroads shall maintain for safety vision purposes a triangular area; one angle of the triangle shall be formed by the planned right-of-way edges adjacent to the street or railroad, under the planned right-of-way width required for the functional classification of the road, listed in Chapter 19.23. The sides of such

triangle forming the corner angle shall be 30 feet in length measured along the sides of the aforementioned angle, as illustrated [in Figure 19.10.040-2]. The third side of the triangle shall be a straight line connecting the last two mentioned points. Within the area comprising the triangle nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between the heights of two and one-half and ten feet above the centerline grades of intersecting streets and/or railroads. Landscaping meeting the height limits of this Section is encouraged within the vision clearance triangle. Vision Clearance Triangles at Intersections and Driveways (YCC §19.10.040(7)(b)): *Driveways, Curbscuts and Alleys*. This Subsection applies only to uses established under this Title. A vision clearance triangle shall be maintained at all driveways and curbscuts, and the intersection of an alley with a public street for vision and safety purposes. The vision clearance triangle shall measure 15 feet along the perpendicular street curb lines or pavement edge, or travel lane of the public street and 15 feet along the driveway or alley, as illustrated [in Figure 19.10.040-2]. The third side of the triangle shall be a straight line connecting the 15-foot sides described above. No sign or associated landscaping shall be placed within this triangle so as to materially impede vision between the heights of two and one-half and ten feet above the centerline grade of the streets. The applicants shall ensure that a vision clearance triangle as described in YCC §19.10.040(7)(a) is maintained at the access point of the eastern gravel road onto Branch Road. Per YCC §19.10.040(7)(b), a vision clearance triangle at the driveway into the facility is not required as this use was not established under Title 19. However, the applicants may choose to follow this standard as vision clearance is a matter of safety.

(g) Maximum Building Height and Lot Coverage (YCC §19.10.040(8) & Table 19.11.010-2): Lot coverage is defined as “the percentage of the area of a lot covered by buildings, accessory structures, or other impervious surfaces” (YCC §19.01.070(12)). Building height is defined as “the vertical distance from grade plane to the average height of the highest roof surface” (YCC §19.01.070(2)). The maximum building height is intended to maintain building and structure heights that are compatible with the character and intent of the zoning district. YCC §19.10.040(8)(a) states that chapters YCC 19.11 through YCC 19.18 list the maximum building and structure heights. In the AG zoning district, according to Table 19.11.030-2, neither a maximum lot coverage nor a maximum building height is specified. According to the application material, the Blower/UV building is 21 feet in height and the storage building will be 20 feet in height. The total lot coverage will

be about 72%. Since there is no specified maximum lot coverage and no specified height limit in this zoning district, there are no standards to apply in this situation. Though a maximum building height is not specified, it may be limited by building code, conditions of project review, or state and federal regulations.

(h) Exterior Lighting (YCC §19.10.040(10)): Exterior lighting is regulated to minimize light pollution to neighboring properties and encourage true-color, full-spectrum light rendition in projects. Exterior lighting for all uses and signs shall be directed downward and otherwise arranged, fully shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles. According to the application, no new lighting is proposed. The applicants shall ensure that any exterior lighting installed for the proposal meets the requirements as outlined above and in YCC §19.10.040(10).

(i) Floodplain Development (YCC §19.10.040(11)): A pre-application meeting and a Flood Hazard Permit application are required for all new development in floodplains in order to minimize and mitigate potential adverse impacts to property and infrastructure while reducing risks to public health and safety. Based on the Yakima County Critical Areas maps, the subject property is not located within a floodplain. Therefore, a pre-application meeting was not required for this proposal.

(j) Stormwater Requirements (YCC §19.10.040(12)): This provision is intended to ensure public and private development projects comply with the National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act (CWA) where applicable. The Water Resources Division provided the following comments:

(i) Since the project is under one acre, a Stormwater Plan is not required.

(ii) Ongoing conditions are that stormwater must be retained on site and any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250.

The applicants will be required to retain all surface water runoff on-site and comply with the requirements of YCC §12.10.250. Any natural drainageways must not be

altered or impeded. For questions regarding stormwater information, contact the Water Resources Division at (509) 574-2300.

(k) Sewer and Water (YCC Tables 19.25-1 and 19.25-2): According to YCC Table 19.25-1, new structures in the AG zoning district have two options for domestic water in order of priority: an existing public water system or an individual well. According to YCC Table 19.25-2, new structures in the AG zoning district also have two options for sewage disposal in order of priority: County sewer system or individual on-site septic. The applicants have indicated that the project will require potable water. There is an existing well onsite that will be utilized by the project. The use itself is a public sewer system. The Yakima Health District indicated that they do not foresee any issues. The proposal will meet the requirements of YCC Chapter 19.25.

(6) The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use. Branch Road is a county-maintained hard-surfaced road that is designated as a Rural Major Collector road. The subject property currently accesses this road by way of existing approaches. Since the proposed expansion will not result in any additional employees, there will be no increase in normal traffic. No adverse comments were received from the Transportation Division regarding the public road.

(7) The proposed use will have no substantial adverse effect on abutting property or the permitted use thereof. As part of the Type 3 conditional use permit process, neighboring property owners within 300 feet of the subject property were notified of the project, as were various agencies. No comments were received from the neighboring residences or from outside agencies. So long as all of the conditions of this Decision are met, the proposed expansion will have no substantial adverse effect on abutting properties.

(8) In the case of residential uses, the housing density of the development is consistent with the existing zoning densities, or the Comprehensive Plan, and that all other aspects of the development are consistent with the public health, safety, and general welfare for the development and for adjacent properties. The proposed wastewater treatment facility expansion does not involve residential development. As defined, a public sewer system is approved or under permit from the Department of Ecology. However, since the subject property is within the Yakama Nation Reservation, the applicants will be required to provide documentation showing that they have all required permits from

the Environmental Protection Agency (EPA). So long as the conditions of this Decision are met, the project will be consistent with the health, safety, and general welfare of the area.

(9) The development complies with all criteria in Chapter 19.18 applicable to the proposed use, unless otherwise administratively adjusted. There are no applicable YCC Chapter 19.18 standards for a wastewater treatment facility.

XI. Consistency of the Proposed Use (YCC §16B.06.020). The proposed wastewater treatment facility expansion will be consistent with development regulations and also with the Comprehensive Plan (*Horizon 2040*) in the following ways:

(1) The types of land uses permitted at the site: According to YCC Table 19.14-1 entitled Allowable Land Uses, a wastewater (sewage) treatment plant is classified as a Type 3 use in the Agriculture (AG) zoning district. Type 3 uses are considered not generally appropriate throughout a zoning district and therefore require Hearing Examiner review. An open record public hearing is required for Type 3 uses in order to provide agencies and neighboring property owners an additional opportunity to present issues or concerns that can be evaluated by the Hearing Examiner. No written public comments or outside agency comments were received relative to this proposal and no testimony was presented by neighboring property owners or outside agencies at the hearing. The proposal has been reviewed for consistency with the surrounding uses and has been found to be consistent with the Comprehensive Plan and with YCC Title 19 so long as the conditions set forth below in this Decision are met.

(2) The level of development, such as units per acre, density of residential development or other measures of density: This proposal does not increase residential density. The upgrade to the Submerged Activated Growth Reactor (SAGR) cells took place in an area that had previously been a lagoon. The new structures are in areas already utilized by the treatment plant. As proposed, the expansion will remain within the bounds of the existing facility and will meet current density and other development standards.

(3) The availability and the adequacy of public facilities: The proposed wastewater treatment facility expansion is within an area utilized by the existing facility. As previously indicated in the findings above, the road and public facilities that exist are adequate to serve the proposed development.

(4) The proposal's consistency with applicable development standards and the Comprehensive Plan: The character of the proposal as conditioned will be consistent and compatible with applicable development standards and the purpose and intent of the AG zoning district.

CONCLUSIONS

Based upon the foregoing Findings, the Hearing Examiner reaches the following Conclusions:

(1) The Hearing Examiner has jurisdiction to approve a Type 3 Conditional Use in the Agriculture (AG) zoning district under the circumstances prescribed by the zoning ordinance, which circumstances warrant approval of this application.

(2) SEPA review was conducted by the Town of Harrah as the lead agency in April of 2015 which resulted in the issuance of a Determination of Nonsignificance (DNS), and the proposed wastewater treatment facility expansion is exempt from additional SEPA review.

(3) All public notice requirements for the virtual open record public hearing have been satisfied.

(4) All of the testimony and evidence presented at the public hearing that was held on April 27, 2021, favored approval of this proposal subject to conditions.

(5) This proposal is adequately conditioned by the conditions set forth below so as to comply with the development standards and criteria for approval set forth in YCC Title 19 and the requirements of other relevant local and state regulations.

(6) YCC §16B.03.030(1)(c) and YCC Table 3-1 in YCC §16B.03.030(4) provide that the Hearing Examiner's written Decision relative to a Type 3 process involving an open record public hearing constitutes the final Decision which is not subject to an administrative appeal and which is therefore subject to appeal to the Yakima County Superior Court within the timeframe and subject to the statutory requirements of the Land Use Petition Act (LUPA) set forth in Chapter 36.70C of the Revised Code of Washington.

DECISION

The application for a Type 3 Conditional Use Permit for the Town of Harrah wastewater treatment facility expansion which consists of constructing a 960-square-foot storage building and establishing an existing 1,280-square-foot Blower and UV building on Assessor's Parcel Number 181127-33002 at 8761 Branch Road west of Harrah in the Agriculture (AG) zoning district which is more particularly described in the documentation submitted for application CUP2021-00007 is **APPROVED** subject to the following conditions:

Time Limit:

(1) The conditions of approval must be completed within (3) three years of the date of the Hearing Examiner's decision. *Please note that the Hearing Examiner's decision and time limit pertains to this conditional use action authorized for this approved land use only and does not include timelines associated with other permits (for example building permits).* Failure to comply with all conditions will result in the revocation of this permit. The Hearing Examiner's Decision includes the following conditions and the above findings as described.

Building:

(2) The applicants shall apply for all Building and Fire Life Safety permits for the proposed and existing structures. All permits for the proposed and existing structures must be issued, inspected, and finalized prior to occupancy. The applicant shall ensure that the project meets all Americans with Disabilities (ADA) requirements. Please contact the Yakima County Public Services Department: Building and Fire Safety Division at (509) 574-2300.

Transportation:

(3) The applicant shall obtain a Road Approach Permit (RAP) from the Yakima County Transportation Division for all existing unrecorded/permitted accesses to the county roadway system. The fact that the road approach application is in conjunction with a CUP

must be disclosed by the applicant at the time of application. Contact the Yakima County Public Services Department: Transportation Division at (509) 574-2300.

Miscellaneous:

(4) The applicants shall provide documentation showing that they have obtained all required Environmental Protection Agency (EPA) permits.

Condition Compliance:

(5) The owners, their grantees and assignees in interest will abide by the Compliance, Extension, Expiration and Reinstatement requirements as outlined in YCC §16B.07.050. The applicants shall complete all required conditions, submit documentation that all conditions were met and request County inspection or review to determine that the requirements have been fulfilled within the timeframe specified in this Decision and any authorized extensions.

The following are ongoing conditions that apply to the project for the life of the permitted use. Failure at any time to comply with these conditions can result in the revocation of this permit.

(6) The project shall be completed in conformance with the project description and site plan submitted with the application referenced as file number CUP2021-00007. Any changes may require a modification to this authorization. If changes are planned in the future, please contact the Yakima County Public Services Department: Planning Division at (509) 574-2300 for assistance with the permitting process.

(7) The applicants shall maintain at least three (3) gravel parking spaces for the proposed expansion.

(8) The applicants shall ensure that a vision clearance triangle as described in YCC §19.10.040(7)(a) is maintained at the access point of the eastern gravel road onto Branch Road. Within the area comprising the triangle nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between the heights of two and one-half and ten feet above the centerline grades of the roads.

(9) Fencing, walls, and recreational screens that are installed shall meet the requirements of YCC §19.10.040(9). Fences can be placed on or behind a property line. The height of a fence includes the fence and all attachments, including posts and barbed wire at the top but excluding ornaments twelve (12) inches or less in height. In the AG zoning district, there is no maximum fence height specified for any use, but fences must meet the height requirements of YCC Title 13.

(10) Exterior lighting shall be directed downward and otherwise arranged, shaded, screened, shielded, and of a design that results in the light being directed downward and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent residential use or interfere with the safe operation of motor vehicles.

(11) Stormwater must be retained on site. Any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC §12.10.250.

DATED this 11th day of May, 2021.



Gary M. Cuillier, Hearing Examiner