

# BOARD OF YAKIMA COUNTY COMMISSIONERS

## ORDINANCE 1-2019

### IN THE MATTER OF AMENDING THE OFFICIAL ZONING MAP OF YAKIMA COUNTY ESTABLISHED BY YCC TITLE 19.10.20

**WHEREAS**, Tom Durant of PLSA Engineering and Surveying on behalf of Brian Sali submitted a minor rezone application (File Nos. ZON2018-00008 and SEP2018-00045) on September 10, 2018 to rezone one parcel (Parcel No. 191334-13421), totaling 1.57 acres, from Rural – 10/5 (R-10/5) to Highway/Tourist Commercial (HTC) pursuant to YCC 19.34.020; and,

**WHEREAS**, in accordance with YCC 16.04 (State Environmental Policy Act), the Yakima County SEPA Responsible Official issued a Determination of Non-Significance (DNS) on October 31, 2018 after conducting an environmental review on the proposed action to approve the application; and,

**WHEREAS**, in accordance with the procedural provisions in YCC 19 and YCC 16B, the Yakima County Administrative Official provided notices of the application and the open record public hearing, and requesting comments thereon; and,

**WHEREAS**, in further compliance with the provisions of YCC 19 and YCC 16B, the Yakima County Hearing Examiner conducted an open record public hearing on the application on November 29, 2018, followed by the issuance of his recommendation on December 13, 2018 to APPROVE the requested rezone; and,

**WHEREAS**, after providing public notices in accordance with YCC 16B, the Board conducted a closed record public hearing on January 29, 2019 to act on the Hearing Examiner's recommendation in accordance with YCC 16B.03.030(1)(d); and,

**WHEREAS**, after closing the hearing, the Board deliberated and determined that the requested rezone should be approved by the Hearing Examiner; now, therefore,

**BE IT HEREBY ORDAINED** by the Board of County Commissioners of Yakima County, Washington that:

**Section 1. Findings.** The Board hereby makes the following findings:

- A. Findings, Conclusions, and Recommendation of the Hearing Examiner. The Board hereby adopts the Hearing Examiner's Recommendation dated December 13, 2018, including its Findings and Conclusions, attached hereto as Attachment A.

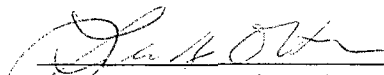
**Section 2. Yakima Title 19 Official Zoning Map Amendment.** The official zoning map, as adopted by YCC 19.10.020 and subsequently amended, is hereby further amended by rezoning

the "Subject Property" depicted on the map attached hereto as Attachment B, from Rural 10/5 to Highway/Tourist Commercial.

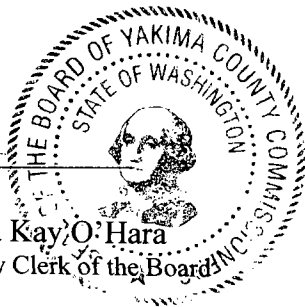
**Section 3. Severability.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.


**Section 4. Effective Date.** This ordinance shall be effective immediately.

**DONE** this 12<sup>th</sup> day of February 2019.


  
Attest: Rachel Michael  
Clerk of the Board

Linda Kay O'Hara  
Deputy Clerk of the Board



  
Michael D. Leita, Chairman

  
Norm Childress, Commissioner

  
Ron Anderson, Commissioner  
*Constituting the Board of County Commissioners  
for Yakima County, Washington*

Attachments to Ordinance:

Attachment A: *Hearing Examiner's Recommendation*, dated December 13, 2018.

Attachment B: *Map of Subject Property* (depicting the parcels hereby rezoned from R-10/5 to HTC

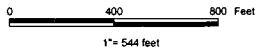
# Attachment B Sali Rezone

ZON2018-00008  
SEP2018-00045

Theme1.shp  
 Parcel Hereby Rezoned from R-10/5 to HTC  
 Tax Lots Text  
 Text  
 Cities  
 Moxee



Parcel Lot lines are for visual display only. Do not use for legal purposes.



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

**December 13, 2018**

<b>In the Matter of an Application</b>	)	
<b>For a Rezone Submitted by:</b>	)	
	)	
<b>Brian Sali</b>	)	<b>ZON2018-00008</b>
	)	<b>SEP2018-00045</b>
<b>To Rezone a 1.57-Acre Parcel at</b>	)	
<b>2003 Birchfield Road from the</b>	)	
<b>R-10/5 Zone to the HTC Zone</b>	)	

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

(1) The Hearing Examiner conducted an open record public hearing regarding this application on November 29, 2018.

(2) The thorough staff report prepared and presented by Yakima County Project Planner Jacob Clay recommended approval of this application which was supported by a detailed narrative addressing the rezone criteria.

(3) The applicant/property owner's representative for this application, Thomas Durant of PLSA Engineering & Surveying, and applicant/property owner, Brian Sali, testified in favor of the rezone application.

(4) No written comments were submitted by members of the public regarding the requested rezone.

(5) This recommendation has been issued within 10 business days of the open record public hearing.

**B. Summary of Recommendation.** The Hearing Examiner recommends that the Board of Yakima County Commissioners approve the requested rezone of the parcel at 2003 Birchfield Road from the Rural-10/5 (R-10/5) zoning district to the Highway/Tourist Commercial (HTC) zoning district as recommended by Project Planner Jacob Clay.

**C. Basis for Recommendation.** Based upon a view of the site without anyone else present on November 25, 2018; the information contained in the staff report, the application, the exhibits, the testimony and the other evidence presented at the open record public hearing on November 29, 2018; and a review of the applicable 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**

**I. Applicant / Property Owner / Representative.** The applicant/property owner is Brian Sali, 5202 Cayuse Lane, Yakima, Washington 98901. The representative of the applicant/property owner for this matter is Thomas Durant of PLSA Engineering & Surveying, 521 North 20<sup>th</sup> Avenue, Suite 3, Yakima, Washington 98902.

**II. Location.** The subject 1.57-acre parcel is located at 2003 Birchfield Road on the east side of the road approximately 400 feet south of the intersection of Birchfield Road and State Route Highway 24 and approximately 460 feet southwest of the city limits of the City of Moxee. The parcel number is 191334-13421.

**III. Application.** The main aspects of the requested rezone may be summarized as follows:

(1) This minor rezone application was submitted by PLSA Engineering & Surveying on behalf of Brian Sali on September 10, 2018. It was deemed complete for processing on October 4, 2018. The application requests an amendment to the official zoning map established by the Yakima County Unified Land Development Code (Yakima County Code Title 19) to change the zoning of the subject 1.57-acre parcel from the Rural-10/5 (R-10/5) zoning district to the Highway/Tourist Commercial (HTC) zoning district.

(2) Since neither the approval of a new structure nor the approval of a specific use is requested with this application, it is a non-project rezone application. Since the rezone request is site-specific and does not depend upon a Comprehensive Plan or Sub-Area Plan amendment because the requested HTC zoning district is consistent with the underlying Comprehensive Plan land use designation, it is a minor rezone which may be processed at any time under Type 4 review pursuant to YCC §16B.03.030.

(3) The applicant's narrative indicates that the purpose of this rezone is to allow for the development of the site consistent with that of the neighboring 2.4-acre parcel to the north that is now zoned HTC. Potential land uses being considered for the parcel include a traveler-oriented specialty fishing rod retail use and a pub featuring local micro-brews (not a brewery, as the term is defined by the County Code, since beverages would not be produced on the site). The retail fishing rod use, which would include assembly of specialty rods on the site in addition to their retail sale, is permitted as a Type 1 use in the HTR zoning district and is not permitted in the R-10/5 zoning district. Since the business could become an attraction for fishing enthusiasts, related "fishing services" likely consisting of licensed professional guides could also be provided. These uses would not be allowed in the current R-10/5 zoning district. The existing house on the site would be incorporated into the project design to provide rural character and aesthetic appeal to the business.

(4) A single-family dwelling and a large shop are located on the subject parcel. The subject parcel is not located within an Urban Growth Area. The 2.4-acre parcel to the north is within the HTC zoning district and is currently vacant. The 21.03-acre parcel to the northwest is within the Light Industrial (M-1) zoning district and is in agriculture production. The parcels to the west, south and east are within the Rural-10/5 zoning district and are in agriculture production and contain single-family dwellings. These parcels range in size from 1.00 acre to 16.09 acres.

**IV. Jurisdiction.** The jurisdictional aspects of this rezone application may be summarized as follows:

(1) YCC §19.36.030 entitled “Minor Rezone – Map Amendment” states that rezone applications consistent with Table 19.36-1 and not dependent upon a Comprehensive Plan or Sub-Area Plan amendment shall be considered minor rezones. These quasi-judicial actions, when site-specific, may be processed at any time under Type 4 review pursuant to YCC Section 16B.03.030.

(2) According to YCC Table 19.36-1 entitled Zoning District Consistency with Comprehensive Plan Future Land Use Designations, the requested HTC zoning district is consistent with, and may implement, the current Comprehensive Plan – *Horizon 2040* Rural Self-Sufficient land use designation of the subject parcel. The review process will consider those sections of Title 19 that control the direction and requirements for considering approval of this application.

(3) The Yakima County Hearing Examiner has conducted an open record public hearing and has prepared this recommendation for consideration by the Board of Yakima County Commissioners at a closed record public hearing that will result in a decision by that Board. The records of both public hearings are open to public inspection in accordance with YCC Title 16B.

**V. Notices.** Notices of the November 29, 2018, open record public hearing were provided in accordance with applicable ordinance requirements in the following manners:

Mailing of notice of public hearing to property owners:	October 31, 2018
Publishing of notice of public hearing in the newspaper:	October 31, 2018
Posting of notice of public hearing on the property:	November 12, 2018

**VI. State Environmental Policy Act.** A Determination of Non-Significance (DNS) was issued for this minor rezone application on October 31, 2018, under file number SEP2018-00045. YCC §16B.03.030(4) does not allow any administrative appeals of threshold

determinations for Type 4 applications such as minor rezone applications.

**VII. Comprehensive Plan, Zoning and Land Uses.** The Zoning, Comprehensive Plan and Land Use characteristics of the subject property and of properties in the vicinity are as follows:

<u>Direction</u>	<u>Zoning</u>	<u>Comprehensive Plan</u>	<u>Land Use</u>
Subject Parcel 191334-13421	R-10/5	Rural Self-Sufficient	Residential
North 191334-12403	HTC	Rural Self-Sufficient	Vacant
Northeast 191334-21002	M-1	Urban Industrial	Ag Production
West 191334-24001	R-10/5	Rural Self-Sufficient	Ag Production
South 191334-13421	R-10/5	Rural Self-Sufficient	Residential
Southeast 191334-13417	R-10/5	Rural Self-Sufficient	Residential/ Ag Production

**VIII. Written Comments.** The five written comments submitted relative to this application which are Attachments D and E to Mr. Clay's staff report may be summarized as follows:

(1) Washington State Department of Transportation (WSDOT): This comment letter received on October 26, 2018, outside of the comment period does not describe any WSDOT requirements applicable to the rezone decision, but provides the following information pertinent to future development of the subject parcel:

(a) The property is within 400 feet of State Route 24 (SR 24). SR 24 is a Partially Controlled Limited Access highway with a posted speed limit of 55 miles per hour. There are concerns for maintaining the intersection level of service with high



volume left turn movements from SR 24 onto Birchfield Road at peak traffic volumes during the morning (6 a.m. to 8 a.m.) and the afternoon (4 p.m. to 6 p.m.).

(b) The subject parcel has access via Birchfield Road in an existing driveway location approximately 430 feet of SR 24.

(c) SR 24 is an existing facility. Proponents should be aware that they are proposing development in an area with traffic noise. They should also expect that traffic noise may continue to grow into the future.

(d) Future development will be subject to review for impacts to the state highway system.

(2) Water Resources Division of Yakima County Public Services: This comment described the following requirements of future development which necessitates consulting with the Water Resources Division for additional information prior to future development:

(a) Stormwater must be retained on site.

(b) 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.

(c) A Washington State Department of Ecology Industrial Stormwater Permit and Construction Stormwater Permit may be required depending on the type and size of future development. A stormwater plan with supporting documentation may be required for the proposed development on this and the adjacent parcel.

(3) Transportation Division of Yakima County Public Services: Yakima County Transportation has no record of a Road Approach Permit (RAP) for parcel 191334-13421. Per YCC §10.08.020, YCC §19.10.040 (3) and RCW 36.75.130 the applicant shall obtain a RAP from the Yakima County Transportation Division for all existing accesses to the county roadway system. The fact that the road approach application is in conjunction with a ZON [minor rezone request] must be disclosed by the applicant at the time of application. No future building permits can be issued without the completion and approval of a RAP.

(4) Long Range Section of the Planning Division of Yakima County Public Services: The Long Range Section of the Planning Division concurs with the findings in the staff report to the effect that the proposal appears to be consistent with a request for a minor rezone and that the proposed use will be consistent with the HTC zone if the rezone is approved so long as all applicable regulations and conditions are met and complied with.

(5) Yakima Health District: The Yakima Health District has no objections to this

rezone. If and when the property is developed for retail, an approved community water supply will be required (likely a Group A Community Water System); the septic system will need to be evaluated for capacity for the new use(s) and modified if needed; and a food & beverage permit may be needed depending on the use of the site.

**IX. Rezone Review Criteria.** YCC §19.36.030(5) provides that the Hearing Examiner shall issue a written recommendation to approve, approve with conditions or deny proposed minor rezones based upon the following considerations:

**(1) The testimony at the public hearing:** All of the testimony at the open record public hearing which was presented by Project Planner Jacob Clay, by the applicant's representative Thomas Durant and by the applicant Brian Sali was in favor of the requested rezone.

**(2) The suitability of the property in question for uses permitted under the proposed zoning:** Factors that relate to the suitability of the property in question for the proposed HTC zoning include the following:

(a) The subject parcel is flat with good visibility from the signalized intersection of Birchfield Road with SR 24 located about 400 feet north of the parcel. Location of the subject parcel near the signalized intersection would provide direct access to and from the State Highway and would minimize traffic on rural roads. Despite the proximity of the parcel to SR 24, the letter from the Washington State Department of Transportation states that the existing driveway for the parcel is located outside of the "Partially Controlled Limited Access" portion of Birchfield Road.

(b) Surrounding land zoned for industrial uses could have a larger impact on agricultural production taking place on nearby properties than a rezone of the subject parcel to Highway/Tourist Commercial (HTC) zoning district. Measures such as additional sitescreening can be taken to reduce any impacts of HTC uses on the residential parcel to the south.

(c) All necessary public services such as police, fire and water services are available for HTC uses on the parcel, and on-site sewage disposal can be provided for the HTC uses if needed.

(d) The subject parcel is suitable for uses which are allowed as outright permitted Type 1 uses in the HTC zoning district. Those Type 1 uses permitted outright in the proposed HTC zoning district which are not also Type 1 uses permitted outright in the existing Rural-10/5 zoning district or that have a higher standard of review in the existing Rural-10/5 zoning district than in the proposed HTC zoning district are as follows: Agricultural market; Bowling alleys; Sporting goods, Retail; Stockpiling of earthen materials not within FEMA Flood Plain; Dwelling for occupancy by guards, watchmen, caretakers or owners of non-residential permitted use; Antique store; Bakery, butcher shop, delicatessen, specialty food store; Beauty and barber shops; Boarding or lodging house; Car wash, detailing; Convenience store; Drive-through food, espresso/coffee and beverage vendor; Mobile food vendor located on a site longer than four hours within a 24 hour period; Espresso/coffee stand; Financial institutions; Florist; Gift shop, souvenirs, coins, stamps, toys, hobby store; Jewelry, watches, silverware; Laundries, laundromats and dry cleaners; Overnight lodging facilities; Parking lots and garages accessory to another allowed use; Parts and accessories (tires, batteries, etc.); Printing, photocopy service; Rental agencies: Auto, truck, trailer, fleet leasing services; Roller skating or ice skating rink; Service station, automotive; Towing services; Transportation brokerage offices, without truck parking; and Mini-storage.

(e) Those Type 2 and Type 3 uses in the proposed HTC zoning district which have a less stringent standard of review in that zoning district than is required in the existing R-10/5 zoning district or which are not permitted under any standard of review in the existing R-10/5 zoning district would be subject to administrative or public hearing procedures to ensure suitability of the subject parcel for such uses. YCC Table 19.14-1 in YCC Chapter 19.14 lists all of the land uses that may be permitted under the three prescribed standards of review based on their potential impact to the parcel and surrounding properties. Attachment F to Mr. Clay's staff report which compares the uses permitted under the three prescribed Type 1, Type 2 and Type 3 standards of review in the existing Rural-10/5 (R-10/5) zoning district with the uses permitted under those three prescribed standards of review in the

proposed Highway/Tourist Commercial (HTC) zoning district is incorporated herein by this reference.

**(3) The recommendation from interested agencies and departments:** The only recommendation from interested agencies and departments was the recommendation of Yakima County Public Services, Planning Division, in favor of the proposed rezone.

**(4) The extent to which the proposed rezone is in compliance with and/or deviates from the goals and policies adopted in Comprehensive Plans and neighborhood plans and the intent of the zoning ordinance:** The proposed rezone would comply with the goals and policies of the Yakima County Comprehensive Plan – *Horizon 2040*, as well as with the intent of the zoning ordinance, in the following ways:

(a) The proposed rezone would comply with the following goals and policies of the Comprehensive Plan:

- Goal ED 1: Promote economic growth while maintaining environmental quality.
- Policy ED 1.2: Encourage economic opportunities that strengthen and diversify the County's economy while maintaining the integrity of the natural environment.
- Goal ED 2: Encourage economic growth within the capacity of the region's public services and public facilities.
- Policy ED 2.4: Through planning, zoning and infrastructure investments, encourage commercial and industrial development to locate in concentrations to promote the most efficient use of land, utilities, and transportation facilities in the concentrated area.
- Policy ED 2.5: Sites to be designated for industrial or commercial development should be capable of being served by required utilities and other services on a cost-effective basis and at a level appropriate to the uses of the area.
- Goal ED 3: Ensure an adequate supply of commercial and industrial sites to provide opportunity for new and expanding firms wishing to locate or remain in Yakima County.

- Policy ED 3.15: Existing rural commercial and industrial areas outside of urban growth boundaries should not be expanded except for fill-in development, and where possible, should be upgraded, improving appearance, safety and neighborhood compatibility.
- Goal ED 5: Expand the County's tourism and recreation-related economy.
- Policy ED 5.3: Maintain tourist commercial zoning to promote and enhance the recreation and tourism industries and prevent intrusion of incompatible uses which would disrupt or directly compete with shopping areas of nearby communities.
- Policy ED 5.4: Allow highway commercial zoning to serve the needs of the traveling public at selected limited access highway interchange areas if they satisfy the following criteria:
  - The uses do not conflict with adjacent city business areas;
  - Adjacent land uses are buffered from the commercial area;
  - The site is not designated as an agricultural, forest or mineral resource area, and resource lands are not materially affected by the use;
  - The operation and effectiveness of the interchange is not impacted by the commercial use; and
  - If outside an urban growth area, the uses can be accommodated without the extension of urban level services to the site.
- Policy YKLU-U 8.1: Commercial uses and developments should be designed to be compatible with surrounding land uses, especially to avoid encroachment into residential areas.
- Policy YKLU-U 8.5: Ensure compatibility between commercial structures and adjoining residential uses. Require commercial structures to use building scale, roof style, and building materials similar to, or compatible with, the adjoining residential structures.
- Policy YKLU-U 8.6: Commercial uses adjacent to residential areas should use effective landscape buffers with living plant vegetation such as evergreen trees, bushes, open space or other design controls to minimize noise, glare, and other impacts associated with commercial land use to ensure that their location will not adversely affect the residential areas.

- Policy YKLU-U 8.7: Parking lots for commercial land uses that are adjacent to residential housing should be screened from the view of residents using vegetation, fences, berms or other screening devices.

(b) The Yakima County Comprehensive Plan – *Horizon 2040* states that the intent of the applicable Rural Self-Sufficient land use designation is to implement Growth Management Act Planning Goals related to reducing sprawl, protecting the environment and providing adequate facilities and services commensurate with the density of development and that the Rural Self-Sufficient category provides a broad choice of areas within rural Yakima County where an independent and private life-style can be sustained on acreage homesites.

(c) YCC §19.13.020(1)(d) states that the Highway/Tourist Commercial zoning district is both an urban and rural district and that the intent, uses and development standards for the district are prescribed by YCC §19.11.040. YCC §19.11.040(1)(b) states that the HTC district provides areas for commercial establishments that offer accommodations, supplies, services or recreational opportunities to the traveling public; that this district is also intended to provide appropriate space and, in particular, sufficient depth from the street to satisfy the needs of modern commercial development where access depends on motor vehicles; that this district is also intended to encourage developing the HTC areas with such uses and in such a manner as to minimize traffic hazards and interference from highway oriented businesses; that this district is further intended to permit only those uses that promote and enhance the recreation and tourism industry; that this district is also intended to prevent the intrusion of incompatible, non-tourist uses that would be overly disruptive or would directly compete with shopping areas of nearby communities; that this district shall only be located at freeway interchanges, along or at the intersections of state highways or recognized tourist routes and the approaches thereto; and that this district may be located inside or outside of Urban Growth Areas.

(d) YCC Table 19.36-1 relative to the consistency of zoning districts with the Comprehensive Plan – *Horizon 2040* provides that the proposed HTC zoning district is consistent with the Comprehensive Plan Rural Self-Sufficient land use designation. The proposed HTC zoning district complies with the Economic Development and Land Use goals and policies of the Comprehensive Plan. The location of the parcel at the intersection of a state highway will help provide establishments that offer supplies, services and recreational opportunities to the traveling public in compliance with the

intent of the HTC zoning district. The requested rezone will in general, overall terms comply with the intent of the zoning ordinance so long as all of the considerations enumerated in YCC §19.36.030(5) discussed in this Recommendation warrant approval of the rezone.

**(5) The adequacy of public facilities such as roads, sewer, water and other required public services:** The subject parcel is served by Birchfield Road adjacent to the west side of the parcel and State Route 24 about 400 feet north of the parcel. Both are hard-surfaced roadways and the intersection of the roadways is signalized. Since the parcel is outside the Urban Growth Area of Yakima and Moxee, it must be served by an individual or public water supply and an individual septic system. There is sufficient space on the parcel for domestic on-site sewage disposal. Domestic water is available from an existing on-site well. Other public services such as police and fire protection are available for the parcel. Therefore, public facilities are or would be adequate for HTC uses on the subject parcel.

**(6) The compatibility of the proposed zone change and associated uses with neighboring land uses:** The proposed zone change and associated HTC uses on the subject parcel would be compatible with neighboring land uses for the following reasons:

(a) The HTC zoning district Type 1 permitted uses described in Subsection IX(2)(d) above would be compatible with neighboring land uses that would be permitted within the HTC zoning district to the north and within the M-1 light industrial zoning district to the northwest, as well as with the commercial Birchfield Manor restaurant use to the southwest. The rezone is being requested because the retail sale of sporting goods allowed as a Type 1 use in the HTC zoning district is not allowed as any type of use in the R-10/5 zoning district. That and other permitted HTC uses would likewise be compatible with residential uses to the south and east of the subject parcel because the homes are mainly located at the front of deep lots that are typically used as pasture and structures for keeping horses in the rear closest to the subject parcel. Agricultural uses to the east and west of the subject parcel would not be affected by Type 1 permitted HTC uses. The only nearby residence, which is about

40 feet from the south boundary of the subject parcel, could be protected by HTC uses on the subject parcel by means of additional sitescreeing and landscaping if necessary.

(b) The applicant intends to apply for a sporting goods retail use and possibly a local micro-brew retail use in the future that would not be likely to have an adverse impact on neighboring land uses. The other Type 1 uses allowed in the HTC zoning district likewise would not likely have an adverse impact on neighboring land uses. Even though some of the HTC Type 2 or Type 3 uses could possibly have some potential impact upon current or future neighboring land uses, consideration of an application for a Type 2 land use requires public comments to be considered in the process, and consideration of an application for a Type 3 land use requires an open record public hearing to be conducted where public comments are considered by the Hearing Examiner. Any impacts upon neighboring land uses associated with any future proposal for an HTC use on the subject parcel would be reviewed through the applicable Type 1, Type 2 or Type 3 review process.

**(7) The public need for the proposed change. Public need shall mean that a valid public purpose, for which the Comprehensive Plan and Title 19 YCC have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum, document:**

- i. Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate; and,**
- ii. Whether the timing is appropriate to provide additional land for a particular use;**

(a) The parcel is appropriate for a rezone to the HTC zoning district because it is located near a signalized intersection of State Route Highway 24 which is a primary route for travelers from Yakima to the Columbia River, to other recreational areas in the Columbia Basin and to wineries. The applicant believes that there is a local demand for specialty fishing equipment sales and submitted an email from Wayne and Diana Anderson dated November 28, 2018, as Exhibit 10 in the record which confirms a possible opportunity to establish a fishing rod shop on the parcel with the help of North Fork Custom Rods. The outdoor recreational nature of that type of HTC use makes a highway location appropriate because it will attract travelers and sports



enthusiasts who may be on their way to recreational destinations. Other major intersections in the area are zoned industrial and are within the 100-year floodplain.

(b) Regardless of the intended HTC use for the subject parcel, HTC zoning is scarce in this part of the county. There are only two parcels that total 3.49 acres in the HTC zoning district along State Route 24 between Interstate 82 and State Route 241, a stretch of 30 miles. One parcel has an established gas station and convenience store. The other parcel is vacant at this time. State Route 24 is one of the primary access routes to the Columbia Basin and to the Hanford Site. The route is also used to access the wine tourism destinations east of Interstate 82 and over Konnowac Pass. The HTC zoning district was established to provide safe and convenient access to and from the highway system for necessary conveniences to the traveling public.

(c) The timing of this proposal is appropriate due to the lack of adequate Highway/Tourist Commercial facilities along this corridor. State Route 24 will continue to be improved and the population east of Interstate 82 will continue to grow, as will tourist activities in the area.

**(8) Whether substantial changes in circumstances exist to warrant an amendment to the current zone:** The substantial changes in circumstances that warrant an amendment to the current zoning may be summarized as follows:

(a) Changes in circumstances that warrant approval of this rezone request to the Highway/Tourist Commercial zoning district include the change of zoning of property to the north to industrial; additional travelers on Highway 24 due to the widening of the Highway 24 from Interstate 82 to Riverside Road; construction of a new bridge across the Yakima River; the improvement of University Parkway from Terrace Heights; substantial population and employment growth in the City of Moxee; the improvement of the Birchfield Road intersection; and access to wine growing areas by way of Konnowac Pass.

(b) In addition to agreement with the above changes in circumstances listed by the applicant, Yakima County Planning Division staff believe that with the past and future improvements to State Route 24, the traffic along this corridor will increase and

more HTC zoning will be needed to accommodate, supply, service or offer recreational opportunities to the traveling public.

**X. The Consistency of the Rezone with Development Regulations and with the Comprehensive Plan under the Criteria set forth in YCC §16B.06.020** is to be determined by a consideration of the following factors:

**(1) The types of land uses permitted at the site** would include the types of uses allowed within the HTC zoning district.

**(2) The density of residential development or the level of development such as units per acre or other measures of density** would not be affected by the requested non-project rezone since no development is being permitted by the rezone, and any future development would have to comply with HTC zone density requirements or with applicable administrative adjustment criteria.

**(3) The availability and adequacy of infrastructure and public facilities** is not an issue because no new uses are being permitted by the requested rezone.

**(4) The characteristics of any future development** will have to be consistent with the requirements of the HTC zoning district or satisfy the criteria for adjustment of them.

## **CONCLUSIONS**

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

(1) The Hearing Examiner has jurisdiction to make a recommendation to the Board of Yakima County Commissioners regarding this minor rezone application.

(2) The notice requirements for the open record public hearing regarding this application have been satisfied.


(3) The requested minor rezone to the Highway/Tourist Commercial (HTC) zoning district would allow the property owner to apply for uses under consideration and other uses permitted in that zoning district. Any impacts associated with a future proposal will be evaluated through the associated land use review process.

(4) The proposed rezone from the Rural-10/5 (R-10/5) zoning district to the Highway/Tourist Commercial (HTC) zoning district would satisfy the requirements for a rezone set forth in YCC §19.36.030(5) and the consistency standards set forth in YCC §16B.06.020.

### **RECOMMENDATION**

The Hearing Examiner recommends that the Board of Yakima County Commissioners approve this application for a rezone of parcel no. 191334-13421 located at 2003 Birchfield Road from the Rural-10/5 (R-10/5) zoning district to the Highway/Tourist Commercial (HTC) zoning district.

**DATED** this 13<sup>th</sup> day of December, 2018.

  
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**Gary M. Cuillier, Hearing Examiner**


FILE NO: ZON18-008  
HEARING EXAMINER RECOMMENDATION

**AFFIDAVIT OF MAILING**

STATE OF WASHINGTON )  
   ) ss.  
COUNTY OF YAKIMA        )

I, Karri A. Espinoza, being first duly sworn, and as an employee of the Yakima County Public Services, Planning Division, I dispatched through the United States Mails HEARING EXAMINER RECOMMENDATION, a true and correct copy of which is enclosed here-with; that said notice, was addressed to agent and applicant, and parties of record, that said parties are individually listed on the Mailing List retained by the Planning Division and that said notices were mailed by me on the 18th day of December, 2018.

That I mailed said notices in the manner herein set forth and that all of the statements are made herein are just and true. Dated this 18th day of December, 2018.

  
Karri A. Espinoza  
Office Coordinator