


Summary Report (ASR)

Franklin County Board of Commissioners 2021-054

DATE SUBMITTED: March 18, 2021	PREPARED BY: Derrick Braaten
Meeting Date Requested: March 23, 2021	PRESENTED BY: Derrick Braaten
ITEM: (Select One) <input type="checkbox"/> Consent Agenda <input checked="" type="checkbox"/> Brought Before the Board Time needed: 10 minutes	
SUBJECT: Item Remanded Back to Staff for Clarification of Record - A Conditional Use Permit to allow the expansion of an existing dairy replacement growing facility to 10,000 head (cattle – milking cows). (File # CUP 2020-04 and SEPA 2020-11)	
FISCAL IMPACT: None	
<p>BACKGROUND: This item was presented to the BoCC on March 16, 2021 as an open record public hearing. At the hearing, statements presented to the Board from the public and the applicant indicated there may be discrepancies in the record presented to the Board for its consideration of the matter. The final decision regarding CUP 2020-04 was tabled, and the item remanded back to staff for clarification of the record, primarily regarding how the proposal would affect the total number of cows at the facility. In addition, staff discovered there were duplicate or redundant conditions proposed, reducing the total number of conditions from the 21 conditions approved by the Planning Commission to 20 conditions.</p> <p>If approved, CUP 2020-04 will bring the total permitted head count at the commercial dairy, comprising seven (7) properties and approx. 3,200 acres, from its current allowed 11,700 head to 18,200 head, with 10,000 permitted to be on parcel numbers 109-270-022 and 109-220-022 (3,500 head originally permitted through CUP 2012-03, plus the 6,500 head proposed to be permitted through CUP 2020-04), which are in addition to the original 8,200 permitted through CUP 2007-02 for the overall dairy operation.</p>	
<p>RECOMMENDATION: The Planning Department staff still recommends approval of the application, but with 6 findings of fact and 20 conditions of approval.</p> <p><u>Suggested Motion:</u> Pass Resolution #____, approving CUP 2020-04 and adopting the six (6) written findings of fact and twenty (20) conditions of approval.</p>	
<p>COORDINATION: The County Building and Planning Department processed the application, coordinated for agency comments, and reviewed the application in accordance with Chapter 17.82 Franklin County Code. The CUP application was advertised to the public via adopted public notice procedures, and agencies were contacted for review and comment; a SEPA DNS (revised) was issued on Feb 25, 2021. An open record hearing was held before the BoCC on March 16, 2021.</p>	
<p>ATTACHMENTS: (Documents you are submitting to the Board) (1) Draft Resolution (2) Staff CUP 2020-04 Clarification Document</p>	
HANDLING / ROUTING: To the Clerk of the Board: 1 Original Resolution To Planning: 1 Copy Res.	

I certify the above information is accurate and complete.


Derrick Braaten

FRANKLIN COUNTY RESOLUTION **2021-054**

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF
FRANKLIN COUNTY, WASHINGTON

Conditional Use Permit (CUP) 2020-04 to allow a dairy expansion.

WHEREAS, on March 16, 2021, the Board of Franklin County Commissioners considered the positive recommendation of the Franklin County Planning Commission, regarding a request to expand the allowed animal head count at an existing commercial dairy operation, processed under file number CUP 2020-04; and

WHEREAS, at the March 16, 2021 meeting, the Board held a duly noticed open record hearing on the conditional use permit for the proposed use proposed under file CUP 2020-04, following a recommendation from Planning Staff and with the applicant's agreement; and

WHEREAS, at the March 16, 2021 open record hearing, comments from the applicant and public indicated there may be discrepancies in the record as provided to the Board and a final decision was tabled, with the item being remanded back to Staff for clarification; and

WHEREAS, on March 23, 2021, via a public meeting before the Board, Staff updated the record by clarifying the total number of cows to be located at the site, and where said cows would be permitted to locate on the property(s); and

WHEREAS, at the public meeting the Board has found that the County Planning Commission, after an open record public hearing and consideration on CUP 2020-04 did recommend approval of the Conditional Use Permit several suggested findings of fact and conditions of approval; and

WHEREAS, there was no appeal filed; and

WHEREAS, there was one comment expressing concerns of how the proposal would impact water use by surrounding landowners; and

WHEREAS, it appears to be in the public use and interest to **approve** the conditional use permit; and

NOW, THEREFORE, BE IT RESOLVED that CUP 2020-04 is hereby **approved** in accordance with the provisions of the Franklin County Development Regulations and as recommended by the Planning Commission.

BE IT FURTHER RESOLVED that the Chair of the Board of Franklin County Commissions be authorized to sign conditional use permit CUP 2020-04 on behalf of Franklin County.

APPROVED THIS 23rd DAY OF MARCH, 2021.

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

Chair

Chair Pro-Tem

Member

Attest: _____
Clerk of the Board

FRANKLIN COUNTY BOARD OF COMMISSIONERS

CONDITIONAL USE PERMIT # 2020-04

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The following Conditional Use Permit **is granted**, in accordance with the provisions of the Development Regulations of Franklin County, and according to the motion passed by the Franklin County Board of Commissions on February 16, 2021.

APPLICANT: Case VanderMeulen P.O. Box 228 Mesa, WA 99343

LEGAL

DESCRIPTION: Southwest 1/2 of Township 13, Range 32, Section 22 and Northwest 1/2 of Township 13, Range 31, Section 27, W.M. of Franklin County, WA.

NON-LEGAL

DESCRIPTION: Parcel #109-270-022 has no address, while parcel #109-220-022 has an address of 2270 Joyce Rd.

SEPA REVIEW: A SEPA Checklist was submitted with the CUP application. Planning Staff [*Lead Agency Responsible Official*] reviewed the checklist and issued a Determination of Non-Significance (DNS) on December 10, 2020 under WAC 197-11-340(2) which was published December 10, 2020. Comments on the Threshold Determination were due by December 24, 2020 and comment letters were received. There were no SEPA appeals. Due to new information and public comments received at the January 5, 2021 public hearing, the SEPA Determination was revised to an MDNS on February 25, 2021 with mitigation measures, and additional comment period.

CONDITIONAL USE DESCRIPTION: The conditional use permit application is to allow the expansion of a "dairy replacement growing facility", originally approved through CUP 2012-03 as a "feedlot", from 3,500 head to 10,000 head (milking cows) on parcel numbers 109-270-022 and 109-220-022. As provided for in CUP 2007-02, an additional 8,200 head have been permitted for the primary dairy operation, bringing the total number of cows permitted at the dairy operation, comprising seven (7) properties and approximately 3,200 acres, to 18,200 head. The subject parcels for CUP 2020-04 are zoned Agricultural Production 20 (AP-20), and located approximately 2.8 miles from the primary facility approved through CUP 2007-02, located on Pepiot Road. The zoning regulations allow up to 500 milking cows in the AP-20 zone as an outright permitted use, or 1,000 head for a feedlot, but the head count may be exceeded upon the approval of a conditional use permit. The application includes features such as fencing, feed bunks and concrete slabs.

This decision is supported by the following adopted findings of fact and conditions of approval:

FINDINGS OF FACT:

1. The proposed use in the AP-20 Zoning District **IS** in accordance with goals and policies of the County Development Regulations (Zoning) and the applicable Comprehensive Plan.

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- a. The land is zoned Agricultural Production 20 (AP-20) and the Comprehensive Plan designation is Agricultural.
 - b. Pursuant to the Comprehensive Plan, the approval of a Conditional Use Permit is required for large scale confined animal feeding operations.
 - c. A dairy operation greater in size than 500 head count requires approval of a conditional use permit.
 - d. A feedlot operation greater in size than 1,000 requires the approval of a conditional use permit.
 - e. The comprehensive plan states that the county will encourage agricultural industries in agricultural areas (*Comprehensive Plan, Pg. 94-98*).
 - f. While there are critical areas mapped on the parcel and in the vicinity of the dairy operation, no critical areas or buffers will be impacted by this proposal due to the distances from the operation to the features.
2. The proposal **WILL NOT** adversely affect public infrastructure.
- a. The dairy's access is from Pepiot Road and Joyce Road.
 - b. Public Works has determined that it is not anticipated that the use will have a significant impact on the County Road System.
 - c. The project is located in Farm Unit 8 of Irrigation Block 11, Columbia Basin Project and the Bureau of Reclamation currently has irrigation facilities on and/or near the proposed project site.
 - d. Surface water runoff resulting from construction activities can potentially enter Project facilities and adversely affect water quality. Storm water containment practices shall be followed to minimize or eliminate this risk.
3. The proposal **WILL BE** constructed, maintained, and operated to be in harmony with the existing or intended character of the general vicinity.
- a. The site location for the animal operation expansion is in an area zoned Agricultural Production 20 (AP-20);
 - b. The general area consists of farms, animal operations, and scattered single family homes;
 - c. The animal operation expansion is in harmony with and is compatible with the surrounding lands, including the existing and intended character of the

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agricultural area:

- i. The animal operation and its expansion at this site is a compatible use with the Agricultural Production 20 (AP-20) Zoning District and the surrounding areas.
 - ii. The farm site is in an area zoned Agricultural Production 20 (AP-20).
 - iii. The farm site is not located near a Rural Settlement Area or a designated Urban Growth Boundary.
 - iv. Active farms and another animal operation is located near the proposed farm site.
 - v. The main dairy site is located over 3 miles from the nearest urban growth area.
 - i. This area has a minimum lot size of 20 acres and allows agricultural uses as a permitted use in this zoning classification.
 - ii. The residential area is designated in the County Comprehensive plan as Agricultural.
4. The location and height of the structure and site design **WILL NOT** discourage the development of permitted uses on property in the general vicinity or impair the value thereof.
- a. The farm site is located in an agricultural area that is not densely populated and the farm site is not located near a Rural Settlement Area or a designated Urban Growth Boundary.
 - b. Agricultural industry and animal operations are consistent with the uses allowed in agricultural areas.
 - c. The area is zoned Agricultural Production 20 (AP-20).
 - d. The height of future proposed structures and site design (as submitted) is in compliance with the AP-20 development standards. The dairy expansion will not discourage the development of permitted uses in the area.
 - e. The implementation of a dairy Nutrient Management Plan will help address the potential for buildup of nitrates and nutrients in the soil.
 - f. The use of proper erosion and sediment control practices on the construction site and adjacent areas will prevent upland sediments from entering surface water.

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5. The operation in connection with the proposal **WILL NOT** be more objectionable to nearby properties by reason of noise, fumes, vibrations, dust, traffic, or flashing lights than would be the operation of any permitted uses within the district.
 - a. The area is zoned Agricultural Production 20 (AP-20) which allows for a wide range of agricultural activities and animal agricultural operations to occur.
 - b. The proposed animal agricultural activity and operation is not more objectionable than other permitted uses allowed in the area. A dairy facility does not create more noise, fumes, vibrations, dust, traffic, or flashing lights than other agricultural uses permitted in the AP-20 zoning district.
 - c. The dairy expansion is in harmony with and is compatible with the surrounding lands, including the existing and intended character of the agricultural area.
 - d. To further ensure its compatibility with the surrounding agricultural area and reduce potential impacts to neighbors, the dairy operation can implement mitigation measures and comply with a State of Washington Dairy Nutrient Management Plan as enforced by the State of Washington, comply with an Odor and Fly Control Plan, and shield all lights on the property.
6. The proposal **WILL NOT** endanger the public health, safety, or general welfare if located where proposed.
 - a. The public was notified of this proposal in accordance with all guidelines and requirements, and the Planning Department received **NO COMMENTS** in favor of the proposal, and one comment was received expressing concerns regarding the impact the proposal will have on the availability of water for surrounding properties.
 - b. To protect water quality and health related issues, the applicant is required to comply with a State of Washington Dairy Nutrient Management Plan. The Nutrient Management Plan, as enforced by the Washington State Department of Agriculture has the following water quality objectives: "Preventing discharge of contaminated waste water to streams, drainage ditches, or other surface waters from the facility; Preventing migration of contaminants from the facility to the underlying aquifer; Using facility nutrients to supply crop nutrient needs at rates and times tailored to reach realistic yield goals; Meeting the requirements of the Dairy Nutrient Management Act of 1998, the Clean Water Act".

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- c. The applicant currently has a Nutrient Management Plan for the existing dairy operation and dairy replacement growing facility. With the expansion, an updated Plan is required and shall be completed.
- d. Completion of an Odor and Fly Control Plan for the operation. This Plan will discuss numerous items including potential sources of odors and flies on the farm including methods to control and reduce odors and flies at the dairy site.
- e. A Mitigated Determination of Non-Significance (MDNS) has been issued as part of the SEPA review and determination. An approved Conditional Use Permit, compliance with the required Dairy Nutrient Management Plan, and compliance with the State Department of Agriculture's regulations is required for this application.
- f. The project is located within Fire District #1, a rural district. Measures such as enhanced building separation standards and development of a fire apparatus road are necessary to ensure safety.

Conditions of Approval:

- 1. The project must include the use of proper erosion and sediment control practices on the construction site and adjacent areas to prevent upland sediments from entering surface water. Refer to the Stormwater Management Manual for Eastern Washington at http://www.ecy.wa.gov/programs/wq/stormwater/eastern_manual/manual.html. All ground disturbed by construction activities must be stabilized. When appropriate, use native vegetation typical of the site. In addition, a General Construction Storm Water Permit from the Washington State Department of Ecology will be needed if the project is one acre or greater.
- 2. A **Mitigated Determination of Non-Significance (MDNS)** has been issued as part of the SEPA review and determination. An approved Conditional Use Permit, compliance with the required dairy Nutrient Management Plan, and compliance with the State Department of Agriculture's regulations is required for this permit.
- 3. The applicant shall comply with the State of Washington's requirements for Dairy operations including the implementation of a **Nutrient Management Plan (NMP)** for the operation. Nutrient management plans focus on water quality related issues. The applicant's current NMP for the dairy operation was completed for the current size of the operation. A copy shall be provided to the County to be placed in the CUP case file, if allowed per federal disclosure laws.
- 4. Any headcount expansion at the site shall comply with the applicable NMP in effect at the time of expansion.

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5. The Odor and Fly Control Guidelines adopted by County Resolution 2001-238 by the Board of County Commissioners states that an **Odor and Fly Control Plan** may be required as part of a Conditional Use Permit for animal operations. An Odor and Fly control Plan **is** required for this operation and expansion. The applicant is required to complete and submit an Odor and Fly Control plan by June 2022 (18 months from the date of CUP approval), which is consistent with the required NMP submittal.
 - a. To assist in being a good neighbor and encouraging positive neighbor relations, the applicant shall ensure the required Odor and Fly Control Plan discusses the following:
 - i. Field spraying of animal waste should only occur at times that will least impact surrounding neighbors. With this, spraying should not occur on weekends and on holidays when neighboring landowners may be spending an increased amount of time enjoying the outdoors; and
 - ii. Applicant should maintain an open door policy with surrounding land owners. Address neighbor issues to the best extent reasonably possible and in turn assist in eliminating nuisance issues to the best of applicants' ability.
6. The applicant shall, at all times, comply with the necessary Federal and State standards for dairy operations. This includes, but is not limited to the Washington State Department of Agriculture requirements for dairy operations.
7. **Approach permits** are required for any new approaches onto county roads.
8. New facilities such as barns, pen areas, and parlor expansion will need to be established as the headcount number increases. The applicant is required to comply with the requirements of the **County Building Division** regarding any new construction at the site. On Site Water for Fire Protection may be required upon completion of Building Department review of submittals and consultation with local Fire District in accordance with the International Fire Code (IFC).
9. The applicant must submit copies of Water Availability Notification form for proof of an approved potable water source and other information from WA State.
10. Before construction, applicant is required to conduct an archeological survey of the project in order to meet the requirements of the Department of Archaeology & Historic Preservation (DAHP).
11. The following **Fire Code** requirements shall be complied with: Prior to building permits being issued for the site, a fire apparatus lane shall be constructed to the site, a 20' clear area shall be provided around all buildings and the following setbacks are required for new construction on the property.

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- a. Setbacks: The following separation standards shall be required for all existing, new building(s)/structure(s) placed on this parcel:
 - i. Front yard setback: Twenty-five (25) feet from a road right-of way and/or a dedicated roadway/easement, and/or fifty-five (55) feet from the center line of such road right-of way and/or roadway/easement, whichever is greater.
 - ii. Rear yard setback: Twenty-five (25) feet.
 - iii. Side yard setback: Twenty (20) feet.
 - iv. Building separation standards will be determined at the time of building plan review. Typical separation standard is 60 feet.
 - b. Fire extinguishers shall be clearly marked.
12. Per Franklin County Ordinance Number 5-2007, as amended, prohibits the **accumulation of irrigation water on County Roads** in Franklin County. Compliance with this Ordinance is required for this operation.
 13. **Outdoor lighting** at the facility shall be shielded down. This will assist in ensuring the outdoor lighting will not become a nuisance to neighboring properties and will limit light pollution in the rural area.
 14. Any **discontinuance or abandonment** of the approved use (dairy operation) for a period of one (1) year shall null and void this CUP approval.
 15. The site shall be maintained at all times so as to not let the land become a fire hazard or accumulate with debris and weeds.
 16. Nothing in this CUP approval shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinances, or regulations applicable to this project.
 17. In accordance with the County's Zoning Ordinance, any special permit may be revoked by the Board of Commissioners if, after a public hearing, it is found that the conditions upon which the special permit was authorized have not been fulfilled or if the use authorized has changed in size, scope, nature or intensity so as to become a detriment to the surrounding area. The decision of the Board is final.
 18. This permit applies to the described lands and shall be for the above named individual and/or his heirs and/or assigns. Any transferring of this permit will require that notice be granted to the Franklin County Planning Department or the permit will be cancelled. It cannot be transferred to another site.
 19. Future expansions and improvements at the site shall comply with the submitted and approved site and building plans. To allow future flexibility for changes to the plans which are determined to be minor or incidental may be done administratively

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by the Planning Department. Major changes, which do not meet the intent of, or seriously re-align, the approved plans, shall be reviewed by the Planning Commission through a new Conditional Use Permit process prior to that change occurring.

20. By accepting the issuance of this permit, the Permit Holder(s) agree(s) to accept full responsibility for any and all operations conducted or negligence occurring at this location and any incidents that occur on surrounding properties caused by operations or negligence at this location; Permit Holder(s) further agree(s) to indemnify and hold the County harmless and agree that the County is in no way negligent in relation to granting this permit, or operations or negligence that occur at this location or on surrounding properties caused by operations or negligence on this property; Permit Holder(s) further agree(s) to accept full responsibility for any future cleanup needed due to activities conducted at this location that impact the surrounding properties, and obtaining and retaining appropriate insurance coverage.

This Conditional Use Permit is issued this 23rd day of March, 2021.

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

Chair

Chair Pro-Tem

Attest: _____
Clerk of the Board

Member

Original to County Commissioners

Duplicate to File

Duplicate to Applicant

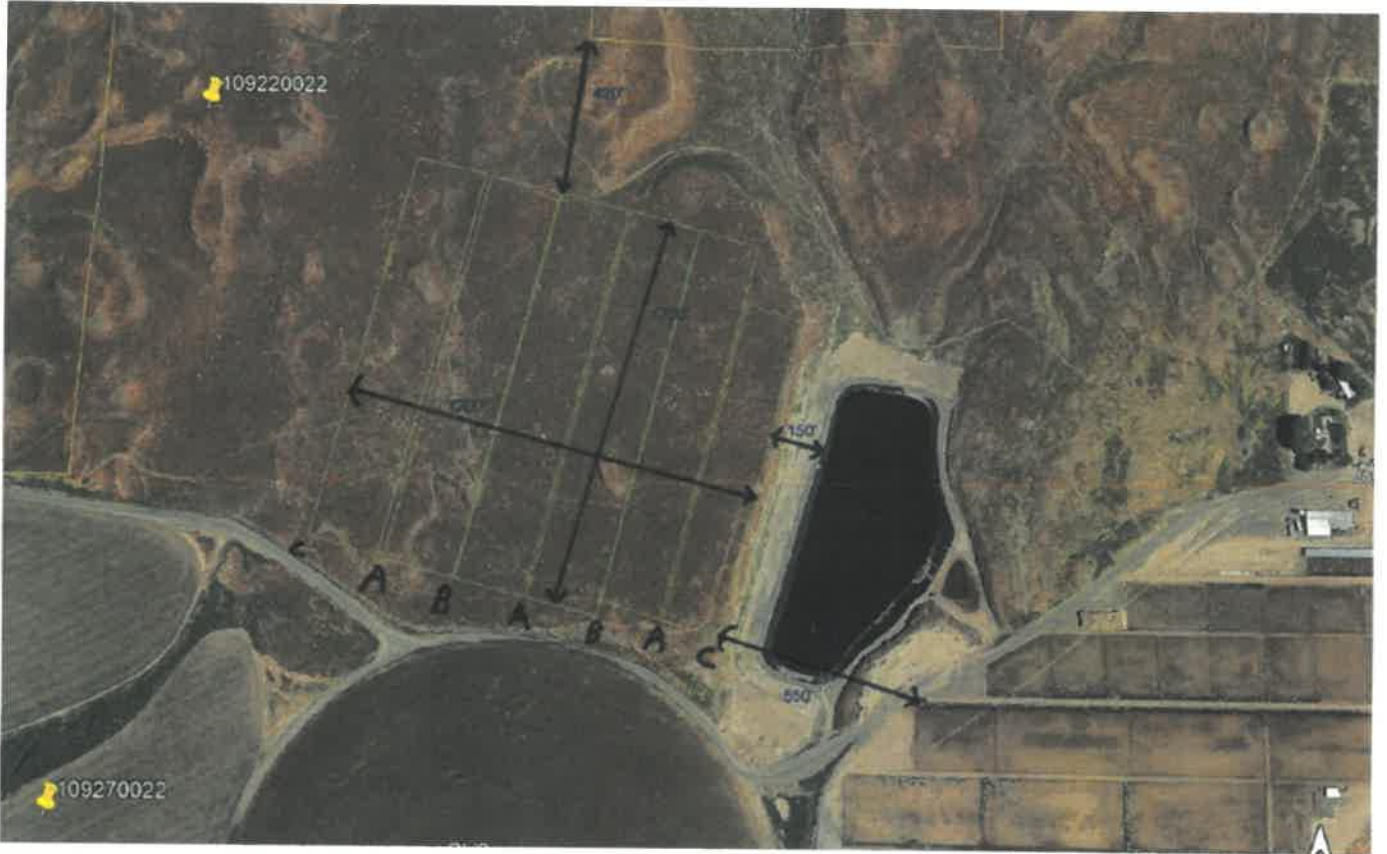
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EXHIBIT A: PROPOSED SITE PLAN



FACT SHEET/STAFF SUMMARY
Meeting before the Franklin County Board of County Commissioners

THIS IS A QUASI-JUDICIAL ACTION
PLEASE AVOID, AND DISCLOSE, ANY EX-PARTE COMMUNICATIONS (CH 42.36 RCW)

Case file: CUP 2020-04 (Conditional Use Permit) and SEPA 2020-11

PC Meeting Date: January 5, 2021

Open Record Hearing held before BoCC: March 16, 2021

See the staff report for the application details, description, explanation of public notice, etc.

BACKGROUND/APPLICATION SUMMARY:

This is a continuance, regarding the final decision of the BoCC after holding an open record hearing on March 16, 2021, regarding Conditional Use Permit application number CUP 2020-04, seeking to allow the expansion of an existing "dairy replacement growing facility" from its current head-count limit of 3,500 head to 10,000 head. At the hearing before the BoCC, based on oral testimony provided by the applicant, members of the public, and staff's analysis of the proposal, it appeared there was a discrepancy between the number of cows at the specific site under review, and how they related to the total number of cows on the entire property. As requested by the Board, Staff provides the following to clarify the record regarding the request.

The current number of cows permitted at the Coulee Heights Dairy is 8,200, plus 3,500, for a total of 11,700 head. 8,200 head may locate on any of the seven (7) specific properties owned by the applicant, except the two properties approved through CUP 2012-03, as no more than 3,500 head are allowed on parcels 109-220-022 & 109-270-022, the two properties under review for CUP 2020-04. If CUP 2020-04 is approved, the total number of cows permitted on the properties owned by the applicant would be 18,200 head. 10,000 head would be permitted to be located on the two parcels comprising approximately 634 acres, as requested through CUP 2020-04. 8,200 head would be permitted on any of the seven (7) properties, but would count against the total number permitted to be located on parcels 109-220-022 & 109-270-022.

CUP AND PROPERTY DEVELOPMENT HISTORY:

The "dairy replacement growing facility" is part of the Coulee Heights Dairy, located at 2270 Joyce Rd. Mesa, WA 99343. (Parcel Number 109-220-022 & 109-270-022). The site is located in Southwest 1/2 of Township 13, Range 32, Section 22 and Northwest 1/2 of Township 13, Range 31, Section 27, W.M., Franklin County Washington. It is approximately 2.58 miles northeast of the main office located on Pepiot Rd. The subject area is zoned Agricultural Production 20 (AP-20), with an Agricultural Comprehensive Plan Designation.

There is no Franklin County review, or permitting process, specific to this type of facility, with the closest being that used for a feed lot. As provided for in the application and SEPA Checklist, the Applicant is pursuing a CUP in order to build a new facility on the site to accommodate up to 6,500 cows. This information was clarified by the applicant to be a request to expand an existing

facility with 3,500 cows, permitted through CUP 2012-03, to a total of 10,000 head, on, or about, the day of the public hearing held on January 5, 2021 before the Franklin County Planning Commission.

When presented to the Planning Commission, the SEPA Lead Official had determined this proposal should be designated as a DNS. Due to the disparity in advertised information provided prior to the hearing, information provided during the public hearing, and because the hearing was arranged to only accept remote testimony (due to COVID-19 measures), staff re-circulated a public notice to clarify the cattle count and issued a SEPA revised MDNS (SEPA Register # 202101019) to allow additional public comment opportunity. No changes were made to the specific conditions the Planning Commission recommended, nor to the proposed number of conditions. **The final SEPA Determination for this proposal is an MDNS.**

The Coulee Heights Dairy properties have two existing conditional use permits (CUP) associated with its operations. CUP 2007-02 is the "parent" CUP for the commercial dairy operation. It applies to the entire approximately 3,200 acres (net) under ownership by the applicant, and permits a commercial dairy to be located on the site that exceeds 500 head, and allows for up to 8,200 cows, consisting of a mix of ages (4,300 milking cows, 900 dry cows, and up to 3,000 young cows (less than 2-years in age)), on the property(s). A master plan was submitted as part of the proposal, showing various barns, sheds, and other structures necessary to accommodate the proposed use, and providing for the feeding, sheltering, and processing needs of the cows at the facility.

CUP 2012-03 is the second conditional use permit issued for the facility. This CUP sought the creation of a "dairy replacement growing facility", and due to the fact there is no Franklin County process for specifically permitting this type of facility, the process for a feedlot was used, as this was the most analogous method available under Franklin County codes. The CUP was specific to two of the seven (7) properties owned by the applicant, making up approximately 634 acres (net) of the approximately 3,200 acres under ownership by the applicant. These properties are Parcel Numbers 109-220-022 & 109-270-022. The site is located in the Southwest 1/2 of Township 13, Range 32, Section 22 and Northwest 1/2 of Township 13, Range 31, Section 27, W.M., Franklin County Washington, approximately 2.58 miles northeast of the main office on Pepiot Rd.

CUP 2012-03 should have been processed as an amendment to the original CUP 2007-02, not as a separate CUP, as the proposed use is ancillary to the overall dairy operation. Based on a further review of the project site, history of the facility, and the existing CUPs, CUP 2020-04 should have been processed as the second amendment to the existing CUP 2007-02, again due to the fact that this proposal seeks an expansion of the existing dairy operation permitted through CUP 2007-02. By doing so, the actual head count for the entire facility would have been better tracked. However, whether processed as separate CUPs, or as amendments to an existing CUP, does not change the actual results on the ground, the conditions and mitigations proposed, or staff's recommendation.

Findings of Fact – Planning Commission: The Planning Commission (with assistance from Planning Staff) made and entered the following findings from the record, and conclusions thereof:

FINDINGS OF FACT:

1. The proposed use in the AP-20 Zoning District **IS** in accordance with goals and policies of the County Development Regulations (Zoning) and the applicable Comprehensive Plan.
 - a. The land is zoned Agricultural Production 20 (AP-20) and the Comprehensive Plan designation is Agricultural.
 - b. Pursuant to the Comprehensive Plan, the approval of a Conditional Use Permit is required for large scale confined animal feeding operations.
 - c. A dairy operation greater in size than 500 head count requires approval of a conditional use permit.
 - d. A feedlot operation greater in size than 1,000 requires the approval of a conditional use permit.
 - e. The comprehensive plan states that the county will encourage agricultural industries in agricultural areas (*Comprehensive Plan, Pg. 94-98*).
 - f. While there are critical areas mapped on the parcel and in the vicinity of the dairy operation, no critical areas or buffers will be impacted by this proposal due to the distances from the operation to the features.
2. The proposal **WILL NOT** adversely affect public infrastructure.
 - a. The dairy's access is from Pepiot Road and Joyce Road.
 - b. Public Works has determined that it is not anticipated that the use will have a significant impact on the County Road System.
 - c. The project is located in Farm Unit 8 of Irrigation Block 11, Columbia Basin Project and the Bureau of Reclamation currently has irrigation facilities on and/or near the proposed project site.
 - d. Surface water runoff resulting from construction activities can potentially enter Project facilities and adversely affect water quality. Storm water containment practices shall be followed to minimize or eliminate this risk.
3. The proposal **WILL BE** constructed, maintained, and operated to be in harmony with the existing or intended character of the general vicinity.

- a. The site location for the animal operation expansion is in an area zoned Agricultural Production 20 (AP-20);
 - b. The general area consists of farms, animal operations, and scattered single family homes;
 - c. The animal operation expansion is in harmony with and is compatible with the surrounding lands, including the existing and intended character of the agricultural area:
 - i. The animal operation and its expansion at this site is a compatible use with the Agricultural Production 20 (AP-20) Zoning District and the surrounding areas.
 - ii. The farm site is in an area zoned Agricultural Production 20 (AP-20).
 - iii. The farm site is not located near a Rural Settlement Area or a designated Urban Growth Boundary.
 - iv. Active farms and another animal operation is located near the proposed farm site.
 - v. The main dairy site is located over 3 miles from the nearest urban growth area.
 - i. This area has a minimum lot size of 20 acres and allows agricultural uses as a permitted use in this zoning classification.
 - ii. The residential area is designated in the County Comprehensive plan as Agricultural.
4. The location and height of the structure and site design **WILL NOT** discourage the development of permitted uses on property in the general vicinity or impair the value thereof.
- a. The farm site is located in an agricultural area that is not densely populated and the farm site is not located near a Rural Settlement Area or a designated Urban Growth Boundary.
 - b. Agricultural industry and animal operations are consistent with the uses allowed in agricultural areas.
 - c. The area is zoned Agricultural Production 20 (AP-20).
 - d. The height of future proposed structures and site design (as submitted) is in compliance with the AP-20 development standards. The dairy expansion will not discourage the development of permitted uses in the area.

- e. The implementation of a dairy Nutrient Management Plan will help address the potential for buildup of nitrates and nutrients in the soil.
 - f. The use of proper erosion and sediment control practices on the construction site and adjacent areas will prevent upland sediments from entering surface water.
5. The operation in connection with the proposal **WILL NOT** be more objectionable to nearby properties by reason of noise, fumes, vibrations, dust, traffic, or flashing lights than would be the operation of any permitted uses within the district.
- a. The area is zoned Agricultural Production 20 (AP-20) which allows for a wide range of agricultural activities and animal agricultural operations to occur.
 - b. The proposed animal agricultural activity and operation is not more objectionable than other permitted uses allowed in the area. A dairy facility does not create more noise, fumes, vibrations, dust, traffic, or flashing lights than other agricultural uses permitted in the AP-20 zoning district.
 - c. The dairy expansion is in harmony with and is compatible with the surrounding lands, including the existing and intended character of the agricultural area.
 - d. To further ensure its compatibility with the surrounding agricultural area and reduce potential impacts to neighbors, the dairy operation can implement mitigation measures and comply with a State of Washington Dairy Nutrient Management Plan as enforced by the State of Washington, comply with an Odor and Fly Control Plan, and shield all lights on the property.
6. The proposal **WILL NOT** endanger the public health, safety, or general welfare if located where proposed.
- a. The public was notified of this proposal in accordance with all guidelines and requirements, and the Planning Department received **NO COMMENTS** in favor of the proposal, and one comment was received expressing concerns regarding the impact the proposal will have on the availability of water for surrounding properties.
 - b. To protect water quality and health related issues, the applicant is required to comply with a State of Washington Dairy Nutrient Management Plan. The Nutrient Management Plan, as enforced by the Washington State Department of Agriculture has the following water quality objectives: "Preventing

discharge of contaminated waste water to streams, drainage ditches, or other surface waters from the facility; Preventing migration of contaminants from the facility to the underlying aquifer; Using facility nutrients to supply crop nutrient needs at rates and times tailored to reach realistic yield goals; Meeting the requirements of the Dairy Nutrient Management Act of 1998, the Clean Water Act”.

- c. The applicant currently has a Nutrient Management Plan for the existing dairy operation and dairy replacement growing facility. With the expansion, an updated Plan is required and shall be completed.
- d. Completion of an Odor and Fly Control Plan for the operation. This Plan will discuss numerous items including potential sources of odors and flies on the farm including methods to control and reduce odors and flies at the dairy site.
- e. A Mitigated Determination of Non-Significance (MDNS) has been issued as part of the SEPA review and determination. An approved Conditional Use Permit, compliance with the required Dairy Nutrient Management Plan, and compliance with the State Department of Agriculture’s regulations is required for this application.
- f. The project is located within Fire District #1, a rural district. Measures such as enhanced building separation standards and development of a fire apparatus road are necessary to ensure safety.

Conditions of Approval:

1. The project must include the use of proper erosion and sediment control practices on the construction site and adjacent areas to prevent upland sediments from entering surface water. Refer to the Stormwater Management Manual for Eastern Washington at http://www.ecy.wa.gov/programs/wq/stormwater/eastern_manual/manual.html. All ground disturbed by construction activities must be stabilized. When appropriate, use native vegetation typical of the site. In addition, a General Construction Storm Water Permit from the Washington State Department of Ecology will be needed if the project is one acre or greater.
2. A **Mitigated Determination of Non-Significance (MDNS)** has been issued as part of the SEPA review and determination. An approved Conditional Use Permit, compliance with the required dairy Nutrient Management Plan, and compliance with the State Department of Agriculture’s regulations is required for this permit.
3. The applicant shall comply with the State of Washington’s requirements for Dairy operations including the implementation of a **Nutrient Management Plan (NMP)**

for the operation. Nutrient management plans focus on water quality related issues. The applicant's current NMP for the dairy operation was completed for the current size of the operation. A copy shall be provided to the County to be placed in the CUP case file, if allowed per federal disclosure laws.

4. Any headcount expansion at the site shall comply with the applicable NMP in effect at the time of expansion.
5. The Odor and Fly Control Guidelines adopted by County Resolution 2001-238 by the Board of County Commissioners states that an **Odor and Fly Control Plan** may be required as part of a Conditional Use Permit for animal operations. An Odor and Fly control Plan **is** required for this operation and expansion. The applicant is required to complete and submit an Odor and Fly Control plan by June 2022 (18 months from the date of CUP approval), which is consistent with the required NMP submittal.
 - a. To assist in being a good neighbor and encouraging positive neighbor relations, the applicant shall ensure the required Odor and Fly Control Plan discusses the following:
 - i. Field spraying of animal waste should only occur at times that will least impact surrounding neighbors. With this, spraying should not occur on weekends and on holidays when neighboring landowners may be spending an increased amount of time enjoying the outdoors; and
 - ii. Applicant should maintain an open door policy with surrounding land owners. Address neighbor issues to the best extent reasonably possible and in turn assist in eliminating nuisance issues to the best of applicants' ability.
6. The applicant shall, at all times, comply with the necessary Federal and State standards for dairy operations. This includes, but is not limited to the Washington State Department of Agriculture requirements for dairy operations.
7. **Approach permits** are required for any new approaches onto county roads.
8. New facilities such as barns, pen areas, and parlor expansion will need to be established as the headcount number increases. The applicant is required to comply with the requirements of the **County Building Division** regarding any new construction at the site. On Site Water for Fire Protection may be required upon completion of Building Department review of submittals and consultation with local Fire District in accordance with the International Fire Code (IFC).
9. The applicant must submit copies of Water Availability Notification form for proof of an approved potable water source and other information from WA State.

10. Before construction, applicant is required to conduct an archeological survey of the project in order to meet the requirements of the Department of Archaeology & Historic Preservation (DAHP).
11. The following **Fire Code** requirements shall be complied with: Prior to building permits being issued for the site, a fire apparatus lane shall be constructed to the site, a 20' clear area shall be provided around all buildings and the following setbacks are required for new construction on the property.
 - a. Setbacks: The following separation standards shall be required for all existing, new building(s)/structure(s) placed on this parcel:
 - i. Front yard setback: Twenty-five (25) feet from a road right-of way and/or a dedicated roadway/easement, and/or fifty-five (55) feet from the center line of such road right-of way and/or roadway/easement, whichever is greater.
 - ii. Rear yard setback: Twenty-five (25) feet.
 - iii. Side yard setback: Twenty (20) feet.
 - iv. Building separation standards will be determined at the time of building plan review. Typical separation standard is 60 feet.
 - b. Fire extinguishers shall be clearly marked.
12. Per Franklin County Ordinance Number 5-2007, as amended, prohibits the **accumulation of irrigation water on County Roads** in Franklin County. Compliance with this Ordinance is required for this operation.
13. **Outdoor lighting** at the facility shall be shielded down. This will assist in ensuring the outdoor lighting will not become a nuisance to neighboring properties and will limit light pollution in the rural area.
14. Any **discontinuance or abandonment** of the approved use (dairy operation) for a period of one (1) year shall null and void this CUP approval.
15. The site shall be maintained at all times so as to not let the land become a fire hazard or accumulate with debris and weeds.
16. Nothing in this CUP approval shall be construed as excusing the applicant from compliance with any federal, state, or local statutes, ordinances, or regulations applicable to this project.
17. In accordance with the County's Zoning Ordinance, any special permit may be revoked by the Board of Commissioners if, after a public hearing, it is found that the conditions upon which the special permit was authorized have not been fulfilled or

if the use authorized has changed in size, scope, nature or intensity so as to become a detriment to the surrounding area. The decision of the Board is final.

18. This permit applies to the described lands and shall be for the above named individual and/or his heirs and/or assigns. Any transferring of this permit will require that notice be granted to the Franklin County Planning Department or the permit will be cancelled. It cannot be transferred to another site.
19. Future expansions and improvements at the site shall comply with the submitted and approved site and building plans. To allow future flexibility for changes to the plans which are determined to be minor or incidental may be done administratively by the Planning Department. Major changes, which do not meet the intent of, or seriously re-align, the approved plans, shall be reviewed by the Planning Commission through a new Conditional Use Permit process prior to that change occurring.
20. By accepting the issuance of this permit, the Permit Holder(s) agree(s) to accept full responsibility for any and all operations conducted or negligence occurring at this location and any incidents that occur on surrounding properties caused by operations or negligence at this location; Permit Holder(s) further agree(s) to indemnify and hold the County harmless and agree that the County is in no way negligent in relation to granting this permit, or operations or negligence that occur at this location or on surrounding properties caused by operations or negligence on this property; Permit Holder(s) further agree(s) to accept full responsibility for any future cleanup needed due to activities conducted at this location that impact the surrounding properties, and obtaining and retaining appropriate insurance coverage.