

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE NO. 1-2009

IN THE MATTER OF AMENDING THE YAKIMA COUNTY ZONING ORDINANCE (YCC TITLE 15) PERTAINING TO OFF-ROAD VEHICLE RECREATION FACILITIES.

WHEREAS, RCW 36.70A.130(4) requires that Yakima County, a “fully planning” county, shall update its comprehensive plan and development regulations, as necessary, to reflect local needs, new data, and current laws; and

WHEREAS, under RCW 36.70A.130, the plan and development regulations are subject to continuing review and evaluation, but the plan may be amended no more than one time per year; and

WHEREAS, as part of its comprehensive plan and development regulations update process, the County has established a public participation program, YCC 16B.10, which sets forth minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process; and

WHEREAS, the public was informed of the opportunity to submit formal applications for amendments to *Plan 2015* and to request changes in development regulations up to May 30, 2008 and the annual meeting of the Yakima County Planning Commission (Planning Commission) was held on May 5, 2008, which included an opportunity for the public to suggest items for docketing; and

WHEREAS, at the May 5, 2008 meeting Mark Watson, President of the Yakima Dust Dodgers Motorcycle and ATV Club, made a formal request to amend the Yakima County Zoning Ordinance (YCC Title 15) to add a definition for “Off-road vehicle” as Section 15.08.466 and to re-define “Off-road vehicle recreation facilities” in Section 15.08.470;” and

WHEREAS, the Planning Commission conducted meetings on June 11, 2008, July 9, 2008 and August 13, 2008 to consider docketing plan map, policy and zoning text amendments for further review by staff and determined that seven of the map amendments, one policy amendment and three of the development regulation amendments, including Mr. Watson’s off-road vehicle proposal, warranted further review and were docketed; and

WHEREAS, Yakima County staff prepared a *SEPA Mitigated Determination of Non-Significance* which analyzed the environmental and growth management impacts of all proposed actions and included individual reports on each of the proposed map, policy and zoning text amendments; and

WHEREAS, the Planning Commission conducted two properly advertised public hearings on September 10 and September 24, 2008 to hear testimony on the proposed zoning text amendments; and

WHEREAS, the Planning Commission received and accepted numerous written comments up to the close of the first public hearing on September 12, 2008 and the second public hearing on September 26, 2008; and

WHEREAS, the Planning Commission reviewed the proposed changes to the development regulations, and held deliberations on these changes on October 1, 2008, October 6, 2008 and November 12, 2008; and

WHEREAS, the Planning Commission, having carefully considered the applicant's justification, the staff recommendation, and the written and oral testimony in its deliberations, moved to forward to the Board of County Commissioners Mr. Watson's off-road vehicle proposal without recommendation; and

WHEREAS, after deliberating on the proposed amendments the Planning Commission issued to the Board of Yakima County Commissioners (the Board) its *Findings of Fact and Recommendation*, dated November 19, 2008 (Exhibit 1 attached hereto); and

WHEREAS, the SEPA Responsible Official reviewed the potential environmental impacts of the proposals, issued a *Notice of Adoption of Existing Environmental Documents and Mitigated Determination of Non-Significance* on November 21, 2008 for comment, and after considering all comments received, retained said notice and MDNS on December 10, 2008; and

WHEREAS, the Board held duly advertised public hearings on December 8 and 9, 2008 on the 13 proposals that involved amendments to the comprehensive plan and to the Official Zoning Map of Yakima County; and

WHEREAS, the three remaining proposals that involved amendments to the Yakima County Zoning Ordinance (YCC Title 15) text were deferred to 2009 to allow for adequate public notification; and

WHEREAS, the Board held a duly advertised public hearing on April 21, 2009 at the Yakima Convention Center to hear testimony on Mark Watson's request to amend the Yakima County Zoning Ordinance (YCC Title 15) to add a definition for "Off-road vehicle" and to re-define "Off-road vehicle recreation facilities;" and

WHEREAS, the Board also considered the staff recommended amendments to the Yakima County Zoning Ordinance (YCC Title 15) pertaining to "Off-road vehicle" and "Off-road vehicle recreation facilities" at the hearing; and

WHEREAS, the Board reviewed the proposed legislative changes to the Yakima County Zoning Ordinance (YCC Title 15), and held deliberations on these changes on May 12, 2009; and

WHEREAS, the Board, having carefully considered Mr. Watson's proposal, the the Planning Commission's findings and recommendations, the written and oral testimony and staff recommendation in its deliberations on this legislative matter; now, therefore,

BE IT HEREBY ORDAINED BY THE BOARD OF YAKIMA COUNTY COMMISSIONERS:

Section 1. Findings. The Board of Yakima County Commissioners finds that all RCW 36.70A (the Growth Management Act or GMA) and YCC Title 16B.10 prerequisites for the continuing review and evaluation of the comprehensive plan and implementing development regulations, as well as the minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process, have been met. The Board makes the following findings:

- A. Planning Commission Recommendation. The Board hereby adopts the *Findings of Fact and Recommendation* of the Planning Commission (Exhibit 1 attached hereto). During their deliberations the Planning Commission failed to make a motion to approve or deny Mr. Watson's Off-road vehicle proposal. A subsequent motion was voted on to move the ORV matter to the Board of Yakima County Commissioners with NO RECOMMENDATION in a vote 6 to 0.
- B. Planning Division Recommendation. The Board has considered the staff recommendation as presented to the Board at its public hearing on April 21, 2009, and finds that the Planning Division recommendations, as modified by the Board deliberations and contained in Section 2 below are in the public interest to enact.
- C. State Environmental Policy Act (SEPA). The SEPA Responsible Official has reviewed the potential adverse environmental impacts of the proposed amendments in accordance with the provisions of YCC Title 16, culminating in a Final Threshold Environmental Determination on December 10, 2008 to retain his *Adoption of Existing Environmental Documents and a Mitigated Determination of Non-significance* issued on November 21, 2008. The Board finds that environmental review is complete and adequate.
- D. Analysis of Cumulative Impacts. The cumulative impacts of the amendments to *Plan 2015* and Yakima County Zoning Ordinance have been considered as part of the review process in reaching the decisions in this ordinance.
- E. Legislative Intent. The Board finds that the presence/evidence of Off-road vehicle recreation facilities as re-defined by this ordinance in Section 15.08.470, whether created deliberately or inherently by use patterns does not of itself constitute a violation of this code. Rather it is the impacts of persistent use of property by ORVs, (other than for such uses broadly exempted by 15.08.470) that will require Type II land use review to ensure that the rights of rural property owners nearby or adjoining ORV recreation facilities are fully considered in the event of conflicts between neighbors.
- F. Board Deliberations and Final Legislative Changes. The Board finds that it is in the public interest to adopt amendments to YCC Title 15 provisions related to Off-road vehicles and Off-road vehicle recreation facilities as modified through its deliberations. Specifically;

- 1) The Board finds that the amendments to definitions in Section 2 provide for greater clarity for operators and land owners that ORV use is allowed throughout Yakima County, but that ORV recreation facilities are subject to land use review.
- 2) The Board finds that the existing large lot rural zoning districts where Off-road vehicle recreation facilities have been historically allowed through Type III hearing review are appropriate for location of such facilities, and that such uses may be incompatible with the expectations of land owners in other zoning districts where small lots are allowed.
- 3) The Board finds that the Type II review administrative review process provides a better forum for neighbors to work out their differences when new Off-road vehicle recreation facilities are proposed.
- 4) The Board finds that the addition of regulatory notes are needed to: provide guidance to the review process, frame considerations in land use decisions and offer certainty to both proponents of ORV recreation facilities and their neighbors.
- 5) The Board further finds that it is appropriate to amend the provisions of YCC Title 15 to authorize the use of the infraction process of YCC Title 13 to improve enforcement of conditions of approval.

Section 2. YCC Title 15 Zoning Text Amendment. The Yakima County Zoning Ordinance (YCC, adopted by YCC 15.16.010(1) and as subsequently amended, is hereby amended as depicted by the following:

1. Add the following new definition to Chapter 15.08:

15.08.466 Off-road vehicle. "Off-road vehicle (ORV)" means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, or immediately over land, snow, ice, marsh or other wetland types, or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi-wheel drive vehicle; an ATV; an off-highway vehicle; a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle; an amphibious machine; a ground effect air cushion vehicle; or other means of transportation deriving motive power from a source other than muscle or wind.

2. Amend the existing definition 15.08.470 Off-road vehicle recreation facilities to read as follows (new text is XXXXXXXXXX):

15.08.470 Off-road vehicle recreation facilities. "Off-road vehicle recreation facilities" include motor-cross courses, jeep courses, snowmobile courses and similar facilities XXXXXXXXXX

~~deliberately or inherently.~~

constitute off-road vehicle recreation facilities where the vehicle is:

(1) Used for farming, military, fire, emergency, or law enforcement purposes;

performing maintenance on its facilities or on property over which the company has an easement.

(3) A construction or logging vehicle used in performance of the vehicle's common function; or

(4) Agricultural or garden equipment, like tractors or lawnmowers, used for their intended purpose.

3. Amend Section 15.18.030 (Table of Allowable Land Uses) to allow Off-road vehicle recreation facilities as a Type II use in the following zones:

ZONE:	AG	FW	MR	VR	R/ ELDP	RT	R1	R2	R3	RS	B 1	B 2	C	H C	I	MIN
ORV Rec.Facilities*		II	II	II	II											

4. Add the following new regulatory note (ee) to Section 15.18.030:

(ee) The Type II review criteria and conditioning authority delegated to the Administrative Official shall include but not be limited to considering the following in evaluating proposed Off-road vehicle recreation facilities:

- (1) Environmental review and SEPA mitigation where required;
- (2) Proximity to adjacent residences or other especially sensitive land uses;
- (3) Parcel size not less than five acres and location within parcel sufficient to buffer the use from adjacent properties;
- (4) Access and adequate off-street parking as needed depending on the size and purpose of the facility;
- (5) Proximity to/avoidance of critical areas;
- (6) Hours of operation;
- (7) Noise mitigation measures, enforceable under the Noise Control Ordinance (YCC 6.28);
- (8) Effective dust control/suppression measures to prevent dust from leaving the property;
- (9) Use of a compliance agreement to ensure conditions of approval are met.

Notice of an application for a proposed Off-road recreation vehicle facility shall be sent to adjoining property owners within 1,000 feet of the property where the facility is to be sited.

5. Amend Section 15.12 Type I permits to include the following new subsection:

- (5) Violation of such conditions and safeguards, when made part of the terms under which the project permit is granted,

shall be considered a violation of this title and subject to the remedies set forth in Sections 15.12.090 and 15.88.020 and YCC Title 13.

6. Amend Chapter 15.12.040(4) Conditions for approval of Type II, III and IV applications as follows (new text [REDACTED]):

(4) Violation of such conditions and safeguards, when made part of the terms under which the project permit is granted, shall be considered a violation of this title and subject to the remedies set forth in Sections 15.12.090 and 15.88.020 and [REDACTED].

7. Amend Section 15.12.090 Revocation of Project Permits as follows (new text [REDACTED]):

15.12.090 Revocation of Project Permits. The Reviewing Official may revoke a project permit issued pursuant to this title if it is ascertained that the application included any false information material to the project permit approval, or if it develops that the conditions and safeguards made a part of the terms under which the approval was granted have not been complied with or are not now being maintained. [REDACTED]

remedies available to Yakima County to enforce conditions of a decision, remedy violations or abate public nuisances under YCC Titles 13 and 15.

8. Amend Section 15.84.010 Administrative Official as follows (new text [REDACTED]; deleted text is ~~stricken~~):

15.84.010 Administrative Official [REDACTED]. The Administrative Official shall administer and the Building Official shall enforce Chapters 15.04 through 15.88. If the Building Official finds that any of the provisions of Chapters 15.04 through 15.88 are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order the discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures, or additional or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action [REDACTED] by this title, [REDACTED] to ensure compliance with or to prevent violation of its provisions.

9. Amend Section 15.88.010 Complaints as follows (new text [REDACTED]):

15.88.010 Complaints. Whenever a violation of Chapters 15.04 through 15.84 occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Official. He shall record such complaint, investigate, and take action thereon as provided by this title [REDACTED].

10. Amend YCC 15.88.020 Penalties to read as follows (new text [REDACTED], deleted text is ~~stricken~~):

15.88.020 Penalties.

- ~~(1) Violation of the provisions of Chapters 15.04 through 15.84 or failure to comply with any of these requirements constitutes a misdemeanor and a public nuisance. Any person who violates Chapters 15.04 through 15.84 or fails to comply with any of their requirements shall, upon conviction in a court of competent jurisdiction, be fined not more than \$1000 or be imprisoned for not more than ninety days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues from the date notice of violation was given shall be considered a separate offense; however, no additional action will be initiated pending the disposition of any previous suit or complaint.~~
- (1) Any person, firm, or corporation violating any of the provisions of this Title, including the provisions of the various Codes adopted by reference therein, or failing to comply therewith, or violating or failing to comply with any order, or decision issued or made pursuant to its provisions shall severally and for each and every violation and non-compliance respectively, be guilty of a misdemeanor or shall be subject to a civil infraction as provided for by Chapter 7.80 RCW, [REDACTED] or any other remedy provided by law and such violation shall constitute a public nuisance. Any person so convicted of a misdemeanor shall be punished for each offense by a fine of not more than ONE THOUSAND DOLLARS (\$1,000.00) or by imprisonment for not more than NINETY (90) days, or by both such fine and imprisonment.
- (2) The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a

separate offense and suffer the penalties provided in this section [REDACTED].

- (3) In addition to the penalties described in this chapter and [REDACTED], actions that can be taken by the county include, but are not limited to: withholding any and all permits for development or land division, unless said permit or application is directly related to a proper remedy of the violation; assessing double fees for all permits and applications necessary to remedy the violation; notify by certified mail all property owners of record of the violation and remedies required to abate the violation; abating or causing the violation to be removed with a lien filed against the property to recover costs; or other such action as may be needed to enforce this code.
- (4) Where it is clear to the Administrative Official that a proposed land division or other permit application filed to remedy the violation(s), is clearly inconsistent with the Comprehensive Plan, the intent of the use district or other provisions of county code or state law, the application shall be returned without processing and any fee refunded. This determination of the administrative official shall not be appealable under the provisions of this code. It shall be the affirmative duty of the county prosecutor's office to seek relief under this section and [REDACTED] for violations of Chapters 15.04 through 15.84.

11. Add the following new section 15.88.070 Codes Preserved to read as follows:

15.88.070 Codes Preserved. Except as otherwise inconsistent with this Chapter, the provisions of the Codes adopted by reference in this Title pertaining to violations shall remain in full force and effect.

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. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 5. Effective Date. This ordinance shall be effective at 11:59 PM on June 12, 2009.

ADOPTED this 2nd day of June, 2009.



J. Rand Elliott
J. Rand Elliott, Chairman

Attest: Christina Steiner

Michael D. Leita
Michael D. Leita, Commissioner

[Signature]
Clerk of the Board

Excused
Kevin Bouchey, Commissioner
*Constituting the Board of County
Commissioners for Yakima County,
Washington*

APPROVED AS TO FORM:

By: [Signature]
Deputy Prosecuting Attorney

G:\Long Range\Projects\Plan Amendments\2008 Plan Amendments\zon08-10 (ORV)\Draft_BOCC_ORV_Ord_May 2009.doc 5/29/2009 10:06 AMPM

Exhibit 1

Yakima County Planning Commission
Findings of Fact and Recommendation
November 19, 2008

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IN THE MATTER OF CONSIDERING
AMENDMENTS TO *PLAN 2015* AND
DEVELOPMENT REGULATIONS

) FINDINGS OF FACT AND
) RECOMMENDATION
) File No: ZON08-02, ZON08-03,
) ZON08-04, ZON08-05, ZON08-06,
) ZON08-09, ZON08-10, ZON08-11,
) ZON08-12, ZON08-13, ZON08-14,
) ZON08-15, ZON08-16, TXT08-05 and
) TXT08-06

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6 WHEREAS, in compliance with the Washington State Growth Management Act, Chapter
7 36.70A RCW, the Board of Yakima County Commissioners adopted the comprehensive plan,
8 *Plan 2015*, on May 20, 1997, and adopted development regulations on February 8, 2000; and
9 subsequently amended the comprehensive plan, land use map, and zoning map on December 15,
10 1998, December 28, 1999, December 11, 2001, February 5, 2002, March 18, 2003, and
11 December 15, 2005, December 18, 2007; and,
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13 WHEREAS, RCW 36.70A.130(4) requires that Yakima County, a “fully planning”
14 county, shall update its comprehensive plan and development regulations, as necessary, to reflect
15 local needs, new data, and current laws; and,
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17 WHEREAS, under RCW 36.70A.130, the plan and development regulations are subject
18 to continuing review and evaluation, but the plan may be amended no more than one time per
19 year; and,
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21 WHEREAS, as part of its comprehensive plan and development regulations update
22 process, the County has established a public participation program, YCC 16B.10, which sets
23 forth minimum requirements for ensuring adequate public notification and opportunities for
24 comment and participation in the amendment process; and,
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26 WHEREAS, the public was informed of the opportunity to submit formal applications for
27 map amendments to *Plan 2015* up to May 30, 2008 and the annual meeting of the Yakima
28 County Planning Commission (Planning Commission) was held on May 5, 2008 which included
29 an opportunity to suggest items for docketing; and
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31 WHEREAS, prior to the deadline, applications for 5 proposed map amendments to *Plan*
32 *2015* and YCC Title 15 and a number of docket items were submitted to the county for
33 consideration; and
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35 WHEREAS, on June 11, 2008, July 9, 2008 and August 13, 2008 the Planning
36 Commission conducted meetings to consider approval of the non-fee paid docketed items for
37 further review by staff and determined that seven of the map amendments, one policy
38 amendment and two of the development regulation amendments on the docket warranted further
39 review; and
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41 WHEREAS, Yakima County staff prepared a SEPA Mitigated Determination of Non-
42 Significance which analyzed the environmental and growth management impacts of all proposed
43 actions and included individual reports on each of the proposed amendments; and
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45 WHEREAS, the Planning Commission conducted two properly advertised public
46 hearings on September 10 and 24, 2008 to hear testimony on the proposed amendments; and
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48 WHEREAS, the Planning Commission received and accepted numerous written
49 comments up to the close of the first public hearing on September 12, 2008 and the second
50 public hearing on September 26, 2008; and
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52 WHEREAS, the Planning Commission has reviewed the changes to the *Plan 2015* and
53 implementing development regulations, and held deliberations on these changes on October 1,
54 2008, October 6, 2008 and November 12, 2008; and
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56 WHEREAS, the Planning Commission, having carefully considered the applicant's
57 justification, the staff recommendation, and the written and oral testimony in its deliberations,
58 moved to accept, reject, or forward to the Board of County Commissioners without
59 recommendation, each of the proposed amendments to *Plan 2015* and YCC Title 15; and,
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61 NOW, THEREFORE, the Yakima County Planning Commission hereby makes and
62 enters the following
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64 I. REASONS FOR ACTION

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66 As part of the 2006 Yakima County Comprehensive Plan - *Plan 2015* update process, various
67 non-fee paid map and text change requests were proposed by citizens and staff. Due to time
68 constraints, all non-fee paid and non-update related changes were postponed until the 2008
69 annual amendment cycle. During the 2008 *Plan 2015* amendment process, five fee-paid
70 applications for map amendments were received and docketed along with the various map and
71 text changes were proposed by citizens and staff carried over from the update. Staff reports for
72 the fifteen docketed amendments requests were provided to the Planning Commission that
73 identified specific issues and recommended approval, modification or denial of the proposed
74 amendments. Following public testimony and deliberations the Planning Commission has
75 determined which of the proposed amendments are needed to correct errors, address deficiencies
76 or more closely correspond to the goals, policies and intent of *Plan 2015*.
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78 II. FINDINGS OF FACT

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82 Yakima County adopted *Plan 2015* on May 20, 1997. The plan was designed to integrate SEPA
83 and GMA consistent with the provisions of WAC 197-11- 210 through 197-11-235. *Plan 2015*'s
84 Volume 1, Chapter I, the Policy Plan and Chapter III, the Environmental Analysis Element along
85 with Volume 3 Appendices, along with the individual threshold determinations, provide the
86 environmental evaluation and documentation required under SEPA.
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89 In April 2008, notice of availability of comprehensive plan map amendment applications was
90 published in the Yakima Herald and Yakima County Public Services webpage. Applications
91 were due to the Planning Division by May 30, 2008 for consideration in the 2008 amendment
92 cycle.

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95 The Planning Commission reviewed suggested docket items at public meetings on June 11, July
96 9 and Aug 13, 2008. Seven map amendments, one plan policy and two zoning text amendments
97 were added to the 5 fee-paid map amendments being considered.

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100 Notice of applications and requests for comment on the fee paid map amendments were mailed
101 to surrounding property owners and agencies on August 14, 2008.

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104 Notice of environmental review and requests for comment on the fee paid map amendments were
105 mailed to surrounding property owners and agencies on August 14, 2008.

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108 Yakima County staff prepared a SEPA Mitigated Determination of Non-Significance which
109 analyzed the environmental and growth management impacts of all proposed actions and
110 included individual reports on each of the proposed amendments.

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113 On August 22, 2008 notice of the first public hearing scheduled for September 10, 2008 was
114 posted and mailed to the applicant, surrounding property owners, agencies and those
115 commenting on the applications. Notice was published in the Yakima Herald on August 25,
116 2008. On September 8, 2008 notice of the second public hearing scheduled for September 24,
117 2008 was posted and mailed to the applicant, surrounding property owners, agencies and those
118 commenting on the applications. Notice was also published in the Yakima Herald on September
119 10, 2008.

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122 On September 2 and September 8, 2008, the Planning Commission and staff traveled to view the
123 fee-paid map amendment sites; notice of the special meeting was posted at the Planning
124 Division.

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127 The Planning Commission conducted public hearings on the proposed amendments on
128 September 10 and 24, 2008. Minutes of the hearings were taken and are on file.

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131 The hearings were continued to October 1, October 6 and November 12, 2008 to deliberate and
132 make recommendations on the proposed amendments.

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135 The findings follow the three amendment types beginning with the fee paid amendments.

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Four Planning Commissioners voted to recommend APPROVAL (West, Charron, Biehl, and Foster - *Rawl and Burns absent*) and one vote for DENIAL (Padorr) of the application based upon the findings contained in the Staff Report and the following factors:

- Planning Commission member Padorr was concerned about approving this proposal because of the message it sends to all property owners who own similar types of land in remote areas of the County. If the County approves this property it would be difficult to deny others in the future.

Therefore, the Commission recommends in a 4 to 1 vote that the current land use designation of Remote Rural/Extremely Limited Development Potential is changed to the proposed Rural Self-Sufficient designation on parcel 5161744003 and a concurrent rezone from R/ELDP to Mountain Rural also be approved.

ZON08-09: City of Yakima – “Summit View” UGA Expansion. The applicant requests changes to the *Plan 2015* designation and zoning on the Subject Property (approximately 418 acres). The requested land use designation change is from Rural Self-Sufficient and Rural Transitional to Urban Growth Area and a concurrent rezone from Valley Rural and Rural Transitional to Single Family Residential (R-1). The staff report recommended modification of the request. For the record, the Planning Commission noted that the City of Yakima does not need additional land based upon the Urban Growth Area analysis conducted last year as part of the 2006 *Plan 2015* update.

Five Planning Commissioners voted unanimously to recommend Denial (West, Padorr, Charron, Biehl, and Foster - *Rawl and Burns absent*) of the application based upon the findings contained in the Staff Report and the following factors:

- Planning Commissioner Charron stated that there was testimony opposing the proposal, sewer is over a mile away and that the UGA analysis from the update clearly showed no need for additional land.
- Planning Commissioner Padorr stated that absence of a Capital Facilities Plan showing how the area will be served by the city, expansion should not be considered.

Therefore, the Commission recommends in a 5 to 0 vote that the applicant’s request to expand the Urban Growth Area be denied.

ZON08-010: Yakima Dust Dodgers Motorcycle and ATV Club/Mark Watson. The applicant requests to amend the Yakima County Zoning Ordinance to allow Off-Road Vehicles as a Type 1 use in R/ELDP, Rural Transitional, Valley Rural, Mountain Rural, Mining and Forest Watershed zoning districts and to add definitions as they pertain to Off-Road Vehicles and Off-Road Vehicle Facilities and to provide methods of enforcement of these uses. The staff report recommended modification of the request.

277 Three Planning Commissioners voted to re-open the hearing on the issue (West, Padorr, and
278 Foster) and three Planning Commissioners voted not to re-open the hearing (Charron, Biehl, and
279 Rawn - *Burns absent*) based upon the findings contained in the Applicant's materials, Staff
280 Report and the following factors:
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- 282 • Planning Commissioner Padorr voiced concerns on a number of key issues. The
283 possible need for additional input from the public along with the inclusion of new
284 information obtained by staff may require the Planning Commission to re-open the
285 hearing. His comments also addressed the review process currently in effect and
286 proposed by staff. In his opinion Type III review may be excessive for this type of
287 use; a Type II review may provide an adequate level of review. Mr. Padorr wanted
288 the issue of "de-criminalizing" those who are found non-complaint explored by the
289 Board. The lack of specific language addressing impacts such as dust, jump height is
290 also of concern, the addition of this information into the definition chapter as a
291 regulatory note may be required.
- 292 • Planning Commissioner Rawn felt that the proposals, neither the applicant's nor
293 staff's, are adequate. Applicant's proposal is too open ended and would create
294 numerous problems throughout the County, whereas, staff's proposal fails to solve
295 the problem currently. Mr. Rawn also expressed concerns about whether the
296 Planning Commission will be able to effectively deliberate on this issue until
297 additional proposals are worked out.
- 298 • Planning Commissioner Biehl expressed concerns over the Planning Commission
299 being able to reach a decision on the proposal the way it is presented.
- 300 • Planning Commissioner Foster agreed with Mr. Rawn's assessment of material
301 presented to Planning Commission and stated that additional information may be
302 needed to address the proposal.
- 303 • Planning Commissioner Charron felt that staff's proposal is effective and that the
304 addition of the Ag, Rural Transitional and Mining zones as a Type III review is
305 adequate and means that thousands and thousands of acres are now potentially open
306 for ORV uses. Ms. Charron noted that neighbors should have a right to comment and
307 have a say on what is going to be allowed next to them.
- 308 • Planning Commission Chair Zella West voiced concerns on whether the Planning
309 Commission will be able to provide the Board a recommendation on this matter with
310 the views presented by the commission.
311

312 **Therefore, due to a lack of a motion to approve or deny and a vote of less than a majority 3**
313 **to 3 (4 votes for approval or denial needed for a recommendation) to re-open a hearing, the**
314 **Planning Commission moves forward to the Board of Yakima County Commissioners NO**
315 **RECOMMENDATION. A motion to move the ORV matter to the Board of Yakima**
316 **County Commissioners with NO RECOMMENDATION in a vote 6 to 0.**
317

318 ~~ZON08-011: John Naiden.~~ The applicant requests to amend the Yakima County
319 Comprehensive Zoning Ordinance 2015 Future Land Use Map, and to rezone on the Subject Property
320 (Parcel 18143334004 approximately [redacted]). The request is to change the land use
321 designation on the subject property from split-designated [redacted] Sufficient and Rural
322 Transitional to Rural Transitional and rezone subject property from Valley Rural [redacted] Rural
323 Transitional (RT). The staff report recommended denial of the request.

464 **TXT08-06: Ray Gregg** - The applicant proposed to amend the Yakima County Zoning
465 Ordinance to regulate HAM radio towers separately from Communication Towers. The staff
466 report recommended modification of the request.
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468 Five Planning Commissioners voted to recommend approval of staff's modification of the
469 applicant's proposal with a recommendation to the Board to eliminate the Type I and Type II
470 application fee (West, Charron, Biehl, Foster and Rawn - *Burns absent*) and one Planning
471 Commission member voted against the motion (Padorr).
472

473 **Therefore, the Commission recommends by a 5 to 1 vote to approve staff's**
474 **recommendation and to recommend to the Board that the application fees for Type I and**
475 **Type II reviews for Ham Radio uses be waived, due to it's importance as an emergency**
476 **management service.**
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III. RECOMMENDATION

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- 1) By motion and vote described in II. Findings of Fact, the Planning Commission recommends that the Board of Yakima County Commissioners approve this years proposed amendments.

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Voting in favor of the findings and recommendation:

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Zella West, Chair

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Ed Burns, Vice Chair

Absent

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Judy Foster

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Chuck Padorr

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Nancy Charron

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Tom Biehl

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Patrick Rawn

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Attest:

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Voting against the findings and recommendation:

Dated: November 19, 2008


Steven M. Erickson,
Secretary