

**//YAKIMA COUNTY HEARING EXAMINER  
NOVEMBER 7, 2024 HEARING  
EXHIBIT LIST**

*File Nos.: ZON2024-00001/CUP2024-00021/ADJ2024-00004/SEP2024-00010 Brandt Minor Rezone & Ag Market*

*Staff Contact: Aaron Cohen, Planner IV – Long Range*

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# Public Services

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LISA H. FREUND - Director

## YAKIMA COUNTY PLANNING DIVISION Findings and Recommendation Of the Administrative Official

In the matter of an application by Bill	)	ZON2024-00001
Hordan, Hordan Planning Services	)	CUP2024-00021
on behalf of Marlynn Holdings LLC.	)	ADJ2024-00004
for a minor rezone from	)	SEP2024-00010
Rural Transitional to Highway-Tourist	)	
Commercial Zoning District, and a	)	
Conditional Use Permit for an agricultural	)	
market, an administrative adjustment to	)	Staff Contact: Aaron M. Cohen
the fence height and sitescreening	)	
requirements, and an environmental review	)	

### I. INTRODUCTION

On April 8, 2024, Yakima County, Public Services Department: Planning Division received an application from Bill Hordan, Hordan Planning Services, on behalf of Marlynn Holdings LLC for a minor rezone from the Rural Transitional (RT) Zoning District to the Highway-Tourist Commercial (HTC) Zoning District, a Conditional Use Permit (CUP) for a 5,600 square foot (sq ft) agricultural market, an administrative adjustment to adjust the fence height and sitescreening requirements, and an environmental review under the State Environmental Policy Act (SEPA) on 4.12 acres of land approximately 1½ miles northwest of the City of Yakima.

### II. SUMMARY OF RECOMMENDATION

Based on the information in the application file; the comments received from Yakima County Public Services, specifically the Building and Fire Safety Division and the Water Resources Division; the comments received from the Yakima Health District (YHD) and the Yakima County Roads Department, as well as outside agencies; a review of Title 19 Unified Land Development Code (ULDC) requirements under sections 19.36.030(4), 19.30.090, 19.10.040, 19.22, 19.23, 19.25, 19.30.080; and, a review of applicable goals and policies of the Yakima County Comprehensive Plan (*Horizon 2040*), the Administrative Official recommends **Approval with Conditions** of the Marlynn Holdings LLC. minor rezone, the 5,600 sq ft agricultural market, and to grant the full administrative adjustment, subject to conditions to assure compliance with the Yakima County Comprehensive Plan (*Horizon 2040*) and pertinent development criteria, standards, and regulations. These conditions are set out in Section VI below.

### III. FINDINGS

**A. Applicant/Property Owner.** The applications were filed by Bill Hordan, Hordan Planning Services, on behalf of Marlynn Holdings LLC. Marlynn Holdings LLC is the landowner of record of the subject property and Lynnell Brandt, a registered agent of the LLC, has signed the application.

**B. Location and Parcel Number.** 60 North Mitchell Drive, Yakima. The subject property is located on the north side of North Mitchell Drive, and northeast of the State Route 12 and North Mitchell Drive intersection. The property is approximately 1 $\frac{2}{3}$  miles northwest of the City of Yakima. (Parcel Number: 181305-13002).

**C. Project Proposal.** The applicants are proposing to rezone the property from the RT Zoning District to the HTC Zoning District, and, the applicants are proposing to establish a 5,600 sq ft agricultural market.

The rezone is sought because an agricultural market is not a permissible use within the RT Zoning District, but is a permissible use within the HTC Zoning District. The agricultural market is to be open from 9am to 5pm, seven days a week, and from June through November. The days, times, and months are subject to change based on the needs of the business. Sixteen parking spaces are proposed to accommodate two to three employees and customers, and, the existing loading dock is to serve the agricultural market. All vehicle travel surfaces associated with the agricultural market are proposed to be hard-surfaced. The existing bathrooms in the warehouse and controlled atmosphere (CA) building are proposed to serve all employees and customers.

The applicants are seeking an adjustment to the fence height requirements of the HTC Zoning District. The applicants are seeking to keep an existing six-foot fence within the front setback of the property as opposed to lowering the fence to four feet within the front setback to meet requirements. The applicants are also seeking a full reduction to the sitescreening requirements because of the cost of moving the existing fence further onto the property, the existing sitescreening along the property lines containing residences being sufficient, and minimal viewing impact to similar commercially used properties to the south. The adjustment is also sought to maintain the security of the buildings handling food to ensure compliance with the Food Safety Modernization Act (FSMA).

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

1. The proposal is subject to the Yakima County Unified Land Development Code, Title 19 of the Yakima County Code (YCC).
2. According to YCC 19.36.030 entitled Minor Rezone – Map Amendment, “Rezone applications consistent with Table 19.36-1 and not dependent upon a comprehensive plan or sub-area plan amendment shall be considered minor rezone. These quasi-judicial



actions, when site-specific, may be processed at any time under Type 4 review pursuant to YCC Section 16B.03.030.” YCC 16B.03.030 states, “Type 4 Project permit applications are quasi-judicial actions which require an open record hearing before the Hearing Examiner. The Examiner’s written decision constitutes a recommendation to the Board of County Commissioners. The Board shall conduct a closed record hearing to act on the Examiner’s recommendation. Public notice will be provided on Type 4 actions.” The Board decision constitutes the final decision, however, is subject to a Land Use Petition Act (LUPA) appeal to Superior Court.

3. According to YCC Table 19.14-1 entitled “Allowable Land Uses,” proposals for an Agricultural Market in the HTC Zoning District shall be processed under a CUP – Type 1 level of review. YCC 16B.03.060 entitled “Optional Consolidated Permit Review Process” states, “two or more project permits relating to a proposed project action may be processed collectively under the highest numbered category of project permit required for any part of the proposal or processed individually under each of the procedures identified by the code.” The applicant has chosen to consolidate the review of the ZON, CUP, ADJ, and SEP cases and be considered by the Board of County Commissioners collectively under a Type 4 review.
4. In accordance with YCC 19.10.040(4) the proposed development is a Type 1 Administrative Use as shown on the Allowable Land Use Table 19.14-1 in Chapter 19.14 and is generally allowed in the Zoning District. The compatibility between a Type 1 Administrative Use and the surrounding environment may be conditioned to ensure compatibility and compliance with the provisions of the Zoning District, the goals, objectives and policies of the Comprehensive Plan (**Horizon 2040**), and YCC 19.30.090.
5. A Pre-Application Conference, as required by YCC Title 16B.04.010(1) for both the minor rezone and CUP was held on May 14, 2017 (EAC2017-00016), and a follow up summary was sent to the applicant on April 5, 2017.

**E. Zoning and Land Use.** The subject property is within the RT Zoning District and within Rural Transitional (RT) Designation by the Yakima County Comprehensive Plan (**Horizon 2040**). The surrounding parcels to the northwest, east, and southeast are zoned and designated similarly as the subject property. The properties to the west and southwest are within the Rural – 10/5 (R-10/5) Zoning District and the Rural Self-Sufficient (RSS) designation of the **Horizon 2040** plan.

The intent of the HTC Zoning District is discussed below as opposed to the RT Zoning District because the proposal is to rezone the property from the RT Zoning District to the HTC Zoning District. Properties within the HTC Zoning District are for:

*“...commercial establishments that offer accommodations, supplies, services or recreational opportunities to the traveling public. The HTC zoning 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; and, to encourage developing the zoning district with such uses and in such a manner as to minimize traffic hazards and interference from highway-oriented*

*businesses. This zoning district is further intended to permit only those uses that promote and enhance the recreation and tourism industry and to prevent the intrusion of incompatible, non-tourist uses that would be overly disruptive or would directly compete with shopping areas of nearby communities. The zoning district shall only be located at freeway interchanges, along or at the intersections of state highways or recognized tourist routes and the approaches thereto. The HTC zoning district may be located inside or outside of Urban Growth Areas" (YCC19.11.040(1)(b)).*

The subject property is to remain within the RT Designation of **Horizon 2040**. Properties within this designation are to:

*"...implement Growth Management Act Planning Goals related to reducing sprawl, protecting the environment and providing adequate infrastructure. The Rural Transitional category sustains rural character and lifestyle choices by focusing most expected rural development into existing areas which are nearing suburban levels in order to reduce growth pressures on farmlands and less populated rural areas where infrastructure, public services and facilities are more difficult or expensive to provide. This category is also intended to minimize public service expenditures by encouraging infill and redevelopment of individual lots. To attain this objective, the designation incorporates cost-effective development policies related to community water systems, preferential use of developed road network, and density incentives for clustering and maintenance of open space. Ultimately, Rural Transitional policies are intended to maintain the sense of rural character while these lands remain outside Urban Growth Areas. The policies also provide incentives to accommodate economically feasible future urban conversion when additional urban land is needed. Rural Transitional policies provide for an overall residential density of one unit per 2.5 acres, with a 20 percent density bonus of one unit per two acres with clustering" (Horizon 2040, Chapter 5, Page 44).*

The intent of the HTC Zoning District and the RT Designation are discussed further below in Finding I(2)(4).

#### **F. Public Notice/Environmental Review**

The application was processed in accordance with YCC 16B as follows:

1. After the application was submitted, the Building and Fire Safety Division, Water Resources Division, Yakima Health District, Yakima County Roads Department, Code Enforcement Section, Long Range Planning Section, Environmental and Natural Resources Planning Section, and the Utilities Division were notified to provide comments on the proposal. Comments received from these divisions, department, and agency are attached to this staff report and addressed in the relevant findings below of this recommendation.
2. When the application was deemed complete, a combined Notice of Application, Notice of Completeness, Notice of Environmental Review, and Notice of the Open Record Hearing was mailed to property owners within 300 feet of the subject property and agencies with interest on September 19, 2024, with a comment period ending on October 3, 2024.

3. A Notice of SEPA Final Determination of Non-Significance was mailed to the agencies and interested parties on October 9, 2024.
4. The posting of the property was completed on October 17, 2024
5. The public hearing is scheduled for November 7, 2024, and Notice of Open Record Public Hearing was mailed and published in accordance with YCC 16B.05.030.
6. The dates of the main steps taken during the processing of this application are as follows:

Application Submitted	April 8, 2024
Notice of Incompleteness	April 25, 2024
Information Submitted	July 19, 2024
Notice of Incompleteness	August 2, 2024
Information Submitted	September 11, 2024
Application Determined Complete	September 13, 2024
Notice of Application/Completeness/Hearing	September 19, 2024
Notice of Environmental Review	September 19, 2024
Publishing Notice of Hearing in Yakima Herald-Republic	September 19, 2024
Publishing of Final SEPA Determination	October 9, 2024
Posting of Property	October 17, 2024
Open Record Hearing	November 7, 2024
BOCC Closed Record Hearing	To be determined

7. The Washington State Department of Transportation (WSDOT) provided the following comments:

*"The subject property is adjacent to U.S. Highway 12 (US 12), a partially-controlled limited access facility with a posted speed limit of 60 miles per hour. WSDOT has acquired all access rights to the highway and along Mitchell Drive, 214'5" northeasterly of the pedestrian path centerline. Direct access to the highway and along Mitchell Drive, 214'5" northeasterly of the pedestrian path centerline is prohibited.*

*Stormwater and surface runoff generated by this project must be retained and treated onsite and not allowed to flow onto WSDOT rights-of-way.*

*Any proposed lighting should be directed down towards the site and away from US 12.*

*Any outdoor advertising or motorist signing considered for this project will need to comply with state criteria. The applicant should contact Tanya Joblonski of the WSDOT Headquarters Traffic Office for specifics. She can be reached at 360-705-7294."*

Staff Finding: *The full comment from WSDOT is within Attachment D. Based on the comments from the WSDOT the applicants shall ensure all stormwater and surface runoff water is retained on site and does not flow into WSDOT rights-of-way. There is a bioswale to collect stormwater on the southeastern portion of the property adjacent to North Mitchell Drive. The applicants are also required to provide documentation to the Planning*



*Division that the WSDOT has approved of the proposed sign. The sign is no longer proposed to be illuminated, which will aid in ensuring all light is kept on the property and not directed onto the state highway. Lastly, no new approach is allowed within 214'5" of the planned centerline of the adjacent pedestrian path. The existing approach is approximately 240-feet northeast of the planned centerline.*

**G. Environmental Review.** This minor rezone proposal is subject to review under the State Environmental Policy Act (SEPA). The applications for the minor rezone and conditional use permit have been processed concurrently with the SEPA application. When the application was deemed complete, a combined Notice of Application, Notice of Completeness, Notice of Environmental Review, and Notice of Hearing were mailed to property owners within 300 feet of the subject property and agencies with interest on September 19, 2024, with a comment period ending on October 3, 2024. This letter is provided in the Hearing Exhibits. Yakima County's Planning Division issued a Final Determination of Non-Significance (DNS) to parties of record and interested agencies on date October 9, 2024. Per YCC 16B.03.030, there is no administrative appeal of the final threshold determination.

**H. Property History.** The applications CUP2015-00055 and VAR2015-00039 approved an expansion to the existing CA building along with adjusting the allowable lot coverage to 47%. The CA building is considered a legal non-conforming use as it was established in 1964, which is prior to the adoption of Title 19 in 2013. In 2017 the Early Assistance Conference (EAC) for the current applications occurred under EAC2017-00016. In 2018 another EAC occurred under EAC2018-00101 which discussed a potential two-lot Boundary Line Adjustment (BLA). A BLA application was then submitted in 2021 under BLA2021-00061, which was successfully completed. The next applications associated with the subject property are those under review within this staff recommendation (ZON2024-00001, SEP2024-00010, CUP2024-00021, and ADJ2024-00004).

**I. Minor Rezone Review Criteria.** YCC 19.36.030(4) entitled "Minor Rezones – Map Amendment" outlines the review criteria for minor rezones. The review criteria are addressed in the staff findings below:

**1. The testimony at the public hearing (19.36.030(4)(a)):**

*Staff Finding: The Hearing Examiner will consider all testimony provided at the public hearing.*

**2. The suitability of the property in question for uses permitted under the proposed zoning (19.36.030(4)(b)):**

*Staff Finding: The overall project is to rezone the property to the HTC Zoning District and establish an agricultural market on the property. The zoning intent of the HTC Zoning District can be broken into four distinct parts. The intent of the HTC Zoning District is stated in YCC19.11.040(1)(b) and is discussed below:*

- i. "The HTC district is areas for commercial establishments that offer accommodations, supplies, services or recreational opportunities to the traveling public."*

Staff Finding: The applicants are proposing to establish an agricultural market just off of State Route 12 (SR-12). This is a commercial service along a state route carrying traffic between Tieton, Naches and the city of Yakima. There are additional tourism benefits from the Naches Trail and destinations between the cities listed above. Therefore, this part of the zoning intent of the HTC Zoning District is met.

- ii. "The HTC zoning 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; and, to encourage developing the zoning district with such uses and in such a manner as to minimize traffic hazards and interference from highway oriented businesses."

Staff Finding: The subject property is adjacent to a similarly agriculturally and commercially oriented lot. There is an existing approach onto the property from North Mitchell Drive, which is along the commercially oriented part of North Mitchell Drive. The needs of modern commercial development are not expected to be hurt, but rather continued. The properties to the north containing single-family residences have an additional access off of Mapleway Road if they wish to avoid the developments within the subject property and the property directly southeast of the subject property. Thus, it is expected that the proposed use will not generate traffic hazards for neighboring residential properties, and therefore, this part of the zoning intent of the HTC Zoning District is met.

- iii. "This zoning district is further intended to permit only those uses that promote and enhance the recreation and tourism industry and to prevent the intrusion of incompatible, non-tourist uses that would be overly disruptive or would directly compete with shopping areas of nearby communities."

Staff Finding: There is not a large amount of any commercial businesses similar to the proposed agricultural market in the area. The proposed development facilitates tourism between Tieton, Naches and the city of Yakima. Therefore, this part of the zoning intent of the HTC Zoning District is met.

- iv. "The zoning district shall only be located at freeway interchanges, along or at the intersections of state highways or recognized tourist routes and the approaches thereto."

Staff Finding: The proposed property is located at the intersection SR-12 at North Mitchell Drive. Any intervening land between the intersection is the Naches Trail, which is a recreational and acknowledged tourist route. Therefore, this part of the zoning intent of the HTC Zoning District is met.



**3. The recommendation from interested agencies and departments (19.36.030(4)(c)):**

*Staff Finding:* Based on the comments received from WSDOT there are no apparent reasons from interested agencies and departments as to why the proposed rezone should not occur.

**4. The extent to which the proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Comprehensive Plan (Horizon 2040), adopted neighborhood plans and the intent of this Title (19.36.030(4)(d)):**

*Staff Finding:* There are no adopted neighborhood plans applicable to the proposed rezone. If the proposed minor rezone is approved, the CUP, ADJ, and SEPA will be consistent and compliant with the following Yakima County Comprehensive Plan (**Horizon 2040**) goals, objectives, and policies:

**Horizon 2040 LAND USE ELEMENT GOALS AND POLICIES**

- Policy Economic Development – 5.1 Support the development of programs, activities and facilities which increase tourism and recreation opportunities in Yakima County.
- Policy Economic Development – 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 Economic Development - 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:
  1. The uses do not conflict with adjacent city business areas;
  2. Adjacent land uses are buffered from the commercial area;
  3. The site is not designated as an agricultural, forest or mineral resource area, and resource lands are not materially affected by the use;
  4. The operation and effectiveness of the interchange is not impacted by the commercial use; and
  5. If outside an urban growth area, the uses can be accommodated without the extension of urban level services to the site.
- Policy Economic Development 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 LU-R 1: Maintain the rural character of the County.

*Staff Finding:* The goals and policies listed above apply to the proposed development for a few reasons. The economic development (ED) policies focusing on tourism advancement directly relate to the proposal. The agricultural market provides increased tourism

*opportunities for various vehicle and pedestrian users along the SR-12 corridor. This leads into the other ED policy 3.15, existing commercial areas outside of urban growth areas are developed through in-fill development, for which, the proposed development fulfills. The rezoning and proposal maintain the overall rural character of the County and the area through this infill development and agriculture centered development. The rezoning of the property continues to make the CA building a legal non-conforming use, and the rezoning does not expand any non-conformity on the property. Regarding ED Policy 5.4, the proposed agricultural market does not conflict with any neighboring land-uses, the residences are sufficiently buffered and additional sitescreening criteria are addressed further in Finding K(b) below, comments from the WSDOT indicate impacts against SR-12 are not expected, and the City of Yakima has indicated they can provide the agricultural market with potable water. Additionally, this staff report addresses the requirements to ensure the compatibility of the surrounding area with the agricultural market.*

**5. The adequacy and availability of public facilities, such as roads, sewer, water and other required public services (19.36.030(4)(c)):**

*Staff Finding: As it relates to the minor rezone portion of the proposal, the public facilities within the area are present. The specifics of roads, sewer, water, and other required public services for the agricultural market are addressed in Finding J(c and q) below. Any other future public facilities needed will be reviewed on a project-by-project basis.*

**6. The compatibility of the proposed zone change and associated uses with neighboring land uses (19.36.030(4)(f)):**

*Staff Finding: The property to the southeast is similarly used in an agricultural commercial format as the subject property. Due to the additional access off of Mapleway Road and the focus of the HTC Zoning District for properties to access off of major routes and state routes, it is not anticipated great effects will occur on neighboring properties. Additionally, SR-12 provides a sufficient barrier from the properties to the southwest, which also contains agriculturally commercial centered uses and residential homes. Each future use will be reviewed on a project-by-project basis.*

**7. The public need for the proposed change. Public need shall mean that a valid public purpose, for which the Comprehensive Plan (*Horizon 2040*) and this title 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 (19.36.030(4)(g)); and**

*Staff Finding: As stated above, the whole application consists of the minor rezone and a proposed agricultural market. If the agricultural market occurred today, the Yakima County Planning Division would have to deny the application because an agricultural*

*market is not allowed within the RT Zoning District. The intent of the HTC Zoning District is to provide commercial and tourism opportunities along major routes. Not all expected locations suitable for the HTC Zoning District, especially needs for private reasons, can be considered by Yakima County when the current zoning map was adopted. The public need is also met from an economic development basis as the agricultural market supports the agricultural industry, a leading industry in the County.*

**8. Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone (19.36.030(4)(h)):**

*Staff Finding: This proposed rezone from the RT to HTC Zoning District does not change the underlying RT land use designation of the County's comprehensive plan or require an amendment. In effect, the proposed minor rezone indirectly supports the intent of the RT designation as the rezone will continue to focus more intense, commercially centered development within existing commercial and developed areas. This highlights the RT Designation's role of providing a transition between the urban and the rural by allowing urban/dense uses within the appropriate areas. Additionally, the Town of Naches and the City of Tieton contain more tourist destinations and commercial opportunities than when the current land-use map was adopted in 2013. Their populations have also increased since 2013 leading to an increase in traffic within the major traffic corridors of Tieton, Naches, and Yakima. As the County sees an increase in economic development within various parts of the county a change in zoning reflecting these new trends should occur based on a review of all applicable code requirements, the submitted application materials, and the built and natural environments of the time. This is essentially what is occurring with this proposal and supported within this staff recommendation.*

*Staff Finding: Based on the findings above, the proposal has been determined to be consistent with the minor rezone review criteria.*

**J. Type 1 Considerations Applicable to all Type 1 Uses.** The proposed agricultural market, as conditioned, would satisfy the requirements and objectives that are applicable to all Type 1 conditional uses set forth in YCC 19.01.070(19) and would allow for the requirement of additional conditions under YCC 19.30.090 in the following ways:

1. Comply with any development standard or criteria for approval set forth in this Title or other relevant provisions of YCC 19.30.100(2)(a): The proposal, as conditioned, would also comply with the HTC Zoning District's development provisions, standards and criteria of YCC 19.10.040 in the following ways:
  - a. Conformity with All Regulations Required (YCC 19.10.040(1)): "Any development, structure, or part shall conform to all of the regulations specified in this Title for the situation and zoning district in which they are located in order to be authorized, erected, constructed, reconstructed, moved or structurally altered."

*Staff Finding: This project will comply with the standards of the HTC Zoning District and the development standards of YCC 19.10.040, provided the conditions below are met.*

- b. Yards, Lots, Open Space and Off-Street Parking and Loading Spaces (YCC 19.10.040(2)(a)): “Yards or lots created after the effective date of this Title shall meet at least the minimum requirements established by this Title and shall not be smaller than the minimum standards established in Chapters 19.10 through 19.18. The lot size, width, depth, shape and orientation shall be in accordance with the applicable zoning laws.”

*Staff finding: Open spaces, yards, or lots are not being created or modified as part of this proposal. The subject parcel is a conforming lot size in the HTC Zoning District. Off-street parking is addressed in Finding J(o) below.*

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

The Yakima County Roads Department provided the following comments:

CUP2024-00021 Comments

“Conditions

1. Obtain a road approach permit for Parcel 181305-13002.

Comments

Parcel 181305-13002 is fronted by North Mitchell Drive (Functional Class 19 - Urban Local Access Road). Said roadway falls within the FHWA Highway Urban Boundaries. Per YCC19.23.045 these roadways are substandard for their classification. Per YCC19.23.040(2)(C)(i)(a & b), the roadways are exempt from roadway improvements being required if the annual average daily traffic (AADT) volumes of the expected land use do not exceed the existing AADT for the approved land used of a Market. Based on the ITE trip generation manual, a market for a building of this size does not exceed the ADT of a market; however, Yakima County Roads cedes jurisdictional authority to WSDOT within 150' of a public highway. Any conditions of approval required by WSDOT along North Mitchell Drive will be required by Yakima County Roads.



Yakima County Roads has no record of a Road Approach Permit (RAP) for the Parcel 181305-13002. Per YCC10.08.020 and YCC19.10.040, the applicant shall obtain a RAP from the Yakima County Roads Department for all existing unpermitted access(es) to the County roadway system. The fact that the road approach application is in conjunction with a CUP must be disclosed by the applicant at the time of application. No future building permits can be issued without the completion and approval of a RAP.”

*Staff Finding: Based on the comments from the Yakima County Roads Department, a RAP is required to be obtained prior to the issuance of any building permits. Any other transportation requirements are stipulated by WSDOT and must be met prior to the issuance of building permits.*

- d. Land Uses (YCC 19.10.040(4)): “Uses allowed within a zoning district are listed as permitted, administrative or conditional uses in the Allowable Land Uses Table 19.14-1 within Chapter 19.14.”

*Staff Finding: According to Table 19.14-1 Allowable Land Uses, “Agricultural Market” in the HTC Zoning District is listed as a Type 1 review process. YCC19.01.070 defines an agricultural market as a “use primarily engaged in the retail sale of fresh, regionally grown agricultural products. An Agricultural Market may include as incidental and accessory to the principal use, the sale of factory sealed or prepackaged food products such as boxes of apples or other fruit, jams, jellies and baked goods and other value-added products using produce grown regionally, and some limited non-food items. This definition does not include the sale of livestock.” Based on the submitted application materials, the proposed development meets this definition.*

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

The Yakima County Building and Fire Safety Division provided the following comments:

CUP2024-00021

“Based upon the information submitted, proposals to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed require Building, Fire, Mechanical and/or Plumbing Permits (IBC, S.105.1). All construction is required to comply with all applicable provisions of the current adopted International Building Codes (IBC, S.101.2) with Washington State



Amendments and Washington State Energy Code-Commercial (WSEC-C, S.C101.2) at the time of building permit submittal. Building permits and Building Codes are based on the building's use and construction type. The entire site, which includes buildings, structures, facilities, elements, and spaces, temporary or permanent, shall be accessible to individuals with disabilities (IBC, S.1103.1). A complete building code compliance plan review will be performed when construction drawings are submitted for building permits.

Based upon the submitted site plan, a new building is proposed south of the existing warehouse building. The proposed is a 5,600 square foot building of unknown construction type designed to be used as a seasonal agricultural market. The site and market building are required by code to be fully accessible to individuals with disabilities (18IBC, S.1103.1). At 5,600 square feet in area, all architectural plans are required by Washington State RCW are to be prepared by an architect licensed in the State of Washington (RCW 18.08.410). All structural plans, details and structural calculations are required by code to be prepared by a structural engineer licensed in the State of Washington (18IBC, 107.1). All documents including plans, details and structural calculations prepared by an engineer is required by Washington State RCW to have an engineer's Washington State seal and signature (RCW 18.43.070).

Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new market building lie within the FEMA designated 500-year floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5))."

"A building permit is required for the proposed 5600sf AG Market structure. Any groundwork prior to the issuance of building permits will require a separate Grading & Excavation Permit. A building permit is required for the proposed lighted sign.

Research:

Original Structure built prior to the requirement for building permits.

BLD2013-00032 Loading Dock Addition - Final Approved 6/4/15

BLD2013-00033 Sliding Doors Addition - Final Approved 6/18/15

BLD2016-00364 CA Addition - Final Approved 9/26/16

No other structures/permits were researched. If you want additional research on permits for the Parcel, please submit a Public Disclosure Request.”

“Based on the information submitted, all new construction and modifications to existing structures require fire permits. All construction or changes of use must comply with all applicable provisions of the currently adopted International Fire Codes with Washington State Amendments and the currently adopted Yakima County Ordinances. Fire Permits and Codes are based on the building’s use and construction type.”

*Staff Finding: Based on the applicant's proposal, building and fire safety permits are required for development. The applicant should be aware there are conditions to be met prior to the issuance of building permits. Please contact the Building and Fire Safety Division at (509) 574-2300 for more information.*

- f. Setbacks, Easements and Right-of-Way (YCC 19.10.040(6)): “Chapters 19.11 through 19.18 list standard minimum setbacks for buildings or other structures and uses. Exceptions to certain setbacks are listed in Subsection 19.10.040(6)(b)...”

Zoning District:	HTC Zoning District		
Front Setback:	25'	Southwest	Planned Edge of the right-of-way of SR – 12
Side Setback:	50'	North	Planned centerline of N Mitchell Drive
Side Setback:	50'	Southeast	Planned centerline of N Mitchell Drive
Side Setback:	10'	Northwest	Property line
Rear Setback:	50'	Northeast	Planned centerline of N Mitchell Drive

*Staff Finding: YCC Table 19.13.020-1 (Lot Standards, Setbacks, Lot Coverage and Building Height Requirements) lists the standard minimum setbacks for buildings or other structures and uses in the HTC Zoning District. Based on a review of the submitted site plan all setbacks will be met.*

- g. Vision Clearance Triangles at Intersections and Driveways (YCC 19.10.040(7)):
- (b) “A vision clearance triangle shall be maintained at all driveways and curbcuts, and the intersection of an alley with a public street for vision and safety purposes. The vision clearance triangle shall measure 15 feet along the perpendicular street curb lines or pavement edge, or travel lane of the public street and 15 feet along the driveway or alley. The third side of the triangle shall be a straight line connecting the 15-foot sides described above. No sign or associated landscaping shall be placed within this triangle so as to materially impede vision between the heights of two and one-half and ten feet above the centerline grade of the streets.”

*Staff Finding: The applicant shall maintain vision clearance triangles (VCT) where the development accesses onto North Mitchell Drive as described in YCC 19.10.040(7)(b), with the exception of any requirements to meet the FSMA.*

- h. Maximum Lot Coverage and Building Height (YCC 19.10.040(8)(a) & Table 19.12.020-2): “Lot coverage means the percentage of the area of a lot covered by buildings, accessory structures, or other impervious surfaces” (YCC 19.01.070(12)). Building height is considered to be the vertical distance from grade plane to the average height of the highest roof surface (YCC 19.01.070(2)). The maximum building height is intended to maintain building and structure heights that are compatible with the character and intent of the Zoning District.

*Staff Finding: According to YCC Table 19.11.040-2, the maximum lot coverage in the HTC Zoning District is 80%. Based on the submitted site plan this requirement is not exceeded. The maximum building height in the HTC Zoning District is 45'. The submitted application materials indicate the agricultural market is to be 35', which is within the building height limit of the HTC Zoning District and therefore the building height limit is met.*

- i. Fences, Walls and Recreational Screens (YCC 19.10.040(9)): The provisions of YCC 19.10.040(9) “shall govern the location and height of fences and walls, to allow access to properties by utility employees and emergency response personnel and to maintain good appearance of residential areas and visual access along residential streets and between lots.”

*Staff Finding: The applicants are not proposing any new fencing, but proposing to keep the existing fencing. The staff finding addressing the fencing requirements is found in Finding J(a) below.*

- j. Exterior Lighting (YCC 19.10.040(10)): “Exterior lighting is regulated to minimize light pollution to neighboring properties and encourage true-color, full-spectrum light rendition in projects. Exterior lighting for all uses and signs shall be directed downward and otherwise arranged, fully shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles.” Figures 19.10.040-3 and -4 of the YCC contain examples of exterior lighting sources and fixtures.

*Staff Finding: The applicants are utilizing the current lighting on the property and have indicated future exterior lighting will involve wall-packs. Any future new exterior lighting shall comply with the standards set forth in YCC 19.10.040(10). An ongoing condition of approval regarding exterior lighting is added to this recommendation.*

- k. Floodplain Development (YCC 19.10.040(11)): “A pre-application meeting and a Flood Hazard Permit application is required for all new development in floodplains in order to minimize and mitigate potential adverse impacts to property and infrastructure while reducing risks to public health and safety.”

The Yakima County Building and Fire Safety Division provided the following comments:

“Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new market building lie within the FEMA designated 500-year floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5)).”

*Staff Finding: Based on the comment submitted by the Building and Fire Safety Division no additional flood permits are required at this time. All future developments require a review by the Building and Fire Safety Division for building and fire code compliance.*

- l. Stormwater Requirements (YCC 19.10.040(12)): “...is intended to ensure public and private development projects comply with the National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act (CWA) where applicable.”

The Yakima County Water Resources Division provided the following comments:

“Ongoing Conditions:

I. Stormwater must be retained on site.

II. 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.”

*Staff Finding: Based on the comments from the Water Resources Division, all stormwaters must be retained on site and any natural drainageways cannot be altered or impeded without the approval of the Water Resources Division.*



- m. YCC 19.20 Signs (YCC 19.20.030(1)): All on-premises signs are accessory uses and shall be subject to the same procedural and review requirements as the principal use, except that new signs accessory to existing or approved uses may be reviewed as modifications to existing or approved uses under Section 19.35.030. All proposed signs are subject to the review procedures of Title 19 and the standards of Chapter 19.20, which includes Table 19.20-1 Type of Signs Permitted, Table 19.20-2 Number of Signs Permitted, Table 19.20-3 Maximum Area per Sign Face, and Table 19.20-4 Sign Height and Setbacks.

*Staff Finding: The applicants indicated in a narrative submitted on July 19, 2024 that the sign is no longer proposed to be lit at this time. This does not preclude the applicants from lighting the sign in the future. Any future interior or exterior lighting of the sign shall comply with the applicable Yakima County codes and ensure lighting does not leak onto SR-12. The applicants have indicated the sign will be 100-square feet in area and no more than 30-feet in height. This meets the sign requirements for free-standing signs within the HTC Zoning District. The applicants shall obtain a building permit for the sign as required by the Building and Fire Safety Division.*

- n. YCC 19.21 Sitescreening and Landscaping: Sitescreening and landscaping consistent with the requirements of Chapter 19.21 shall be provided for any proposed new use, which includes modifications to existing uses being reviewed under this title. According to 19.21.020(1), the applicant is required to submit a sitescreening and landscaping plan depicting the location, height, size, and type of all plantings and fences under the requirements of this chapter.

*Staff Finding: The sitescreening requirements are addressed under Finding J(b) below.*

- o. Off-Street Parking: According to YCC 19.22.070, "All off-street parking lots, driveways, travel ways, parking aisles, vehicle storage and vehicle sales lots having a capacity of three or more vehicles, shall be constructed in the following manner:
  - a. Surfacing. All parking and loading spaces and related access drives, maneuvering, and vehicle storage areas shall be built to standards approved by the Reviewing Official as follows:
    - (a) Urban Standards.
      - (i) Parking facilities within Urban Growth Areas, Rural Settlements, **Highway/Tourist Commercial (emphasis added)**, and Rural Transitional Areas shall be paved with two inches thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the Reviewing Official, to eliminate dust and/or mud.
      - (ii) The Reviewing Official may consider using alternative surfacing materials, such as gravel, for portions of parking facilities primarily used by



heavy equipment where maintenance and repair of paved surfaces would be located.

- b. **Grading and Drainage.** Parking areas shall be graded and drained so all surface water is disposed of on-site. Grading and drainage facilities shall be designed according to accepted engineering standards, YCC Title 12.10 and the Stormwater Management Manual for Eastern Washington, which will require review by the Public Services Director or designee.
- c. **Wheel Stops and Curbs.**
  - (a) The front of a parking space with a curb that is improved with groundcover landscape material, instead of asphalt or concrete pavement; may be counted toward landscape or open space area requirements.
  - (b) The perimeter of a parking or loading area and access and maneuvering drives associated with them shall be improved with a curb, rail or equivalent so vehicles do not extend over a property line, sidewalk or public or private street.
- d. **Markings.** All paved parking spaces (except motor vehicle sales areas) shall be marked by durable painted lines at least four inches wide and extending the length of the stall or by curbs or other means approved by the Reviewing Official to indicate individual parking stalls. Signs or markers located on the parking lot surface shall be used as necessary to ensure safe and efficient use of the parking lot. All accessible parking spaces shall be marked and signed in compliance with the currently adopted International Building Code. Wheel stops may be required by the Administrative Official as needed on graveled surfaces to designate spaces in parking and loading areas.
- e. **Lighting.** Lighting shall be provided to illuminate any off-street parking or loading space used at night. When provided, lighting shall be directed to reflect away from adjacent and abutting properties and comply with Subsection 19.10.040(10). Parking lots adjacent to residential districts or uses shall be designed with down-shielding and luminaries creating no lighting pollution upon those properties. A Photometric Lighting Plan may be required if the parking lot is located adjacent or abutting residential properties. Further requirements and restrictions are required when the property is located within the Airport Safety Overlay District. See Chapter 19.17.
- f. **Landscaping of Parking Areas.** Parking facilities must be landscaped under the standards listed in Chapter 19.21.
- g. **Maintenance.** The owner or lessee of a required parking area shall maintain the paved surface, drainage facilities, landscaping and irrigation facilities in conformance with the standards of this Chapter and the approved site plan.”

*Staff Finding: The applicants have proposed 16 parking spaces to serve the agricultural market. Table 19.22-2 Off-Street Parking Standards indicates for commercial retail (except stores selling bulky merchandise) the parking standard is one space for every 350 square feet. As the agricultural market is to be 5,600 sq ft, 16 parking spaces are sufficient to serve the proposed development. The parking spots and travel ways must meet the outlined requirements stated above in Finding J(o) and any other applicable YCC requirements prior to the Certificate of Occupancy being issued for the agricultural market building and the commencement of the use of the agricultural market. The applicants shall also ensure all ADA requirements are met. Any questions on ADA requirements can be directed to the Building and Fire Safety Division. When the applicant is ready, they should contact the Yakima County Planning Division when the parking lot is ready for inspection.*

- p. Location and Design of Loading Facilities:** (YCC 19.22.060) Off-street loading and unloading spaces and parking for truck queuing shall be required for any commercial, industrial and public utility building, restaurant, office building, overnight lodging facility, hospital, institution, school, college, public building, recreation or entertainment facility, and any similar use requiring loading or unloading from trucks or other large vehicles. The off-street parking and loading spaces/berths required by this Chapter are based on minimum numbers and design guidelines published by the Institute of Transportation Engineers in the latest editions of Transportation and Land Development and Traffic Engineering Handbook.

**a. Off-Street Loading Design Standards:**

- A. Minimum Dimensions:** (YCC19.22.060(3)(b)(i)) Off-street loading space/berth requirements in Table 19.22-4 are based on minimum numbers and design guidelines published by the Institute of Transportation Engineers in the latest editions of Transportation and Land Development and Traffic Engineering Handbook. All required loading spaces/berths shall meet the minimum dimensional standards shown in Table 19.22-4. Where the vehicles used for loading and unloading exceed these dimensions, the required length of these berths shall be increased.
- B. Maneuvering Space:** (YCC19.22.060(3)(b)(ii)) In addition to the length of the loading space/berth, additional maneuvering space may be required by the Reviewing Official for uses with loading space/berth access from a collector arterial or local access street, especially if located across the street from another high-demand use. When required, maneuvering space shall be designed and arranged to allow the most efficient use of all required loading spaces/berths by motor vehicles of the types typically employed by the activities served. The minimum maneuvering width between the outermost point of the loading berth and the limit of the maneuvering area shall be 50 feet.
- C. Location:** (YCC19.22.060(3)(b)(iii)) Loading spaces shall be located so that trucks shall not obstruct pedestrian or vehicle traffic movement or project into

any public right-of-way. All loading space areas shall be separated from parking areas and shall be designated as truck loading spaces.

- D. Sitescreening: (YCC19.22.060(3)(b)(iv)) Loading spaces/berths on the perimeter of the site shall be screened under Chapter 19.21. If the adjoining property is within an industrial or commercial district and contains similar uses that are compatible with loading facilities then this standards may not be required. Any loading space that abuts areas zoned for residential use shall be screened, as set forth in Chapter 19.21 and operated as necessary to reduce noise and visual impacts. Noise mitigation measures may include architectural or structural barriers, beams, walls, or restrictions on the hours of operation.
- E. Reduction of Requirements: (YCC19.22.060(3)(b)(v)) The Reviewing Official may reduce the number or size of required loading spaces to less than that required as part of site plan review or other application through Chapter 19.35, if the Reviewing Official finds that a lesser number or size of loading spaces will be adequate to serve the expected needs of the development. The Reviewing Official shall consult Transportation and Land Development and Traffic Engineering Handbook in making this determination.

*Staff Finding: The applicants are required to ensure all loading spaces and vehicle travel ways are constructed to the standards listed above and to those indicated in Table 19.22-4 and Figure 19.22-2 (see Attachment E) within YCC19.22. The applicants have indicated that the existing loading docks are to be used for the agricultural market. All loading spaces and vehicle travel ways are to be hard-surfaced and must be installed prior to the issuance of the Certificate of Occupancy for the agricultural market and the commencement of the use of the agricultural market. Condition compliance on this requirement is through the Yakima County Planning Division.*

- q. **Water, Sewer and Food**: Per YCC Table 19.25-1, new structures in the HTC Zoning District and in rural areas have 2 options of water in order of priority: existing public water system and then an individual well. New structures in the HTC Zoning District and in rural areas have 2 options of sewer in order of priority: County sewer system and then an individual septic system.

Water Right: Regarding water rights, YCC 12.08.050 states that "All applicants for a building permit or other development permit requiring potable water must provide evidence of an adequate water supply to the county prior to the issuance of the permit . . ." Therefore, in the staff findings below the water right for the development is addressed.

The Yakima Health District (YHD) provided the following comments:

"[Septic] - YHD has no concerns with this proposal as described. A septic clearance will be required prior to issuance of building permits.

[Water] - If permanent plumbing will be installed, the water supply system and sewage disposal system will need to be reviewed and approved by YHD. Please contact YHD.Help.Desk@co.yakima.wa.us or 509-249-6508 with questions.

[Food] - Whole, uncut produce is exempt from foodservice permit requirements. If any non-exempt foods will be sold or served, a permit will be required from YHD. Please contact YHD.Help.Desk@co.yakima.wa.us or 509-249-6508 with questions.

*Staff Finding: The applicants have indicated the existing bathrooms in the CA are to service the agricultural market. Based on the comments from the YHD a septic clearance is required. The septic clearance must be completed prior to the issuance of building permits.*

*The applicants have indicated in a narrative and email submitted on July 19, 2024, that potable water will be provided from the City of Yakima. The applicants shall provide documentation from the City of Yakima to the Planning Division indicating that the water connection to the agricultural market meets the City's requirements. This must be accomplished prior to the issuance of the Certificate of Occupancy for the agricultural market and the commencement of the use.*

*Whole, uncut produce are exempt from food service permits, thus, any food not falling in this category requires the necessary permits as stipulated by the YHD. YHD provided additional comments (see Attachment C) adding an on-going condition that any new vendor within the agricultural market must ensure they have obtained all applicable food permits.*

**K. Administrative Adjustment Review Criteria:** In accordance with YCC 19.35.020(5) the Reviewing Official may adjust certain standards if it is found the administrative adjustment is consist with the following:

- a. The applicants are proposing to adjust the fence height requirements of the HTC Zoning District by allowing the existing fence to be two-feet higher than required within the front setback.
  - i. The purpose and intent of the Comprehensive Plan (**Horizon 2040**) policies that relate to the specific adjustment being proposed and this Title;

*Staff Finding: This criterion is addressed in Findings E and I(2) above.*

- ii. The purpose and intent of the specific Zoning District and the standard being adjusted;

*Staff Finding: The intent of the HTC Zoning District is discussed at length throughout the staff recommendation. A shortened interpretation of the intent of the HTC Zoning District is to support commercial services that serve tourism and recreational uses along highways, interchanges, and along their routes, but that does not harm surrounding land-uses. The higher fence height does not detract from any of these intentions. The placement of the fence is based on guidance from the FSMA. The applicants must adhere to the VCT requirements for fences unless the placement of the fence is based on the guidance of the FSMA. Therefore, as the purpose and intent of the HTC Zoning District is not harmed by a higher fence height, this criterion is sufficiently addressed.*



- iii. Maintaining the minimum administrative adjustment necessary to accommodate the proposed use;

*Staff Finding: The applicants are proposing to allow for a two-foot height increase within the front setback, which will allow the existing six-foot tall fence to remain. The applicants are not seeking any more than what is needed for an existing fence, which is intended to meet FSMA guidelines. Therefore, the minimum administrative adjustment is met and this criterion is sufficiently addressed.*

- iv. Balancing the flexibility of the administrative adjustment with the health, safety and general welfare of individual neighborhoods and community;

*Staff Finding: The placement of the fence is needed to ensure the security of the food processing/packing plant on the subject property. The health, safety, and general welfare of the neighborhood, Yakima County, and anywhere the food processed/packed on the property is shipped is ensured by the fence being in its current location.*

- v. The placement or design of structures will maximize solar access for the production of solar energy;

*Staff Finding: The proposed development does not involve any solar access for the production of solar energy at this time, therefore this criterion is not applicable.*

- b. The applicants are proposing a complete reduction to the sitescreening requirements along the frontages of Summitview Road and Summitview Extension; and, that existing fencing and trees that border residential properties are appropriate. In accordance with YCC 19.35.020(8) the Reviewing Official may adjust the sitescreening and landscaping standards under YCC 19.21 if it is found the administrative adjustment is consistent with the following:

- i. No useable space for landscaping exists between the proposed new structure and existing structures on adjoining lots or alleys because of inadequate sunlight or inadequate width.

*Staff Finding: This criterion is central to the administrative adjustment. The applicants indicate the placement of the fence is required to maintain compliance with the FSMA. The shifting of the fence along North Mitchell Drive would create a six-foot wide area that would require landscaping. The applicants' narrative states the six-foot wide area establishes a place for someone to hide or encamp who wishes to harm the buildings processing/packaging food, and this presents a hazard to the food processing/packing operations on the property. The FSMA does indicate in Section 418 that the owner, operator, or agent in charge of the facility must ensure there is a safety plan for all types of hazards (see Attachment F). The types of hazards range from biological, physical, natural, to human engineered. Hence the argument to keep the fence to maintain compliance with the FSMA. The Yakima*



*County Planning Division is not in charge of ensuring compliance with the FSMA. Compliance with the FSMA rests with the applicable federal agencies and staff as stated within the FSMA. However, the Reviewing Official agrees that the placement of the fence should remain to ensure compliance with the FSMA on the basis of reasonableness. The applicants should not be required to establish sitescreening that enables someone to hide or encamp with the intention of harming the food processing/packing operations on the property. This includes requirements to establish sitescreening that is not as translucent as the existing chain link fence (for example a slatted fence). The properties to the southwest are the Naches Trail and SR-12, sitescreening for these areas is not needed for compliance reasons for the FSMA. Therefore, the Reviewing Official recommends a full reduction to all sitescreening requirements as sought by the applicants.*

- ii. The building setback provided in front of the new structure is less than six feet or is developed as a plaza with decorative paving/pavers, trees, planters, or other amenities.

*Staff Finding:* *This criterion does not apply to the proposed development.*

- iii. Xeriscape landscaping is utilized in designated stormwater control areas; provided, this factor shall not be used exclusively in reducing a sitescreening standard.

*Staff Finding:* *The applicants are not proposing any xeriscaping at this time. There are drainage swales around the property though to accommodate stormwater. The proposal does not fully meet this criterion nor does the application materials provide sufficient information to fully ignore this criterion.*

- iv. When existing trees and other vegetation serve the same or similar function as the required landscaping, they may be substituted for the required landscaping if they are healthy and appropriate for the site at mature size. When existing trees are eight inches or more in diameter, they shall be equivalent to three required landscape trees. If necessary, supplemental landscaping shall be provided in areas where existing vegetation is utilized to accomplish the intent of this Chapter.

*Staff Finding:* *The Reviewing Official visited the property on September 30, 2024 (see photos in Attachment G). In reviewing the property, the existing arborvitae trees and natural foliage along the eastern property line are sufficient to provide adequate sitescreening for the residential parcels across North Mitchell Drive to the east. Regarding Parcel 181305-13003 to the south, the property contains similar agriculturally related uses as the subject property and therefore a reduction to sitescreening requirements is not expected to provide hardship to the southern property.*

*Regarding the sitescreening along Parcel 181305-13001 and the properties across from North Mitchell Drive to the north, YCC19.21.030(2)(j)(i)(A) indicates within large properties sitescreening only needs to be along that portion of the property*

*with development. Therefore, sitescreening is not needed along Parcel 181305-13001 and the properties across from North Mitchell Drive to the north as the southern portion of the property is the location for the proposed development.*

- v. Other adjustments to sitescreening requirements provided that they are able to comply with criteria YCC19.35.020(5) above, as the Reviewing Official determines applicable.

*Staff Finding: Overall, the full reduction to the sitescreening criteria is not a detriment to the community as a whole. Existing residential houses are already screened by trees or far away from the proposed development where views will be obscured by distance and existing buildings. The intent of the HTC Zoning District is to provide commercial and tourist opportunities along major traveling corridors, for which, the proposed development will provide. No comments were received from neighboring properties that contradicts these findings. It is important to note that the basis for the recommendation for the full reduction sitescreening requirements is based on the rezoning, the submitted application materials, and the location of the proposed development. Any future expansions to the agricultural market must undergo their own reviews to determine the sitescreening requirements.*

- L. **Consistency Analysis of the Proposed Use with Development Regulations (YCC 16B.06.020), the Comprehensive Plan (Horizon 2040) and RCW 36.70B.040:** As part of project review, the reviewing official will determine if a proposed project is consistent with Yakima County's applicable development regulations or, in the absence of applicable regulations, the adopted Yakima County Comprehensive Plan (***Horizon 2040***). Consistency should be determined in the project review process by considering four factors found in applicable plans and regulations (RCW 36.70B.040). They are as follows:

1. The type of land use;

*Staff Finding: If approved, the applicant's request will change the zoning from RT to HTC and retain the RT Designation. A review of the agricultural market is above in Finding J.*

2. The level of development, such as units per acre or other measures of density;

*Staff Finding: The proposed rezone will not change the density of the area or the HTC Zoning District. If the agricultural market application is not completed, any future uses or subdivisions will need to be analyzed for consistency through the appropriate Yakima County codes.*

3. Infrastructure, including public facilities and services needed to serve the development; and

*Staff Finding: The City of Yakima can provide potable water to the agricultural market. Public sewer is not available at this time. The applicants are required to undergo a septic clearance review through the YHD, which should address any septic issues. The Yakima County Roads Department and WSDOT did not provide comments indicating the roads are insufficient to service the proposed rezone or the proposed agricultural market.*

4. The characteristics of the development, such as development standards.

*Staff Finding: As conditioned, the character of the development will be consistent and compatible with applicable general development standards, the development standards of the HTC Zoning District, and the intent of the underlying RT Designation.*

#### IV. CONCLUSIONS

The application for the minor rezone, conditional use permit, and administrative adjustment was adequately reviewed by the conditions set forth in this recommendation to reasonably ensure compatibility, compliance, and consistency with the provisions of the Minor Rezone review criteria, **Horizon 2040** goals and policies, YCC 16B.06.020 and RCW 36.70B.040 in compliance with all applicable Yakima County and State of Washington law requirements.

#### V. RECOMMENDATION

Based on the Findings of the Administrative Official, staff recommends **APPROVAL** of the Minor Rezone from RT to HTC (ZON2024-00001), the agricultural market (CUP2024-00021), and the Administrative Adjustment to raise the fence height and the full reduction to all sitescreening requirements (ADJ2024-00004), subject to the following conditions.

#### VI. CONDITIONAL USE PERMIT AND ADJUSTMENT CONDITIONS

*The following conditions must be obtained within three years of the date of the final Yakima County Board decision. Please note that the decision and time limit pertain to conditional authorization for the subject land use only and failure to comply with all conditions will result in the revocation of this permit. The Final Decision should include the following conditions and the findings as described.*

*The following conditions must be met prior to the issuance of Building Permits. Failure to comply with these conditions can result in the revocation of this permit.*

1. The applicant shall apply for **all** building and fire safety permits for the proposed and existing structures, including a permit for the proposed sign.

2. The applicant shall obtain a Road Approach Permit (RAP) from the Yakima County Roads Department for all existing and proposed accesses to the county roadway system. The fact that the road approach application is in conjunction with a CUP must be disclosed by the applicant at the time of application. No future building permits can be issued without the completion and approval of a RAP. Contact the Yakima County Roads Department at (509) 574-2300.
3. The applicants shall provide documentation to the Yakima County Planning Division indicating the WSDOT has approved the sign.
4. The applicants shall submit documentation to the Yakima County Planning Division verifying the YHD has approved all septic systems for the proposed development.

***The following conditions must be met prior to the issuance of the Certificate of Occupancy or the commencement of use. Failure to comply with these conditions can result in the revocation of this permit.***

5. The applicants shall finalize **all** required building and fire safety permits.
6. The applicants shall submit documentation to the Yakima County Planning Division verifying the City of Yakima has approved all water systems and connections for the proposed development.
7. The applicants shall submit documentation to the Yakima County Planning Division verifying the YHD has approved all required food permits needed for the commencement of the agricultural market to start.
8. The applicants shall ensure that all 16 parking spaces and maneuvering areas comply with the following construction and maintenance standards of YCC 19.22 and be designed under Table 19.22-3:
  - i. Surfacing: (YCC 19.22.070(1)) All parking and loading spaces and related access drives, maneuvering, and vehicle storage areas shall be built to standards approved by the Review Official as follows:
    - A. Urban Standards. Parking facilities within Highway-Tourist Commercial Zoning Districts shall be paved with two inches thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the Reviewing Official, to eliminate dust and/or mud.
  - ii. Grading and Drainage: (YCC 19.22.070(2)) Parking areas shall be graded and drained so all surface water is disposed of on-site. Grading and drainage facilities shall be designed according to accepted engineering standards, YCC Title 12.10 and the Stormwater Management Manual for Eastern Washington, which will require review by the Public Services Director or Designee.
  - iii. Wheel Stops and Curbs: (YCC 19.22.070(3))



- A. The front of a parking space with a curb that is improved with groundcover landscape material, instead of asphalt or concrete pavement; may be counted toward landscape or open space area requirements.
  - B. The perimeter of a parking or loading area and access and maneuvering drives associated with them shall be improved with a curb, rail or equivalent so vehicles do not extend over a property line, sidewalk or public or private street.
- iv. Markings: (YCC 19.22.070(4)) All paved parking spaces shall be marked by durable painted lines at least four inches wide and extending the length of the stall or by curbs or other means approved by the Reviewing Official to indicate individual parking stalls. Signs or markers located on the parking lot surface shall be used as necessary to ensure safe and efficient use of the parking lot. All accessible parking spaces shall be marked and signed in compliance with the currently adopted International Building Code.
  - v. Lighting: (YCC 19.22.070(5)) Lighting shall be provided to illuminate any off-street parking or loading space used at night. When provided, lighting shall be directed to reflect away from adjacent and abutting properties and comply with YCC 19.10.040(10).
  - vi. Landscaping: (YCC 19.22.070(6)) Parking facilities must be landscaped under the standards listed in Chapter 19.21.
  - vii. Maintenance: (YCC 19.22.070(7)) The owner or lessee of a required parking area shall maintain the paved surface, drainage facilities, landscaping and irrigation facilities in conformance with the standards of this Chapter and the approved site plan.
9. All loading spaces shall be hard-surfaced with two inches thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the Reviewing Official, to eliminate dust and/or mud.

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

- 10. The applicants shall ensure all food vendors within the agricultural market have received all applicable food permits as stipulated by the YHD.
- 11. All future approaches must be reviewed by WSDOT. No additional approach is approved through this application.
- 12. The fence height, including attachments, is approved to be up to, but no more than six feet in height.
- 13. The applicant shall ensure that any exterior lighting installed meets the requirements as outlined in 19.10.040(10). In accordance with YCC 19.10.040(10), exterior lighting for all uses shall be directed downward and otherwise arranged, fully shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that

does not reflect or cause glare or light intrusion into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles. For further information please contact the Yakima County Planning Division at 509-574-2300.

14. Stormwater must be retained on site and cannot spread onto any rights-of-way owned by the WSDOT. 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.

**Attachments:**

- A. YCC 16B.07.050 – Compliance, Extension, Expiration and Reinstatement
- B. Recommended Approved Site Plan
- C. Internal Comments, including additional YHD Comment
- D. WSDOT Comment Letter
- E. Table 19.22-4 and Figure 19.22-2
- F. Section 418 of the FSMA
- G. Site Visit Photos from September 30, 2024
- H. Current and Proposed Zoning Maps

*Yakima County ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin, or sex in the provision of benefits and services resulting from its federally assisted programs and activities. For questions regarding Yakima County's Title VI Program, you may contact the Title VI Coordinator at 509-574-2300.*

*If this letter pertains to a meeting and you need special accommodations, please call us at 509-574-2300 by 10:00 a.m. three days prior to the meeting. For TDD users, please use the State's toll-free relay service 1-800-833-6388 and ask the operator to dial 509-574-2300*



## ***Compliance, Extension, Expiration and Reinstatement (YCC 16B.07.050)***

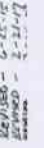
- (1) Compliance with Conditions and Safeguards of Project Permit. It is the affirmative duty of a project permit holder and the land owner (as applicant) to comply with any conditions made a part of the terms under which the approval of a project permit was granted as authorized by Yakima County Code. The applicant shall complete all required conditions, submit documentation that all conditions were met and request County inspection or review to determine that the requirements have been fulfilled within the timeframe specified in the decision and any authorized extensions. When the conditions of the project permit have been met within the timeframe specified by the decision and any subsequent extension authorized by the applicable code, the applicant shall provide a letter certifying that the conditions were met to the Administrative Official to document compliance.
- (2) Extension of Any Approved Project Permit. A valid project permit, other than a preliminary plat, may be extended one time only for up to one additional year by action of the Administrative Official.
  - (a) Requests for extensions shall be made in writing, shall be submitted to the Planning Division prior to the expiration date and shall be accompanied by the final approved site plan showing the location and size of any development or work already completed on the project. Such extension request shall present a timeline that identifies when each of the conditions of the decision has or will be completed and shall detail unique and special circumstances that prohibited the commencement or completion, or both, of the use authorized.
  - (b) The Administrative Official shall review the request without public notice or hearing and issue the decision within fourteen days from the receipt of the completed request. The Administrative Official may:
    - (i) Approve the extension based on a work schedule provided by the applicant to assure the work will be completed according to a modified schedule, or
    - (ii) Disapprove the extension.
  - (c) The Administrative Official shall mail the decision to the applicant and shall specify the decision as final unless appealed to the Hearing Examiner under the provisions of Chapter 16B.09 of this Title. Conditions of approval listed previously in the notice of decision issued pursuant to 16B.07.010 through 16B.07.030 of this Chapter may be appealed only according to the procedures and time periods specified in YCC 16B.09.010 and are not subject to appeal again following any decision or determination of the Administrative Official made under this Section 16B.07.050.

Attachment: A

- (3) Failure to Complete Approved Permit Conditions within Specified Timeframe and Failure to Comply with Permit Decisions or Conditions.
- (a) Expiration. If compliance with the terms of the project permit approval has not occurred within the timeframe specified by the decision and any subsequent extension authorized by the applicable code, the project shall be considered expired by time limitation and the land use approval shall be null and void. Expiration of a project permit granted pursuant to Yakima County Code shall not be subject to appeal.
  - (b) Violations. A project permit issued or processed pursuant to any applicable Title listed in YCC 16B.01.020 will be deemed in violation of this Code 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 are not being maintained. Such violations of project permit approval shall be subject to Chapter 16B.11 and other remedies available to Yakima County under any applicable law to enforce conditions of permit approvals, remedy land use and code violations or abate those violations including without limitation YCC Title 13.
  - (c) Compliance Agreement. The applicant and the County may enter into a compliance agreement to complete the required conditions subject to appropriate fees to compensate the County in preparing, recording and implementing the compliance agreement. On terms acceptable to the Administrative Official, in his or her sole discretion, the County may offer an extension of time to complete the required conditions of approval subject to appropriate fees to compensate the County in preparing, recording and implementing any such compliance agreement; provided, however, that no compliance agreement may be used in lieu of the permit process to remove or negotiate conditions of approval.
- (4) Reinstatement. Where a project permit has expired, the applicant may apply to have the permit reinstated and the work authorized by the original permit can be recommenced, provided the following are met:
- (a) The applicant submits a written request not more than sixty days after the original permit or authorized extension expired.
  - (b) The applicant provides a timeline for successful achievement of all conditions upon which the Administrative Official can agree.
  - (c) The codes under which the original permit was issued and other laws which are enforced by Yakima County have not been amended in any manner which affects the work authorized by the original permit.
  - (d) No changes have been made or will be made in the original plans and specifications for such work.
  - (e) The applicant submits a reinstatement fee. The fee for a reinstated permit shall be seventy percent of the amount required for a new project permit pursuant to YCC Title 20.
  - (f) Where the request for reinstatement does not comply with all of the preceding criteria in this Subsection, a new project permit application must be submitted and processed as a new project, at full permit fees.



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# Yakima County Public Services

## Workflow Comments

**ZON2024-00001**

128 North 2nd Street \* Fourth Floor, Courthouse \* Yakima, WA 9890  
(509) 574-2300 \* FAX (509) 574-2301

Date Printed: 10/23/2024

## Workflow History

Task	Status	Comment	Date	Staff
Address Review	Complete	No addressing changes to occur with a rezone.	4/15/2024	Jamie West
Building Review	Complete	<p>Based upon the information submitted, proposals to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed require Building, Fire, Mechanical and/or Plumbing Permits (IBC, S.105.1). All construction is required to comply with all applicable provisions of the current adopted International Building Codes (IBC, S.101.2) with Washington State Amendments and Washington State Energy Code-Commercial (WSEC-C, S.C101.2) at the time of building permit submittal. Building permits and Building Codes are based on the building's use and construction type. The entire site, which includes buildings, structures, facilities, elements, and spaces, temporary or permanent, shall be accessible to individuals with disabilities (IBC, S.1103.1). A complete building code compliance plan review will be performed when construction drawings are submitted for building permits. Based upon the submitted site plan, a new building is proposed south of the existing warehouse building. The proposed is a 5,600 square foot building of unknown construction type designed to be used as a seasonal agricultural market. The site and market building are required by code to be fully accessible to individuals with disabilities (18IBC, S.1103.1). At 5,600 square feet in area, all architectural plans are required by Washington State RCW are to be prepared by an architect licensed in the State of Washington (RCW 18.08.410). All structural plans, details and structural calculations are required by code to be prepared by a structural engineer licensed in the State of Washington (18IBC, 107.1). All documents including plans, details and structural calculations prepared by an engineer is required by Washington State RCW to have an engineer's Washinton State seal and signature (RCW 18.43.070).</p> <p>Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new market building lie within the FEMA designated 500-year</p>	4/15/2024	Richard Hembree

Attachment: C

1/6

floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5)).

Code Enforcement Review	Comments Not Required		4/16/2024	Janna Jackson
Current Planning Review	Incomplete	I am advancing the workflow when it should have been advanced on 8/2/2024. AMC	8/2/2024	Aaron Cohen
Current Planning Review	Incomplete	There are issues relating to the site plan, sign, restroom proposals, loading spaces, and the administrative adjustment. AMC	4/23/2024	Aaron Cohen
Environmental Review	Complete	The application is complete for review. AMC	4/23/2024	Aaron Cohen
Environmental Review	Complete		9/13/2024	Aaron Cohen
Fire Review	Complete	Reviewed for code compliance.	4/15/2024	Douglas Werts
Flood/Hazard Review	Complete	Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new market building lie within the FEMA designated 500-year floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5)).	4/15/2024	Richard Hembree
Health Review	Complete	YHD has no concerns with this proposal as described. A septic clearance will be required prior to issuance of building permits.  Whole, uncut produce is exempt from foodservice permit requirements. If any non-exempt foods will be sold or served, a permit will be required from YHD. Please contact YHD.Help.Desk@co.yakima.wa.us or 509-249-6508 with questions.  If permanent plumbing will be installed, the water supply system and sewage disposal system will need to be	4/12/2024	Kait Wolterstorff

reviewed and approved by YHD. Please contact  
YHD.Help.Desk@co.yakima.wa.us or 509-249-6508 with  
questions.

Long Range Review	Complete	The application is complete for review. AMC	4/23/2024	Aaron Cohen
Transportation Review	Complete	See CUP2024-00021	4/15/2024	Victor Shaul
Water Resources Review	Comments Not Required	See also SEP2024-00010 CUP2024-00021 ADJ2024-00004	4/12/2024	Nellie Soptich



## Aaron Cohen

---

**From:** Aaron Cohen  
**Sent:** Friday, July 26, 2024 9:56 AM  
**To:** YHD Help Desk  
**Subject:** RE: Yakima County CUP24-021 Agricultural Market

Hi Andrew,

Thank you for the assistance!

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

If you are wanting to submit any documentation related to an existing application, check the status of an existing application, or are wanting to submit a new application for review please visit the Public Services online permitting portal at <https://yakimacountypermits.us/CitizenAccess/Default.aspx>. **Please note, not all Planning applications can be applied for on-line.** If the application type you are wishing to apply for does not appear as an option then you can either e-mail your application materials to [Planning\\_Info@co.yakima.wa.us](mailto:Planning_Info@co.yakima.wa.us) or you can come into the Public Services Department office and meet with a staff member. Public Services Department office hours are Monday – Friday from 8:00 am – 4:00 pm and we are located on the 4<sup>th</sup> floor of the Yakima County Courthouse at 128 N. 2<sup>nd</sup> Street, Yakima, WA 98901.

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**From:** YHD Help Desk <YHD.Help.Desk@co.yakima.wa.us>  
**Sent:** Friday, July 26, 2024 9:48 AM  
**To:** Aaron Cohen <Aaron.Cohen@co.yakima.wa.us>  
**Subject:** RE: Yakima County CUP24-021 Agricultural Market

Hello Aaron,

There should be an ongoing condition that any vender serving food that is not exempt is required to obtain a permit with YHD. The only specific terminology I would recommend is the food code. I will attach a copy of the food code section that explains when a permit is required.

"Subpart C - Permit to Operate 08300 08305 08310 08315 Requirement--Prerequisite for operation (FDA Food Code 8-301.11). A PERSON may not operate a FOOD ESTABLISHMENT without a valid PERMIT to operate issued by the REGULATORY AUTHORITY. Exempt from permit with approval. (1) (2) (3) (4) The REGULATORY AUTHORITY may exempt a PERSON from the provisions of 08600(1) and 08300 of this chapter in order to operate without a FOOD ESTABLISHMENT PERMIT, if the PERSON meets the other provisions of this chapter, including not using any FOOD prepared in a residential kitchen or other facility that is not APPROVED, and the types of FOOD served are limited to those specified in subsection (4) of this section. The PERSON requesting a PERMIT exemption under subsection (1) of this section shall submit a written application for an exemption on a form provided by the REGULATORY AUTHORITY at least 14 calendar days before providing FOOD service, or as otherwise required by the REGULATORY AUTHORITY. The PERSON requesting a PERMIT exemption under subsection (1) of this section shall submit properly prepared plans and specifications of the FOOD service facilities and EQUIPMENT if the REGULATORY AUTHORITY requires it, based on a review of the application for an exemption submitted under subsection (2) of this section. The PERSON requesting a PERMIT exemption under subsection (1) of this section shall limit FOOD handling to one or more of the following FOODS: (a) Individual samples of nonTIME/TEMPERATURE CONTROL FOR SAFETY FOOD sliced fruits and vegetables; (b) Popcorn and flavored popcorn prepared from commercially PACKAGED ingredients that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD; (c) Dried herbs and spices processed in an APPROVED facility; (d) Crushed ice drinks containing only ingredients that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOODS and dispensed from a self-contained machine that makes its own ice. Drinks with TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, snow cones, and shaved ice are not included; (e) Corn on the cob; (f) Whole roasted peppers; (g) Roasted nuts, roasted peanuts, and roasted candy-coated nuts; (h) Chocolate-dipped ice cream bars prepared from pre-PACKAGED ice cream bars produced in a FOOD PROCESSING PLANT; (i) Chocolate-dipped bananas prepared from bananas peeled and frozen in an APPROVED facility; and (j) Cotton candy."

Sincerely,



**Andrew Rodriguez**  
Environmental Health Specialist

**Office:** 509-249-6562  
**Mobile:** 509-208-0114

1210 Ahtanum Ridge Drive  
Union Gap, WA 98903



**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Sent:** Friday, July 26, 2024 9:38 AM  
**To:** YHD Help Desk <[YHD.Help.Desk@co.yakima.wa.us](mailto:YHD.Help.Desk@co.yakima.wa.us)>  
**Subject:** Yakima County CUP24-021 Agricultural Market

Hi YHD,

A quick question as it relates to CUP24-021 for an Agricultural Market. My assumption is that vendors will change and rotate through. For whole or uncut produce I know that is good, however, for non-exempt food I know a permit is required.

Should an ongoing condition be required that all new vendors selling non-exempt food must obtain a permit from YHD according to the guidelines stated by YHD? Is there also any specific terminology that should be placed in the condition?

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

If you are wanting to submit any documentation related to an existing application, check the status of an existing application, or are wanting to submit a new application for review please visit the Public Services online permitting portal at <https://yakimacountypermits.us/CitizenAccess/Default.aspx>. **Please note, not all Planning applications can be applied for on-line.** If the application type you are wishing to apply for does not appear as an option then you can either e-mail your application materials to [Planning\\_Info@co.yakima.wa.us](mailto:Planning_Info@co.yakima.wa.us) or you can come into the Public Services Department office and meet with a staff member. Public Services Department office hours are Monday – Friday from 8:00 am – 4:00 pm and we are located on the 4<sup>th</sup> floor of the Yakima County Courthouse at 128 N. 2<sup>nd</sup> Street, Yakima, WA 98901.

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**Washington State  
Department of Transportation**

South Central Region  
2309 Rudkin Road  
Union Gap, WA 98903-1648  
509-577-1600 / FAX 509-577-1603  
TTY 1-800-833-6388  
www.wsdot.wa.gov

October 3, 2024

Yakima County Planning Division  
128 N. 2nd Street, 4<sup>th</sup> floor  
Yakima, WA 98901

Attention: Aaron M Cohen, Planner III

Subject: SEPA2024-00010, Marlynn Holding  
US 12 milepost 197.5 left

Yakima County Public Services *MAC*  
001 03 2024 *ADW-004*  
*60241024*  
Case No. *2024-001* / *SEPA-010*  
Assigned To *Aaron*

We have reviewed the proposed project and have the following comments.

- The subject property is adjacent to U.S. Highway 12 (US 12), a partially-controlled limited access facility with a posted speed limit of 60 miles per hour. WSDOT has acquired all access rights to the highway and along Mitchell Drive. 214.5' northeasterly of the pedestrian path centerline. Direct access to the highway and along Mitchell Drive, 214.5' northeasterly of the pedestrian path centerline is prohibited.
- Stormwater and surface runoff generated by this project must be retained and treated on site and not allowed to flow onto WSDOT rights-of-way.
- Any proposed lighting should be directed down towards the site and away from US 12.
- Any outdoor advertising or motorist signing considered for this project will need to comply with state criteria. The applicant should contact Tanya Joblonski of the WSDOT Headquarters Traffic Office for specifics. She can be reached at (360) 705-7294

Thank you for the opportunity to review and comment on this proposal. If you have any questions regarding our comments, please contact Jacob Prilucik at (509) 577-1635.

Sincerely,

**Stephen P. Nugent** Digitally signed by Stephen P. Nugent  
Date: 2024.10.03 12:30:15 -07'00'

Stephen P. (Phil) Nugent  
Region Planning Manager

SPN: jjp/mnk

cc: SR 12, File #2024\_013  
Pedro Perez, Area 2 Maintenance Superintendent

**COPY**

Attachment: D

1/2



**Aaron Cohen**

---

**From:** Kaiser, Mark <mark.kaiser@wsdot.wa.gov>  
**Sent:** Thursday, October 3, 2024 12:42 PM  
**To:** Aaron Cohen  
**Cc:** Prilucik, Jacob; Reynolds, Mark  
**Subject:** SEPA2024-00010, Marlynn Holding  
**Attachments:** YakCo\_SEPA2024-00010\_Marlynn\_Holding.pdf

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments.

Aaron,

Attached are WSDOT's comment for SEPA2024-00010, Marlynn Holding, these comments are inclusive of:

ZON2024-00001 / SEP2024-00010 / CUP2024-00021 / ADJ2024-00004

Thanks

**Mark Kaiser**  
WSDOT – Planning  
2809 Rudkin Rd.  
Union Gap, WA 98903-1648

Phone: 509-577-1668

COPY

Table 19.22-3. Minimum Parking Space, Aisle and Lot Dimensions

A	Angle along Curb	0°		30°	45°	60°	90°
B	Type	Standard	Compact	Standard	Standard	Standard	Standard
C	Stall Width	9'	8'	9'	9'	9'	9'
D	Curb Length per Car	23'		18'	12' 7"	10' 4"	9'
E	Stall Depth	8'		17' 3"	19' 8"	21'	19'
F	Min. Aisle Width	12'		11'	13'	18'	24'
G	Lot Width 1 Row + 1 Aisle (2-way)	20'		28' 4"	32' 10"	39'	43'
H	Sq. Ft. per Car	460		510	420	407	387
I	Lot Width 2 Rows + 1 Driveway	28'		45' 6"	52' 5"	60'	62'
J	Sq. Ft. per Car	322		411	336	313	279
K	Lot Width 3 Rows + 2 Driveways	48'		66' 2"	79'	95'	105'
L	Sq. Ft. per Car	368		397	376	330	315
M	Lot Width 4 Rows + 2 Driveways	56'		83' 6"	98' 10"	116'	124'
N	Sq. Ft. per Car	322		376	315	305	279

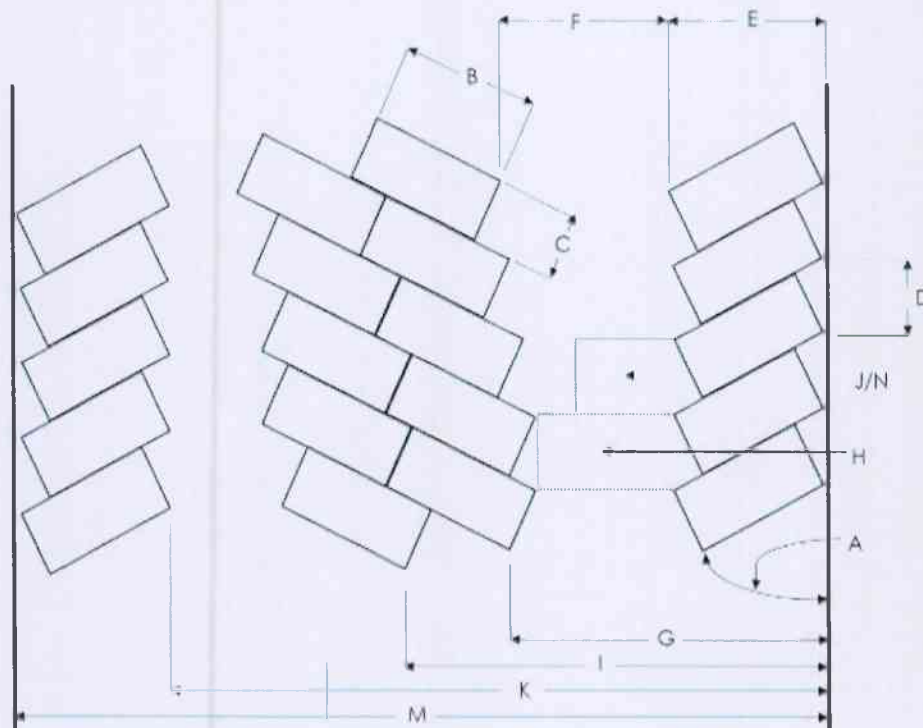
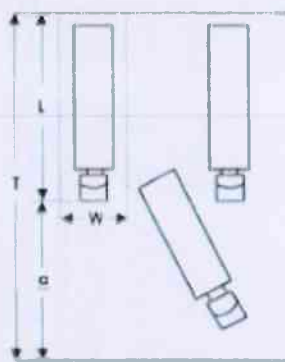


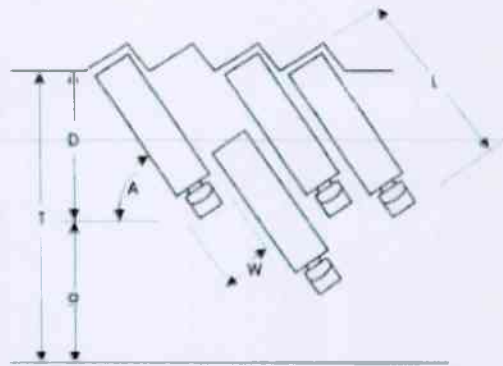
Figure 19.22-1. Minimum parking space dimensions and aisle widths.

Table 19.12-4. Loading Space Dimensions

Design Vehicle	Length in Feet (L)	Dock Angle (A)	Clearance in Feet (D)	Berth Width in Feet (W)	Apron Space in Feet (a)	Total Offset in Feet (T)
SU (Single Unit)	30	30°	30	10	50	50
				12	38	38
				14	26	26
		45°	26	10	34	40
				12	20	26
				14	8	14
		60°	21	10	25	35
				12	11	23
				14	0	11
Wheel Base-40	50	30°	30	10	63	113
				12	51	105
				14	39	97
		45°	26	10	46	90
				12	34	82
				14	22	74
		60°	21	10	38	78
				12	26	66
				14	14	54
Wheel Base-60	70	30°	35	10	77	132
				12	65	124
				14	53	116
		45°	30	10	64	102
				12	52	94
				14	40	86
		60°	25	10	51	76
				12	39	64
				14	27	52
Wheel Base-82	90	30°	40	10	89	158
				12	77	146
				14	65	134
		45°	35	10	76	121
				12	64	109
				14	53	97
		60°	30	10	65	85
				12	53	73
				14	41	61



90-Degree Docks



Sawtooth Docks

Figure 19.22-2. Loading space dimensions for 90-degree docks and sawtooth docks.



under section 415(b)(5) of the Federal Food, Drug, and Cosmetic Act (as added by this section), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such regulations to assist small entities in complying with registration requirements and other activities required under such section.

(3) IMPORTED FOOD.—Section 801(l) (21 U.S.C. 381(l)) is amended by inserting “(or for which a registration has been suspended under such section)” after “section 415”.

(c) CLARIFICATION OF INTENT.—

21 USC 350d  
note.

(1) RETAIL FOOD ESTABLISHMENT.—The Secretary shall amend the definition of the term “retail food establishment” in section 1.227(b)(11) of title 21, Code of Federal Regulations to clarify that, in determining the primary function of an establishment or a retail food establishment under such section, the sale of food products directly to consumers by such establishment and the sale of food directly to consumers by such retail food establishment include—

(A) the sale of such food products or food directly to consumers by such establishment at a roadside stand or farmers’ market where such stand or market is located other than where the food was manufactured or processed;

(B) the sale and distribution of such food through a community supported agriculture program; and

(C) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) the term “community supported agriculture program” has the same meaning given the term “community supported agriculture (CSA) program” in section 249.2 of title 7, Code of Federal Regulations (or any successor regulation); and

(B) the term “consumer” does not include a business.

(d) CONFORMING AMENDMENTS.—

(1) Section 301(d) (21 U.S.C. 331(d)) is amended by inserting “415,” after “404,”.

(2) Section 415(d), as redesignated by subsection (b), is amended by adding at the end before the period “for a facility to be registered, except with respect to the reinstatement of a registration that is suspended under subsection (b)”.

21 USC 350d.

#### SEC. 103. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

#### “SEC. 418. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

21 USC 350g.

“(a) IN GENERAL.—The owner, operator, or agent in charge of a facility shall, in accordance with this section, evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls to significantly minimize or prevent the occurrence of such hazards and provide assurances that such food is not adulterated under section 402 or misbranded under section 403(w), monitor the performance of those controls, and maintain records of this monitoring as a matter of routine practice.

“(b) HAZARD ANALYSIS.—The owner, operator, or agent in charge of a facility shall—

“(1) identify and evaluate known or reasonably foreseeable hazards that may be associated with the facility, including—

“(A) biological, chemical, physical, and radiological hazards, natural toxins, pesticides, drug residues, decomposition, parasites, allergens, and unapproved food and color additives; and

“(B) hazards that occur naturally, or may be unintentionally introduced; and

“(2) identify and evaluate hazards that may be intentionally introduced, including by acts of terrorism; and

“(3) develop a written analysis of the hazards.

“(c) PREVENTIVE CONTROLS.—The owner, operator, or agent in charge of a facility shall identify and implement preventive controls, including at critical control points, if any, to provide assurances that—

“(1) hazards identified in the hazard analysis conducted under subsection (b)(1) will be significantly minimized or prevented;

“(2) any hazards identified in the hazard analysis conducted under subsection (b)(2) will be significantly minimized or prevented and addressed, consistent with section 420, as applicable; and

“(3) the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 or misbranded under section 403(w).

“(d) MONITORING OF EFFECTIVENESS.—The owner, operator, or agent in charge of a facility shall monitor the effectiveness of the preventive controls implemented under subsection (c) to provide assurances that the outcomes described in subsection (c) shall be achieved.

Procedures.

“(e) CORRECTIVE ACTIONS.—The owner, operator, or agent in charge of a facility shall establish procedures to ensure that, if the preventive controls implemented under subsection (c) are not properly implemented or are found to be ineffective—

“(1) appropriate action is taken to reduce the likelihood of recurrence of the implementation failure;

“(2) all affected food is evaluated for safety; and

“(3) all affected food is prevented from entering into commerce if the owner, operator or agent in charge of such facility cannot ensure that the affected food is not adulterated under section 402 or misbranded under section 403(w).

“(f) VERIFICATION.—The owner, operator, or agent in charge of a facility shall verify that—

“(1) the preventive controls implemented under subsection (c) are adequate to control the hazards identified under subsection (b);

“(2) the owner, operator, or agent is conducting monitoring in accordance with subsection (d);

“(3) the owner, operator, or agent is making appropriate decisions about corrective actions taken under subsection (e);

“(4) the preventive controls implemented under subsection (c) are effectively and significantly minimizing or preventing the occurrence of identified hazards, including through the use of environmental and product testing programs and other appropriate means; and

“(5) there is documented, periodic reanalysis of the plan under subsection (i) to ensure that the plan is still relevant to the raw materials, conditions and processes in the facility, and new and emerging threats.

“(g) RECORDKEEPING.—The owner, operator, or agent in charge of a facility shall maintain, for not less than 2 years, records documenting the monitoring of the preventive controls implemented under subsection (c), instances of nonconformance material to food safety, the results of testing and other appropriate means of verification under subsection (f)(4), instances when corrective actions were implemented, and the efficacy of preventive controls and corrective actions. Time period.

“(h) WRITTEN PLAN AND DOCUMENTATION.—The owner, operator, or agent in charge of a facility shall prepare a written plan that documents and describes the procedures used by the facility to comply with the requirements of this section, including analyzing the hazards under subsection (b) and identifying the preventive controls adopted under subsection (c) to address those hazards. Such written plan, together with the documentation described in subsection (g), shall be made promptly available to a duly authorized representative of the Secretary upon oral or written request.

“(i) REQUIREMENT TO REANALYZE.—The owner, operator, or agent in charge of a facility shall conduct a reanalysis under subsection (b) whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent if the change creates a reasonable potential for a new hazard or a significant increase in a previously identified hazard or not less frequently than once every 3 years, whichever is earlier. Such reanalysis shall be completed and additional preventive controls needed to address the hazard identified, if any, shall be implemented before the change in activities at the facility is operative. Such owner, operator, or agent shall revise the written plan required under subsection (h) if such a significant change is made or document the basis for the conclusion that no additional or revised preventive controls are needed. The Secretary may require a reanalysis under this section to respond to new hazards and developments in scientific understanding, including, as appropriate, results from the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessment. Deadline.

“(j) EXEMPTION FOR SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES SUBJECT TO HACCP.—

“(1) IN GENERAL.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

“(A) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(B) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

“(C) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

“(2) APPLICABILITY.—The exemption under paragraph (1)(C) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed

Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

“(k) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 419.—This section shall not apply to activities of a facility that are subject to section 419.

“(l) MODIFIED REQUIREMENTS FOR QUALIFIED FACILITIES.—

“(1) QUALIFIED FACILITIES.—

“(A) IN GENERAL.—A facility is a qualified facility for purposes of this subsection if the facility meets the conditions under subparagraph (B) or (C).

“(B) VERY SMALL BUSINESS.—A facility is a qualified facility under this subparagraph—

“(i) if the facility, including any subsidiary or affiliate of the facility, is, collectively, a very small business (as defined in the regulations promulgated under subsection (n)); and

“(ii) in the case where the facility is a subsidiary or affiliate of an entity, if such subsidiaries or affiliates, are, collectively, a very small business (as so defined).

“(C) LIMITED ANNUAL MONETARY VALUE OF SALES.—

“(i) IN GENERAL.—A facility is a qualified facility under this subparagraph if clause (ii) applies—

“(I) to the facility, including any subsidiary or affiliate of the facility, collectively; and

“(II) to the subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate.

“(ii) AVERAGE ANNUAL MONETARY VALUE.—This clause applies if—

“(I) during the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as described in clause (i)) that is sold directly to qualified end-users during such period exceeded the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as so described) sold by such facility (or collectively by any such subsidiary or affiliate) to all other purchasers during such period; and

“(II) the average annual monetary value of all food sold by such facility (or the collective average annual monetary value of such food sold by any subsidiary or affiliate, as described in clause (i)) during such period was less than \$500,000, adjusted for inflation.

“(2) EXEMPTION.—A qualified facility—

“(A) shall not be subject to the requirements under subsections (a) through (i) and subsection (n) in an applicable calendar year; and

“(B) shall submit to the Secretary—

Applicability.



“(i)(I) documentation that demonstrates that the owner, operator, or agent in charge of the facility has identified potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the preventive controls to ensure that such controls are effective; or

“(II) documentation (which may include licenses, inspection reports, certificates, permits, credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight), as specified by the Secretary, that the facility is in compliance with State, local, county, or other applicable non-Federal food safety law; and

“(ii) documentation, as specified by the Secretary in a guidance document issued not later than 1 year after the date of enactment of this section, that the facility is a qualified facility under paragraph (1)(B) or (1)(C).

Deadline.

“(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

“(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a qualified facility subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a qualified facility that are material to the safety of the food manufactured, processed, packed, or held at such facility, the Secretary may withdraw the exemption provided to such facility under this subsection.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

“(4) DEFINITIONS.—In this subsection:

“(A) AFFILIATE.—The term ‘affiliate’ means any facility that controls, is controlled by, or is under common control with another facility.

“(B) QUALIFIED END-USER.—The term ‘qualified end-user’, with respect to a food, means—

“(i) the consumer of the food; or

“(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that—

“(I) is located—

“(aa) in the same State as the qualified facility that sold the food to such restaurant or establishment; or

“(bb) not more than 275 miles from such facility; and

“(II) is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

“(C) CONSUMER.—For purposes of subparagraph (B), the term ‘consumer’ does not include a business.

“(D) SUBSIDIARY.—The term ‘subsidiary’ means any company which is owned or controlled directly or indirectly by another company.

“(5) STUDY.—

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a study of the food processing sector regulated by the Secretary to determine—

“(i) the distribution of food production by type and size of operation, including monetary value of food sold;

“(ii) the proportion of food produced by each type and size of operation;

“(iii) the number and types of food facilities co-located on farms, including the number and proportion by commodity and by manufacturing or processing activity;

“(iv) the incidence of foodborne illness originating from each size and type of operation and the type of food facilities for which no reported or known hazard exists; and

“(v) the effect on foodborne illness risk associated with commingling, processing, transporting, and storing food and raw agricultural commodities, including differences in risk based on the scale and duration of such activities.

“(B) SIZE.—The results of the study conducted under subparagraph (A) shall include the information necessary to enable the Secretary to define the terms ‘small business’ and ‘very small business’, for purposes of promulgating the regulation under subsection (n). In defining such terms, the Secretary shall include consideration of harvestable acres, income, the number of employees, and the volume of food harvested.

“(C) SUBMISSION OF REPORT.—Not later than 18 months after the date of enactment the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subparagraph (A).

“(6) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production of food. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

“(7) NOTIFICATION TO CONSUMERS.—

“(A) IN GENERAL.—A qualified facility that is exempt from the requirements under subsections (a) through (i) and subsection (n) and does not prepare documentation under paragraph (2)(B)(i)(I) shall—

“(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the facility where the food was manufactured or processed; or

“(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provisions of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the facility where the

food was manufactured or processed, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

“(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

“(m) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—The Secretary may, by regulation, exempt or modify the requirements for compliance under this section with respect to facilities that are solely engaged in the production of food for animals other than man, the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing, or the storage of packaged foods that are not exposed to the environment.

“(n) REGULATIONS.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations—

Deadline.

“(A) to establish science-based minimum standards for conducting a hazard analysis, documenting hazards, implementing preventive controls, and documenting the implementation of the preventive controls under this section; and

“(B) to define, for purposes of this section, the terms ‘small business’ and ‘very small business’, taking into consideration the study described in subsection (1)(5).

“(2) COORDINATION.—In promulgating the regulations under paragraph (1)(A), with regard to hazards that may be intentionally introduced, including by acts of terrorism, the Secretary shall coordinate with the Secretary of Homeland Security, as appropriate.

“(3) CONTENT.—The regulations promulgated under paragraph (1)(A) shall—

“(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm;

“(B) comply with chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the facility, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

“(C) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

“(D) not require a facility to hire a consultant or other third party to identify, implement, certify, or audit preventative controls, except in the case of negotiated enforcement resolutions that may require such a consultant or third party.

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide the Secretary with the authority to prescribe specific technologies, practices, or critical controls for an individual facility.

“(5) REVIEW.—In promulgating the regulations under paragraph (1)(A), the Secretary shall review regulatory hazard analysis and preventive control programs in existence on the date of enactment of the FDA Food Safety Modernization Act, including the Grade ‘A’ Pasteurized Milk Ordinance to ensure that such regulations are consistent, to the extent practicable, with applicable domestic and internationally-recognized standards in existence on such date.

“(o) DEFINITIONS.—For purposes of this section:

“(1) CRITICAL CONTROL POINT.—The term ‘critical control point’ means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.

“(2) FACILITY.—The term ‘facility’ means a domestic facility or a foreign facility that is required to register under section 415.

“(3) PREVENTIVE CONTROLS.—The term ‘preventive controls’ means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified under the hazard analysis conducted under subsection (b) and that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis. Those procedures, practices, and processes may include the following:

“(A) Sanitation procedures for food contact surfaces and utensils and food-contact surfaces of equipment.

“(B) Supervisor, manager, and employee hygiene training.

“(C) An environmental monitoring program to verify the effectiveness of pathogen controls in processes where a food is exposed to a potential contaminant in the environment.

“(D) A food allergen control program.

“(E) A recall plan.

“(F) Current Good Manufacturing Practices (cGMPs) under part 110 of title 21, Code of Federal Regulations (or any successor regulations).

“(G) Supplier verification activities that relate to the safety of food.”

(b) GUIDANCE DOCUMENT.—The Secretary shall issue a guidance document related to the regulations promulgated under subsection (b)(1) with respect to the hazard analysis and preventive controls under section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(c) RULEMAKING.—

(1) PROPOSED RULEMAKING.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall publish a notice of proposed rulemaking in the Federal Register to promulgate regulations with respect to—

(i) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed

21 USC 350g  
note.

21 USC 350d  
note.

Deadline.  
Federal Register,  
publication.  
Notice.



on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act; and

(ii) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415.

(B) CLARIFICATION.—The rulemaking described under subparagraph (A) shall enhance the implementation of such section 415 and clarify the activities that are included as part of the definition of the term “facility” under such section 415. Nothing in this Act authorizes the Secretary to modify the definition of the term “facility” under such section.

(C) SCIENCE-BASED RISK ANALYSIS.—In promulgating regulations under subparagraph (A), the Secretary shall conduct a science-based risk analysis of—

(i) specific types of on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership, as such packing and holding relates to specific foods; and

(ii) specific on-farm manufacturing and processing activities as such activities relate to specific foods that are not consumed on that farm or on another farm under common ownership.

(D) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—

(i) IN GENERAL.—In promulgating the regulations under subparagraph (A), the Secretary shall consider the results of the science-based risk analysis conducted under subparagraph (C), and shall exempt certain facilities from the requirements in section 418 of the Federal Food, Drug, and Cosmetic Act (as added by this section), including hazard analysis and preventive controls, and the mandatory inspection frequency in section 421 of such Act (as added by section 201), or modify the requirements in such sections 418 or 421, as the Secretary determines appropriate, if such facilities are engaged only in specific types of on-farm manufacturing, processing, packing, or holding activities that the Secretary determines to be low risk involving specific foods the Secretary determines to be low risk.

(ii) LIMITATION.—The exemptions or modifications under clause (i) shall not include an exemption from the requirement to register under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act, if applicable, and shall apply only to small businesses and very small businesses, as defined in the regulation promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added under subsection (a)).

Applicability.

(2) FINAL REGULATIONS.—Not later than 9 months after the close of the comment period for the proposed rulemaking under paragraph (1), the Secretary shall adopt final rules with respect to—

(A) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act;

(B) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415; and

(C) the requirements under sections 418 and 421 of the Federal Food, Drug, and Cosmetic Act, as added by this Act, from which the Secretary may issue exemptions or modifications of the requirements for certain types of facilities.

Deadline.  
21 USC 350g  
note.

(d) **SMALL ENTITY COMPLIANCE POLICY GUIDE.**—Not later than 180 days after the issuance of the regulations promulgated under subsection (n) of section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 418 and this section to assist small entities in complying with the hazard analysis and other activities required under such section 418 and this section.

(e) **PROHIBITED ACTS.**—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

“(uu) The operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 418.”.

21 USC 350g  
note.

(f) **NO EFFECT ON HACCP AUTHORITIES.**—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce Hazard Analysis Critical Control programs and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

Applicability.  
21 USC 350g  
note.

(g) **DIETARY SUPPLEMENTS.**—Nothing in the amendments made by this section shall apply to any facility with regard to the manufacturing, processing, packing, or holding of a dietary supplement that is in compliance with the requirements of sections 402(g)(2) and 761 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 379aa-1).

21 USC 342 note.  
Deadline.

(h) **UPDATING GUIDANCE RELATING TO FISH AND FISHERIES PRODUCTS HAZARDS AND CONTROLS.**—The Secretary shall, not later than 180 days after the date of enactment of this Act, update the Fish and Fisheries Products Hazards and Control Guidance to take into account advances in technology that have occurred since the previous publication of such Guidance by the Secretary.

21 USC 350g.

(i) **EFFECTIVE DATES.**—

(1) **GENERAL RULE.**—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

Applicability.  
Effective dates.

(2) **FLEXIBILITY FOR SMALL BUSINESSES.**—Notwithstanding paragraph (1)—

(A) the amendments made by this section shall apply to a small business (as defined in the regulations promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added by this section)) beginning on the

date that is 6 months after the effective date of such regulations; and

(B) the amendments made by this section shall apply to a very small business (as defined in such regulations) beginning on the date that is 18 months after the effective date of such regulations.

**SEC. 104. PERFORMANCE STANDARDS.**

21 USC 2201.

(a) **IN GENERAL.**—The Secretary shall, in coordination with the Secretary of Agriculture, not less frequently than every 2 years, review and evaluate relevant health data and other relevant information, including from toxicological and epidemiological studies and analyses, current Good Manufacturing Practices issued by the Secretary relating to food, and relevant recommendations of relevant advisory committees, including the Food Advisory Committee, to determine the most significant foodborne contaminants.

Deadline.

(b) **GUIDANCE DOCUMENTS AND REGULATIONS.**—Based on the review and evaluation conducted under subsection (a), and when appropriate to reduce the risk of serious illness or death to humans or animals or to prevent adulteration of the food under section 402 of the Federal Food, Drug, or Cosmetic Act (21 U.S.C. 342) or to prevent the spread by food of communicable disease under section 361 of the Public Health Service Act (42 U.S.C. 264), the Secretary shall issue contaminant-specific and science-based guidance documents, including guidance documents regarding action levels, or regulations. Such guidance, including guidance regarding action levels, or regulations—

(1) shall apply to products or product classes;

(2) shall, where appropriate, differentiate between food for human consumption and food intended for consumption by animals other than humans; and

(3) shall not be written to be facility-specific.

Applicability.

(c) **NO DUPLICATION OF EFFORTS.**—The Secretary shall coordinate with the Secretary of Agriculture to avoid issuing duplicative guidance on the same contaminants.

(d) **REVIEW.**—The Secretary shall periodically review and revise, as appropriate, the guidance documents, including guidance documents regarding action levels, or regulations promulgated under this section.

**SEC. 105. STANDARDS FOR PRODUCE SAFETY.**

(a) **IN GENERAL.**—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 103, is amended by adding at the end the following:

**“SEC. 419. STANDARDS FOR PRODUCE SAFETY.**

21 USC 350h.

“(a) **PROPOSED RULEMAKING.**—

“(1) **IN GENERAL.**—

“(A) **RULEMAKING.**—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Agriculture and representatives of State departments of agriculture (including with regard to the national organic program established under the Organic Foods Production Act of 1990), and in consultation with the Secretary of Homeland Security, shall publish a notice of proposed rulemaking to establish science-based minimum standards for the safe production and harvesting of those types of fruits

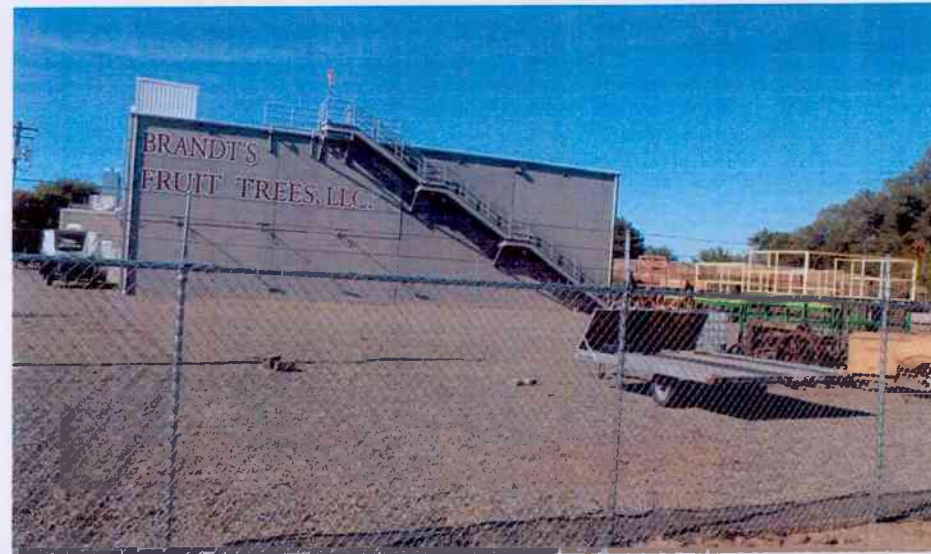
Deadline.  
Publication.  
Notice.





Attachment: 6







## Current Zoning

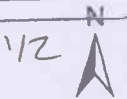
**Brandt Fruit Trees**  
**181305-13002**

-  Subject Property
- Yakima County Zoning
-  Forest Watershed
  -  Agriculture
  -  Remote/Extremely Limited
  -  Rural-10/5
  -  Rural Transitional
  -  Rural Settlement
  -  Highway/Tourist Commercial
  -  Mining
  -  Master Planned Development Over
  -  Planned Development (Ord. 8-197)
  -  Suburban Residential
  -  Single-Family Residential
  -  Two-Family Residential
  -  Multi-Family Residential
  -  Professional Business
  -  Local Business
  -  Small Convenience Center
  -  Large Convenience Center
  -  General Commercial
  -  Light Industrial
  -  Federal Land/Tribal Trust
  -  Yakama Nation Closed Area
-  Taxlots
-  All Roads

0 25 50 100 150 200 Feet

1" = 200 Feet

Attachment: H



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Plot Date: 3/7/2024



## Proposed Zoning

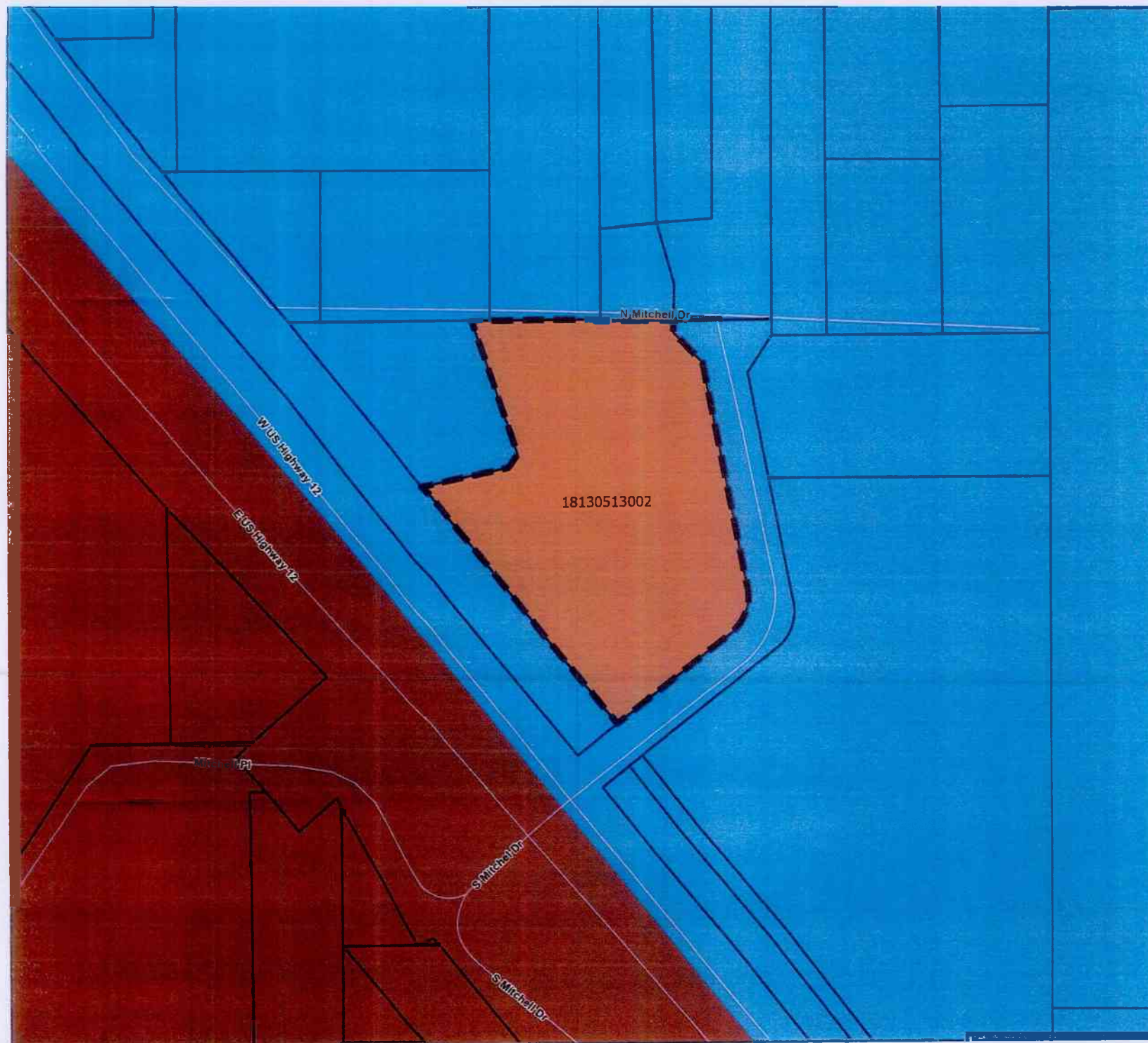
### Brandt Fruit Trees 181305-13002

-  Subject Property
- Yakima County Zoning
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  -  Agriculture
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  -  Master Planned Development Overl
  -  Planned Development(Ord. 8-1974
  -  Suburban Residential
  -  Single-Family Residential
  -  Two-Family Residential
  -  Multi-Family Residential
  -  Professional Business
  -  Local Business
  -  Small Convenience Center
  -  Large Convenience Center
  -  General Commercial
  -  Light Industrial
  -  Federal Land/Tribal Trust
  -  Yakama Nation Closed Area
  -  Taxlots
  -  All Roads

0 25 50 100 150 200 Feet  
1" = 200 feet



Copyright (C) 2024 Yakima County  
This map was derived from several databases. The  
County cannot accept responsibility for any errors.  
Therefore, there are no warranties for this product.  
Print Date: 3/7/2024



OCT 17 2024

ZON24-001 / CUP24-021  
SEP24-010 / ADJ24-0004**SIGN POSTING PROCEDURES AND CERTIFICATION**

The applicant is required to post one or more public hearing notification signs at the site of the land use proposal. The applicant is responsible for obtaining the sign(s) from the Yakima County Planning Division and for posting and maintaining the sign(s) as prescribed below (YCC 16B.05 030 (4)).

1. The sign(s) shall be placed on the property a minimum of 15 days before the scheduled public hearing date;
2. If the public hearing is continued, delayed, or postponed, the sign(s) shall be replaced or amended to accurately describe the new date, place, and time for the public hearing;
3. If the property has more than one (1) street frontage, a sign shall be placed facing each street;
4. If the property under consideration does not have any abutting street, consult with the Planning Division staff regarding the appropriate location for the sign(s);
5. The sign(s) shall be firmly affixed on the property in a place visible from the adjoining streets.
  - a. The sign(s) shall be placed within five (5) feet of the public right-of-way, and
  - b. The sign(s) shall be a minimum of two (2) feet above the ground;
  - c. The sign(s) shall be positioned to have no visual obstructions and to be readily seen;
6. The status of the sign(s) should be checked frequently and fallen or destroyed sign(s) shall immediately be replaced; new sign(s) are available from the Planning Division if needed for an additional fee; and
7. The sign(s) shall be posted and maintained throughout the approval process and then removed by the applicant within five (5) days after the public hearing.

The sign board(s) shall be returned to the Planning Division no later than 7 days after the hearing date or a reimbursement fee for the board will be added to the final billing.

Fifteen (15) days prior to the public hearing the applicant is required to certify that the sign(s) have been posted and maintained as required. Applicants are also required to submit a photo showing the posted sign(s) as viewed from the abutting street(s). Failure to comply with these requirements will cause the public hearing to be canceled and rescheduled for a later date.

THE FOLLOWING CERTIFICATION IS TO BE COMPLETED AND SUBMITTED TO THE PLANNING DIVISION A MINIMUM OF 15 DAYS PRIOR TO THE PUBLIC HEARING.

I, BILL HURDAN (printed name) hereby state that I have received a copy of the Sign Posting Procedures and that the required sign(s) have been posted and maintained as prescribed in the Sign Posting Procedures.

BH  
Signature of Applicant

10/17/2024  
Date

**For Official Use Only:**Case Number: **ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004**Date Received: 10/17/24

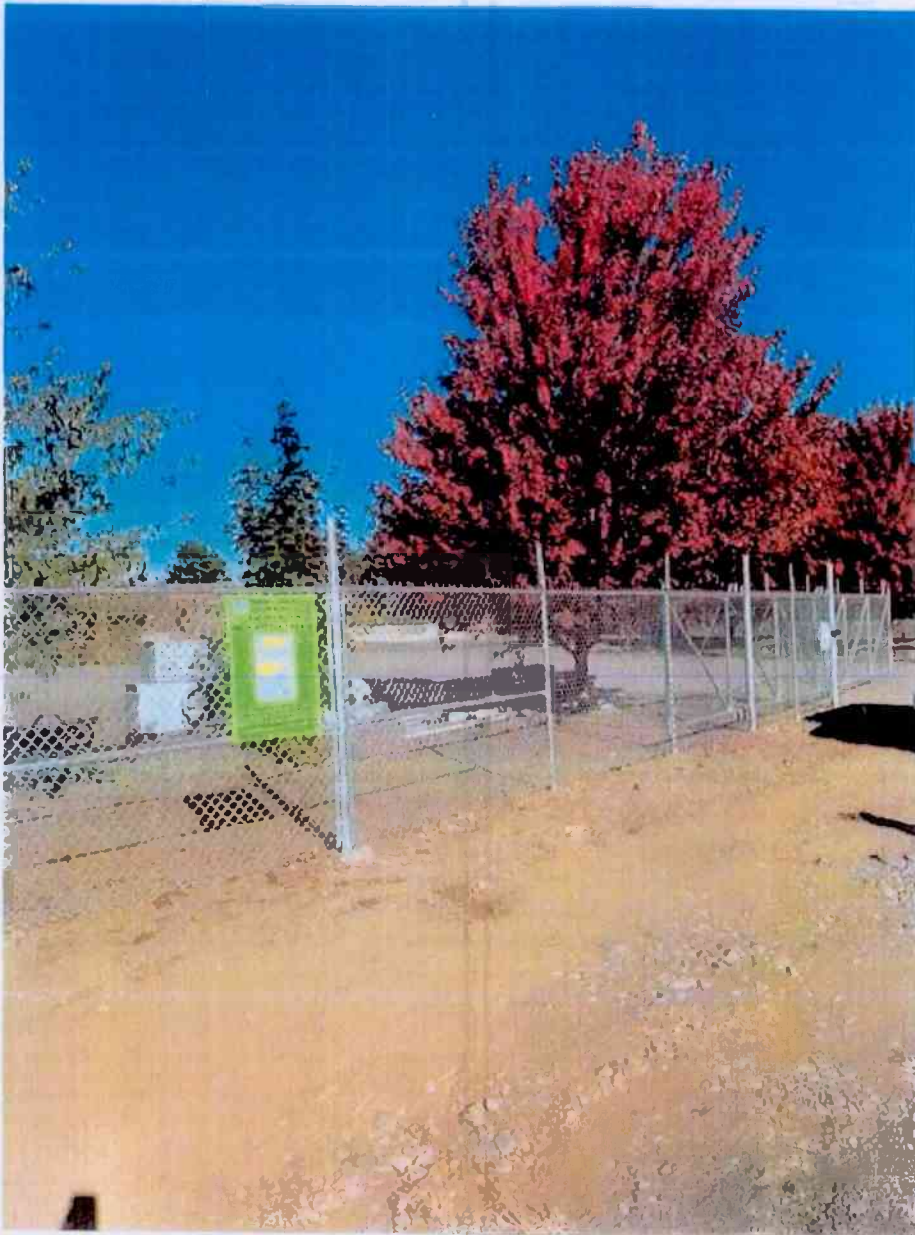
Planner: Aaron M. Cohen

FILED

HEARING EXAMINER

EXH # 1 DATE 10/17/2024









# Public Services

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901  
(509) 574-2300 • 1-800-572-7354 • FAX (509) 574-2301 • [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

DATE: October 9, 2024

TO: Marlynn Holdings LLC, Bill Hordan, and Interested Agencies

FROM: Aaron M. Cohen — Yakima County Public Services: Planning Division

SUBJ: ZON2024-0001/SEP2024-00010/CUP2024-00021/ADJ2024-00004  
- Marlynn Holdings LLC Minor Rezone  
Notice of Final Threshold Determination

Enclosed are the Decision and Final Threshold Determination of Non-Significance for the proposed minor rezone and agricultural market. Please review the attached documents for information on conditions of approval, and your appeal options. If you have any questions on the project or the appeal process, please contact me at (509) 574-2300.

Encl. DNS

Copy Parties of Record

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HEARING EXAMINER  
EXH # 2 DATE 10/9/2024



**FINAL  
DETERMINATION OF NON-SIGNIFICANCE**

(Notice of Action)

1. **Description of Proposal:** The applicants are proposing to rezone the property from the Rural Transitional (RT) Zoning District to the Highway-Tourist Commercial (HTC) Zoning District, and, the applicants are proposing to establish a 5,600 square foot agricultural market.

The rezone is sought as an agricultural market is not a permissible use within the RT Zoning District, but is a permissible use within the HTC Zoning District. The agricultural market is sought to be open from 9am to 5pm, seven days a week, and from June through November. The days, times, and months are subject to change based on the needs of the business. Sixteen parking spaces are proposed to accommodate the two to three employees and customers, and, the existing loading dock is to serve the agricultural market. All vehicle travel surfaces associated with the agricultural market are proposed to be hard-surfaced. The existing bathrooms in the warehouse and CA building are proposed to serve all employees and customers.

The applicants are seeking an adjustment to the fence height requirements of the HTC Zoning District. The applicants are seeking to keep an existing six-foot fence within the front setback of the property as opposed to lowering the fence to four feet within the front setback to meet requirements. The applicants are also seeking a full reduction to the sitescreening requirements because of the moving the existing fence further onto the property, existing sitescreening along property lines containing residences being sufficient, and minimal viewing impact to similar commercially used properties to the south. The adjustment is sought to maintain the security of the buildings handling of food to ensure compliance with the Food Safety Modernization Act.

2. **File Number:** ZON24-001/SEP24-010/CUP24-021/ADJ24-004
3. **Owner:** Marylynn Holdings LLC      **Proponent:** Bill Hordan  
1330 N 16<sup>th</sup> Avenue                      410 N 2<sup>nd</sup> St  
Yakima, WA 98902                      Yakima, WA 98901
4. **Location of Proposal:** 60 North Mitchell Drive, Yakima. The subject property is located on the north side of North Mitchell Drive, and northeast of the State Route 12 and North Mitchell Drive intersection. The property is approximately 1½ miles northwest of the City of Yakima. (Parcel Number: 181305-13002).
5. **Lead Agency:** Yakima County Planning Division
6. **Determination:** The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment and an

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HEARING EXAMINER

EXH # 2 DATE 10/16/2024  
FILE NO. 2024-001-001-001-001-001



Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after a careful review of the completed environmental checklist, and other information on file with the lead agency. To view the application materials online to go <https://yakimacountypermits.us> (select Planning tab, enter record number(s) in the search box and hit enter, select the record info drop down, and then select attachments) or you can view a copy of the determination at the Planning Division on the 4th floor of the Courthouse. Environmental documents include the SEPA checklist, this threshold determination, and submittal materials.

7. **Comment and Appeal Information:** This Final DNS is issued under WAC 197-11-355. There is no further comment on it. You may appeal this SEPA threshold determination to Yakima County Hearings Examiner within 14 days. For information on the appeal processes, or on other issues relating to this proposal, contact Aaron M. Cohen, Planner III, at (509) 574-2300.

8. **SEPA Responsible Official:** Thomas Carroll

9. **Designee:**



Jason Earles, Current Planning Manager

10. **Address:** 128 N. 2<sup>nd</sup> St.  
4<sup>th</sup> Floor Courthouse  
Yakima, WA 98901

11. **Date:** October 9, 2024

Lynnell Brandt  
Marlynn Holding, LLC  
1300 N. 16<sup>th</sup> Ave.  
Yakima, WA 98902

Bill Hordan  
Hordan Planning Services  
410 N. 2<sup>nd</sup> St.  
Yakima, WA 98901

WSDOT  
[SCPlanning@wsdot.wa.gov](mailto:SCPlanning@wsdot.wa.gov)

**Karri Espinoza**

---

**From:** Karri Espinoza  
**Sent:** Wednesday, October 9, 2024 10:19 AM  
**To:** WSDOT Planning  
**Subject:** ZON24-001\_SEP24-010 Notice of Final Threshold Determination  
**Attachments:** ZON24-001\_SEP24-010 NOTICE OF FINAL THRESHOLD DETERMINATION.pdf

**Karri Espinoza**

Office Supervisor  
128 N 2<sup>nd</sup> St, 4<sup>th</sup> Floor  
Yakima, WA 98901  
(509)574-2300  
[Karri.espinoza@co.yakima.wa.us](mailto:Karri.espinoza@co.yakima.wa.us)

This email and replies to it are subject to public disclosure under Washington state statute (RCW 42.56 - Public Records Act).

**CONFIDENTIALITY NOTICE:** This electronic mail transmission may contain legally privileged, confidential information belonging to the sender. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you have received this electronic mail in error, please contact sender and delete all copies.



**Karri Espinoza**

---

**From:** NoReply@ecy.wa.gov  
**Sent:** Wednesday, October 9, 2024 10:33 AM  
**To:** Karri Espinoza  
**Subject:** Your SEPA Record Has Been Submitted!

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments.

The Department of Ecology has received a new SEPA record from Karri Espinoza at Yakima County with a File Number of: ZON2024-00001, SEP2024-00010, CUP2024-00021, ADJ2024-00004.  
Your record is being reviewed by an administrator.

---

From: Karri Espinoza  
Email: karri.espinoza@co.yakima.wa.us  
Phone number: (509) 574-2300 Ext. 2233



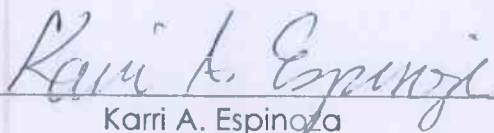
FILE NO.: ZON24-001\_SEP24-010  
NOTICE OF FINAL THRESHOLD DETERMINATION

**AFFIDAVIT OF MAILING**

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

I, Karri Espinoza, being first duly sworn, and as an employee of the Yakima County Public Services, Planning Division, dispatched through the United States Mails, or otherwise by electronic mail, a NOTICE OF FINAL THRESHOLD DETERMINATION a true and correct copy of which is enclosed here-with; that a NOTICE OF FINAL THRESHOLD DETERMINATION as addressed to the applicant, agent and parties of record pursuant to Yakima County Code Title 16B.05, that said parties are individually listed on the Mailing List retained by the Planning Division and that said notice was mailed by me on the 9th day of October, 2024.

That I mailed said notice in the manner herein set forth and that all of the statements are made herein are just and true. Dated this 9th day of October, 2024.



Karri A. Espinoza  
Office Supervisor



# Public Services

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901  
(509) 574 2300 • 1-800-572-7354 • FAX (509) 574 2301 • [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

LISA H. FREUND – Director

**DATE:** September 19, 2024

**TO:** Marlynn Holdings LLC, Bill Hordan, Adjacent Property Owners, and Interested Agencies

**FROM:** Aaron M. Cohen, Yakima County Public Services Department: Planning Division

**SUBJ:** Record Nos: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004 – Marlynn Holdings LLC Minor Rezone and Agricultural Market  
Notice of Application, Notice of Completeness, Notice of Environmental Review, and Notice of Hearing

## DESCRIPTION OF PROPOSAL

**Owner:** Marlynn Holdings LLC

**Applicant:** Bill Hordan, Hordan Planning Services

**Location:** 60 North Mitchell Drive, Yakima. The subject property is located on the north side of North Mitchell Drive, and northeast of the State Route 12 and North Mitchell Drive intersection. The property is approximately 1 $\frac{3}{4}$  miles northwest of the City of Yakima.

**Tax Parcel No.:** 181305-13002

**Application Submittal Date:** April 8, 2024

**Completeness Date:** September 13, 2024

**Proposal:** The applicants are proposing to rezone the property from the Rural Transitional (RT) Zoning District to the Highway-Tourist Commercial (HTC) Zoning District; and, the applicants are proposing to establish a 5,600 square foot agricultural market.

The rezone is sought as an agricultural market is not a permissible use within the RT Zoning District, but is a permissible use within the HTC Zoning District. The agricultural market is expected to be open from 9am to 5pm, seven days a week, and from June through November. Sixteen parking spaces are proposed to accommodate the two to three employees and customers, and, the existing loading dock is to serve the agricultural market. All vehicle travel surfaces associated with the agricultural market are proposed to be hard-surfaced. The existing bathrooms in the warehouse and CA building are proposed to serve all employees and customers.

The applicants are seeking an adjustment to the fence height requirements of the HTC Zoning District. The applicants are seeking to keep an existing six-foot fence within

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HEARING EXAMINER  
EXH # 4 DATE 9/19/2024

the front setback of the property as opposed to lowering the fence to four feet to meet requirements. The adjustment is sought to maintain the security of the buildings handling of food to ensure compliance with the Food Safety Modernization Act. The applicants are also seeking a full reduction to the sitescreeing requirements due to the effect of the moving the existing fence further onto the property, existing sitescreeing along property lines containing residences being sufficient, and minimal viewing impact to similar commercially used properties to the south.

### **ENVIRONMENTAL REVIEW & COMMENT INFORMATION**

This proposal is subject to environmental review. The Planning Division is the lead agency for this proposal. Yakima County expects to issue a DNS for this proposal. The optional process authorized by WAC 197-11-355 is being used. This may be your only opportunity to comment on the environmental impacts of the proposal. The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared. After all comments have been received and considered, a final threshold determination will be made without an additional comment period.

A land use application has been submitted near your property. To view the application materials and SEPA checklist online go to <https://yakimacountypermits.us> (select Planning tab, enter record number(s) in the search box and hit enter, select the record info drop down, and then select attachments) or you can view a copy of the materials at the Planning Division on the 4th floor of the Courthouse. Any person may provide written comments on issues related to the proposal. All written comments received by 4:00 p.m., October 3, 2024, will be considered in staff's recommendation. To be considered prior to making the final decision, all submitted comments must identify the name and physical or post office address of the sender. Mail your comments on this project to Yakima County Planning Division, 128 N. 2<sup>nd</sup> St., 4<sup>th</sup> Floor Courthouse, Yakima, WA 98901. Be sure to reference the above case number in your correspondence

### **NOTICE OF PUBLIC HEARING**

An open record public hearing is scheduled before the Hearing Examiner on Thursday, November 7, 2024, at 9:30am. The hearing will be conducted both in-person in the BOCC Conference Room (Yakima County Courthouse Basement, Room B33, 128 N. 2nd Street, Yakima) and virtually/telephonically using Microsoft Teams. For joining information go to <https://www.yakimacounty.us/2566/Upcoming-Public-Hearings>. The link will provide information with the options to either "Join the meeting via Microsoft Teams" or to call in on a telephone.

If you wish to speak during the Public Hearing, there will be an allotted time for public comments. You will then be asked to state your name and provide your contact information into the record. Virtual/telephonic participants should not mute or unmute themselves; the host will do this for you. All virtual participants must put their names in the Microsoft Teams Meeting application window.

Your views on the proposal are welcome, and any person may provide written comments on issues related to the minor rezone and/or agricultural market. Written comments or other exhibits to be received at or prior to the hearing may be submitted as follows:

- o Via email to: [planning\\_info@co.yakima.wa.us](mailto:planning_info@co.yakima.wa.us)
- o Via mail to: Aaron M. Cohen, Fourth Floor County Courthouse, 128 North Second Street, Yakima WA 98901.

Yakima County ensures full compliance with Title 17 of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin, or sex in the provision of benefits and services resulting from its federally assisted programs and activities. For questions regarding Yakima County's Title 17 Program, you may contact the Title 17 Coordinator at 509-574-2300.

If this letter pertains to a meeting and you need special accommodations, please call us at 509-574-2300 by 10:00 a.m. three days prior to the meeting. For TDD users, please use the State's toll free relay service 1-800-833-6384 and ask the operator to dial 509-574-2300.

Comments submitted up to and during the hearing will be considered. Be sure to reference the above record number in your correspondence. Anyone who submits written comments will automatically become a party of record and will be notified of any decision on this project.

Interested parties may request copies of the hearing notice or participate in the hearing. A staff recommendation on the project will be available about a week before the hearing on the Yakima County Hearing Examiners webpage at: <https://www.yakimacounty.us/843/Hearing-Examiner>.

Notice of the final decision will be sent to those who comment or may be obtained upon request. The final decision will contain specific appeal information. If you have any questions on this proposal, please call Aaron M. Cohen, Planner III, at (509) 574-2300 or 1-800-572-7354 ext. 2300.

Yakima County ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin, or sex in the provision of benefits and services resulting from its federally assisted programs and activities. For questions regarding Yakima County's Title VI Program, you may contact the Title VI Coordinator at 509-574-2300.

If this letter pertains to a meeting and you need special accommodations, please call us at 509-574-2300 by 10:00 a.m. three days prior to the meeting. For TDD users, please use the State's toll free relay service 1-800-833-6388 and ask the operator to dial 509-574-2300.

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HEARING EXAMINER  
EXH # 4 DATE 9/19/2024



This is a detailed plat map of a portion of Section 36, Township 36N, Range 12E. The map shows various land parcels, many of which are shaded with diagonal lines, indicating they are part of a specific tract. The parcels are labeled with owner names and acreage. The map includes a diagonal road labeled 'ST. 12' and a shaded area representing a specific tract. The map is titled 'PLAT MAP' and 'TOWNSHIP 36N'.

Key features and labels on the map include:

- Section 36:** The map is a portion of Section 36, Township 36N, Range 12E.
- Diagonal Road:** A road labeled 'ST. 12' runs diagonally across the map.
- Shaded Area:** A large area of land is shaded with diagonal lines, representing a specific tract.
- Parcels and Owners:** Numerous parcels are shown, many with owner names and acreage. Examples include:
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**Parcel #: 181305-13002**



Mapscale: 1" = 400'



If this letter pertains to a meeting and you need special accommodations, please call us at 504-574-2100 by 10:00 a.m. three days prior to the meeting. For TDD users, please use the State's toll free relay service 1-800-333-6344 and ask the operator to dial 504-574-2100.

EXH #

DATE 9/19/2022

Marivel Garcia  
Joe Stump  
Jose Testerman  
Troy Havens  
Jack Wells

Jason Earles  
Tua Vang  
David Haws  
Ivan Klingele  
Nellie Soptich

Yakama Nation Environmental  
enviroreview@yakama.com

Rebecca Chu  
EPA Region 10  
R10-NEPA@epa.gov

WA Dept. of Fish & Wildlife  
Janell Shah and Scott Downes  
Janell.shah@dfw.wa.gov  
Scott.downes@dfw.wa.gov  
f3planning@dfw.wa.gov

Bill Hordan  
Hordan Planning Services  
410 N. 2nd St.  
Yakima, WA 98901

Naches School District # 3  
Attn: Robert Bowman  
P.O. Box 99  
Naches, WA 98937

GLENN & THERESA JOHNSON  
PO BOX 4070  
YAKIMA, WA 98904

PUBLIC SERVICES-COUNTY ROAD  
128 N 2ND ST 4TH FL  
YAKIMA, WA 98901

RONALD W EDMONDSON  
PO BOX 4055  
YAKIMA, WA 98904

WA. State Dept. of Ecology  
Attn: Jessica Swift  
crosepacoordinator@ecy.wa.gov

Superintendent  
Bureau of Indian Affairs  
P.O. Box 632  
Toppenish, WA 98948

Yakima Health District  
Help Desk  
yhd@co.yakima.wa.us

sepa@dahp.wa.gov

Lynnell Brandt  
Marlynn Holdings, LLC  
1330 N. 16th Ave.  
Yakima, WA 98902

DANIEL J & MISTY R CARTER  
271 N MITCHELL DR  
YAKIMA, WA 98908

JESUS & EMMA A MENDOZA  
120 N MITCHELL DR  
YAKIMA, WA 98908

RANDY L & KAREN LINDHORST  
163 N MITCHELL RD  
YAKIMA, WA 98908

RORY COLEMAN  
183 N MITCHELL DR  
YAKIMA, WA 98908

Yakama Nation  
Cultural Resources  
jessica@Yakama.com  
corrine\_camuso@Yakama.com  
THPO@Yakama.com

Bureau of Indian Affairs  
Nichole.pebeahsy@bia.gov

Robert Bright  
Air Traffic & Airspace Officer  
Joint Base Lewis-McChord  
robert.d.bright10.civ@army.mil

Clean Air Agency  
186 Iron Horse Court, Suite 101  
Yakima, WA 98901

Fire Chief  
Fire District # 6  
81 N. Gleed Road  
Yakima, WA 98908

FRANCISCA MARTINEZ TELLO  
909 S 2ND AVE  
YAKIMA, WA 98902

MARK A & BRENDA VICK  
161 MITCHELL ROAD  
YAKIMA, WA 98908

RISHOR FAMILY TRUST  
211 N MITCHELL DR  
YAKIMA, WA 98908

UFP REAL ESTATE LLC  
2801 E BELTLINE AVE NE  
GRAND RAPIDS, MI 49525

AGENCY MAILING LIST  
HIGHLIGHTED = EMAILED

ZON24-001  
9/19/2024  
17 LABELS

FILED  
HEARING EXAMINER

15

## Bryon Ross

---

**From:** Bryon Ross  
**Sent:** Thursday, September 19, 2024 9:16 AM  
**To:** Internal Agencies; crosepacoordinator@ecy.wa.gov; jessica@yakama.com; corrine\_camuso@yakama.com; thpo@yakama.com; Yakama SEPA; nichole.pebeahsy@bia.gov; r10-nepa@epa.gov; Health District E-Mail; robert.d.bright10.civ@army.mil; Shah, J (DFW); WSDOT Planning; Downes, Scott G (DFW); r3planning@dfw.wa.gov; sepa@dahp.wa.gov  
**Cc:** Aaron Cohen  
**Subject:** ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004 - Notice of Application - Notice of Completeness - Notice of Environmental Review - Notice of Hearing  
**Attachments:** ZON2024-0001 SEP2024-00010 CUP2024-00021 ADJ2024-00004 - Notice of Application - Notice of Completeness - Notice of Environmental Review - Notice of Hearing pdf



**Bryon Ross**

Planning Office Specialist  
Yakima County Public Services  
128 N 2<sup>nd</sup> St, 4<sup>th</sup> Floor  
Yakima, WA 98901  
Phone: 509-574-2300

## Bryon Ross

---

**From:** Bryon Ross  
**Sent:** Tuesday, September 17, 2024 8:17 AM  
**To:** Simon Sizer  
**Subject:** ZON2024-00001 SEP2024-00010 CUP2024 00021 ADJ2024-00004 Notice of Application  
Notice of Completeness Notice of Environmental Review Notice of Hearing  
**Attachments:** ZON24-001\_NOA\_NOC\_NOE\_NOH\_Legal\_AMC\_This One.docx

Good morning,

Please Publish 9/19/24  
Bill: ACCT#10826, Planning

Thank you,



*Bryon Ross*

Planning Office Specialist  
Yakima County Public Services  
128 N 2nd St, 4th Floor  
Yakima, WA 98901  
Phone: 509-574-2300



**Bryon Ross**

---

**From:** NoReply@ecy.wa.gov  
**Sent:** Thursday, September 19, 2024 11:19 AM  
**To:** Bryon Ross  
**Subject:** Your SEPA Record Has Been Submitted!

**CAUTION** : This email originated from outside of this organization. Please exercise caution with links and attachments.

The Department of Ecology has received a new SEPA record from Bryon Ross at Yakima County with a File Number of: .  
Your record is being reviewed by an administrator.

From: Bryon Ross  
Email: bryon.ross@co.yakima.wa.us  
Phone number: (509) 574-2326

**Bryon Ross**

---

**From:** NoReply@ecy.wa.gov  
**Sent:** Thursday, September 19, 2024 11:57 AM  
**To:** Bryon Ross  
**Subject:** SEPA record published

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments

The SEPA admin reviewed and published [SEPA record number 202404122](#), "Marlynn Holdings, LLC Minor Rezone and Agricultural Market".

Lead Agency File Number: ZON2024-00001, SEP2024-00010, CUP2024-00021, ADJ2024-00004.  
It will now be available to the public.

From: Amber Johnson  
Email: [separegister@ecy.wa.gov](mailto:separegister@ecy.wa.gov)  
Phone number: (509) 723-5677

FILE NO.: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004  
NOTICE OF APPLICATION, NOTICE OF COMPLETENESS, NOTICE OF  
ENVIRONMENTAL REVIEW, NOTICE OF HEARING

## AFFIDAVIT OF MAILING

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

I, Bryon Ross, being first duly sworn, and as an employee of the Yakima County Public Services, Planning Division, dispatched through the United States Mails, or otherwise by electronic mail, a NOTICE OF APPLICATION, NOTICE OF COMPLETENESS, NOTICE OF ENVIRONMENTAL REVIEW, NOTICE OF HEARING a true and correct copy of which is enclosed here-with; that a NOTICE OF APPLICATION, NOTICE OF COMPLETENESS, NOTICE OF ENVIRONMENTAL REVIEW, NOTICE OF HEARING Letter was addressed to the applicant and agencies pursuant to Yakima County Code Title 16B.05, that said parties are individually listed on the Mailing List retained by the Planning Division and that said notice was mailed by me on the 19th Day of September.

That I mailed said notice in the manner herein set forth and that all of the statements are made herein are just and true. Dated this 19th Day of September, 2024.

Bryon

Bryon Ross  
Office Specialist

FILED 19  
HEARING EXAMINER  
5 DATE 9/19/202

Yakima Herald-Republic  
PO Box 9668  
Yakima, WA 98909



Yakima County Planning Division  
Bryon Ross  
Courthouse - Room 417  
128 N 2ND STREET  
Yakima, WA 98901  
USA

### Order Confirmation

Order #: 85478  
Order Ref #:  
Date: 9/17/2024  
Advertiser #: 23402  
Advertiser Name: Yakima County Planning Division  
Agency #:  
Agency Name:  
Account Manager: Simon Sizer  
sslizer@yakimaherald.com

**\$ 318.20**

Ad No.	Date	Description	Position	Format
454844	9/19/2024	Yakima County Public Services Planning Division Notice of Application, Notice of Completeness, Notice of Environmental Review No	Yakima Herald Republic Broadsheet - CL-Legals	3.46 x 10.72 in x 2.0000 col.
454845	9/19/2024	Yakima County Public Services Planning Division Notice of Application, Notice of Completeness, Notice of Environmental Review No	Yakima Herald Republic CL Online - CL-Legals	3.46 x 10.72 in x 2.0000 col.

### Summary

Total Net Amount	\$ 318.20
Taxes	\$ 0.00
Total Amount	\$ 318.20

### Remittance Address:

Yakima Herald-Republic  
PO Box 3667  
Seattle, WA 98124  
Tel: (206) 464-2550



Yakima Herald-Republic

PO Box 9668

Yakima, WA 98909



Classified Category: Legals|Public Notices

Yakima County Public Services  
Planning Division  
Notice of Application, Notice of Completeness, Notice of  
Environmental Review  
Notice of Hearing

File No.: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004 Minor Rezone & Agricultural Market  
Description of Proposal: The applicants are proposing to rezone the property from the Rural Transitional (RT) Zoning District to the Highway-Tourist Commercial (HTC) Zoning District, and, the applicants are proposing to establish a 5,600 square foot agricultural market associated with 16 parking spaces. The hours of operation are proposed to be 9am to 5pm, seven days a week, and from June-November. The applicants are seeking to keep an existing six-foot fence within the front setback as opposed to lowering the fence to meet the required four-foot height requirement. The applicants are also seeking a full reduction to the sitescreeing requirements.

Location of Proposal: 60 North Mitchell Drive, Yakima. The subject property is located on the north side of North Mitchell Drive, and northeast of the State Route 12 and North Mitchell Drive Intersection. The property is approximately 1.5 miles northwest of the City of Yakima, Parcel no. 181305-13002

Determination: This proposal is subject to environmental review. The Planning Division is the lead agency for this proposal. Yakima County expects to issue a DNS for this proposal. The optional process authorized by WAC 197-11-355 is being used. This may be your only opportunity to comment on the environmental impacts of the proposal. The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared. After all comments have been received and considered, a final threshold determination will be made without an additional comment period.

An open record public hearing is scheduled before the Yakima County Hearing Examiner on **Thursday, November 7, 2024, at 9:30**. The hearing will be conducted both in-person in the BOCC Conference Room (Yakima County Courthouse Basement, Room B33, 128 N. 2nd Street, Yakima) and virtually/telephonically using Microsoft Teams. For joining information go to <https://www.yakimacounty.us/2566/Upcoming-Public-Hearings>.

Comment and Appeal Information: To view the application materials online go to <https://yakimacountypermits.us> (select Planning tab, enter record number(s) in the search box and hit enter, select the record into drop down, and then select attachments) or you can view a copy of application materials at the Planning Division on the 4th floor of the courthouse. Your views on the proposal are welcome, and any person may provide written comments on issues related to the proposal. Mail your comments on this project to Yakima County Planning Division, 128 N. 2nd St., 4th Floor Courthouse, Yakima, WA 98901. To be considered prior to making the final decision, all submitted comments must identify the name and physical or post office address of the sender. Be sure to reference the above case number in your correspondence. All written comments received by 4:00 p.m., October 3, 2024, will be considered in staff's recommendation to the Hearing Examiner. Comments can be received up to and during the hearing. Notice of the final decision will be sent to those who comment or may be obtained upon request. The final decision will contain specific appeal information. If you have any questions on this proposal, please call Aaron M. Cohen, Planner III, at (509) 574-2300 or 1-800-572-7354 ext 2300.

If you are a person with a disability who needs any accommodation in order to participate in this program, hearing or service, you may be entitled to receive certain assistance at no cost to you. Please contact the ADA Coordinator at Yakima County no later than five (5) working days prior to the date service is needed.

Yakima County ADA Coordinator  
128 N. 2nd Street, Room B27  
Yakima, WA 98901  
(509) 574-2210  
7-1-1 or 1-800-833-8384 (Washington Relay Services for deaf and hard of hearing)  
Dated this 19th day of September 2024

(85478) September 19, 2024

Page 2 of 2

FILED 21  
HEARING EXAMINER  
EXH # 6 DATE 9/19/2024

**Bryon Ross**

---

**From:** Simon Sizer <ssizer@yakimaherald.com>  
**Sent:** Tuesday, September 17, 2024 11:30 AM  
**To:** Bryon Ross  
**Subject:** RE: ZON2024-00001 SEP2024-00010 CUP2024-00021 ADJ2024-00004 Notice of Application Notice of Completeness Notice of Environmental Review Notice of Hearing  
**Attachments:** Order\_confirmation.pdf

**CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.**

Good morning. I have scheduled this legal notice for September 19<sup>th</sup>, for a cost of \$318.20.

--  
Simon Sizer | legal & obituary clerk  
Yakima Herald-Republic  
Phone: (509) 577-7740

---

**From:** Bryon Ross <bryon.ross@co.yakima.wa.us>  
**Sent:** Tuesday, September 17, 2024 8:17 AM  
**To:** Simon Sizer <ssizer@yakimaherald.com>  
**Subject:** ZON2024-00001 SEP2024-00010 CUP2024-00021 ADJ2024-00004 Notice of Application Notice of Completeness Notice of Environmental Review Notice of Hearing

Good morning,

Please Publish 9/19/24  
Bill: ACCT#10826, Planning

Thank you,



*Bryon Ross*  
Planning Office Specialist  
Yakima County Public Services  
128 N 2<sup>nd</sup> St, 4<sup>th</sup> Floor  
Yakima, WA 98901  
Phone: 509-574-2300

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

**Yakima County Public Services  
Planning Division  
Notice of Application, Notice of Completeness, Notice of Environmental Review  
Notice of Hearing**

**File No.:** ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004 **Minor Rezone & Agricultural Market**

**Description of Proposal:** The applicants are proposing to rezone the property from the Rural Transitional (RT) Zoning District to the Highway-Tourist Commercial (HTC) Zoning District; and, the applicants are proposing to establish a 5,600 square foot agricultural market associated with 16 parking spaces. The hours of operation are proposed to be 9am to 5pm, seven days a week, and from June-November. The applicants are seeking to keep an existing six-foot fence within the front setback as opposed to lowering the fence to meet the required four-foot height requirement. The applicants are also seeking a full reduction to the sitescreening requirements.

**Location of Proposal:** 60 North Mitchell Drive, Yakima. The subject property is located on the north side of North Mitchell Drive, and northeast of the State Route 12 and North Mitchell Drive intersection. The property is approximately 1½ miles northwest of the City of Yakima. Parcel no. 181305-13002

**Determination:** This proposal is subject to environmental review. The Planning Division is the lead agency for this proposal. Yakima County expects to issue a DNS for this proposal. The optional process authorized by WAC 197-11-355 is being used. This may be your only opportunity to comment on the environmental impacts of the proposal. The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared. After all comments have been received and considered, a final threshold determination will be made without an additional comment period.

**An open record public hearing** is scheduled before the Yakima County Hearing Examiner on **Thursday, November 7, 2024, at 9:30.** The hearing will be conducted both in-person in the BOCC Conference Room (Yakima County Courthouse Basement, Room B33, 128 N. 2nd Street, Yakima) and virtually/telephonically using Microsoft Teams. For joining information go to <https://www.yakimacounty.us/2566/Upcoming-Public-Hearings>.

**Comment and Appeal Information:** To view the application materials online go to <https://yakimacountypermits.us> (select Planning tab, enter record number(s) in the search box and hit enter, select the record info drop down, and then select attachments) or you can view a copy of application materials at the Planning Division on the 4<sup>th</sup> floor of the courthouse. Your views on the proposal are welcome, and any person may provide written comments on issues related to the proposal. Mail your comments on this project to Yakima County Planning Division, 128 N. 2<sup>nd</sup> St., 4<sup>th</sup> Floor Courthouse, Yakima, WA 98901. To be considered prior to making the final decision, all submitted comments must identify the name and physical or post office address of the sender. Be sure to reference the above case number in your correspondence. All written comments received by **4:00 p.m., October 3, 2024**, will be considered in staff's recommendation to the Hearing Examiner. Comments can be received up to and during the hearing. Notice of the final decision will be sent to those who comment or may be obtained upon request. The final decision will contain specific appeal information. If you have any questions on this proposal, please call Aaron M. Cohen, Planner III, at (509) 574-2300 or 1-800-572-7354 ext 2300.

**Aaron Cohen**

---

**From:** Brian Russell  
**Sent:** Monday, September 16, 2024 11:27 AM  
**To:** Hordan Planning Services; Jason Earles; Thomas Carroll; Aaron Cohen  
**Subject:** RE: SEPA Checklist/Non-Project Section

Hello,

As requested, I contacted MRSC to get input on this matter. I know that Part 'D' was submitted already but here is the response I got this morning:

*"As an initial matter, we defer to a local agency's attorney to evaluate specific land use applications. Our guidance is general, and it is outside the scope of our services to provide legal opinions on specific project applications. Additionally, we defer to state agencies charged with administering certain statutes such as SEPA (with the administering agency being Ecology). So, I would defer to Ecology's opinion that environmental review requirements are triggered because of the non-project minor rezone portion of the application.*

*All that being said, I agree that environmental review would be required if any portion of their land use application request triggered environmental review. A rezone is a pre-condition to the applicant being able to construct an agricultural market in that area. Presumably if the applicant had only made a request for the minor rezone (without attaching the ag market request), SEPA review would be required for that non-project action. The fact they are combining the request with their proposed project action does not remove the SEPA review obligations associated with the rezone request."*

Thank you all.

Respectfully,

Brian Russell, P.E., Esq.  
Deputy Prosecuting Attorney  
Yakima County Prosecuting Attorney's Office  
128 N. 2<sup>nd</sup> Street, Room 211  
Yakima, WA 98901  
509-574-1248

Email: [brian.russell@co.yakima.wa.us](mailto:brian.russell@co.yakima.wa.us)

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**From:** Brian Russell  
**Sent:** Monday, September 9, 2024 2:59 PM  
**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Subject:** RE: SEPA Checklist/Non-Project Section



Thank you Bill for your patience.

All – I have submitted a request to MRSC via their website. There was no option to CC anyone. I will keep you all updated when we receive a response.

Respectfully,

Brian Russell, P.E., Esq.  
Deputy Prosecuting Attorney  
Yakima County Prosecuting Attorney's Office  
128 N. 2<sup>nd</sup> Street, Room 211  
Yakima, WA 98901  
509-574-1248

Email: [brian.russell@co.yakima.wa.us](mailto:brian.russell@co.yakima.wa.us)

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**From:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Sent:** Friday, September 6, 2024 1:08 PM  
**To:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Subject:** RE: SEPA Checklist/Non-Project Section

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments.

Brian – Thanks for your response. It's obvious that you are as frustrated by this situation as I am. What's frustrating is that this application was submitted on April 8<sup>th</sup>. I received a Notice of Incompleteness for clarification on 5 items on April 25<sup>th</sup>. I submitted the clarifications on July 19<sup>th</sup>. I then received a second Notice of Incompleteness on August 2<sup>nd</sup> requesting SEPA Part D. It would be expected that this request be included in the first notice, however, it was not. Planning had from April 8<sup>th</sup> to August 2<sup>nd</sup> to review the file for completeness, and then suddenly, a new request to submit SEPA Part D pops-up 117 days after original submittal. That's frustrating.

Generally, when any portion of a project requires SEPA, and it has an "action" associated with it, similar to this application, SEPA review is processed as a single "project action" application, excluding Part D. This is to review environmental impacts associated with the immediate project, and not the global impacts, that have already been settled by the adoption of the comprehensive plan and zoning code. This has been the historical practice of the Planning Department for decades. I decided to check with the Planning Managers in Yakima and Selah, just to make sure I wasn't misinterpreting Planning's request. Both indicated that this was a "project action" and Part D would not be required in their jurisdictions. I understand that this is what "they" would do, but it speaks volumes as to how SEPA "project actions" are processed locally. Yakima County has been no different, until suddenly now. That's frustrating.

My expectation would have been a professional courtesy from Planning, as they have extended in the past on other issues, stating that the policy has changed and that the county would not require Part D this time, but it would be required next time. Especially, after the passage of 117 days. This courtesy has always been very much

appreciated in the past, and I have always abided by it, even if I did not agree with the policy change. It also seems like a "fair" way to handle a situation when a policy changes without notice to the public. That did not happen in this instance. That's frustrating.

It was the intent of the property owner to have the agricultural market approved by now, under construction, and operational this fall. Unfortunately, that will not happen, as we have months of public hearings ahead of us.

Unless some other resolution can be formulated, I feel it is necessary to proceed with Tommy Carroll's option of making an inquiry to MRSC about this issue. I consider their response a final resolution and will proceed accordingly. However, based on the county's responses so far, I do not see a resolution being offered, so could the county please proceed with an inquiry to MRSC. This, too, is frustrating.

Thanks, Bill h. 249-1919

**From:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>

**Sent:** Friday, September 6, 2024 10:01 AM

**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>

**Subject:** RE: SEPA Checklist/Non-Project Section

Hi Bill et al.,

Generally the more stringent requirements for a SEPA application/checklist apply. Because your client cannot build the proposed project without the re-zone, there is no 'project action' without a 'non-project action', meaning the non-project action is governing/controlling, and non-project actions require filling out part 'D'. Moreover planning has informed me that the 'project action', standing alone, would be exempt, further indicating that the non-project action is what governs here.

Everything is pointing to requiring part 'D' to be filled out. I believe that you have been informed of this via a letter from Aaron Cohen. Please be advised that MRSC may agree with our interpretation or may otherwise prove unpersuasive to Planning Department AND, in the meantime, you will likely run up against a deadline to reply to Mr. Cohen's letter in the time that we're waiting to hear back from MRSC.

Considering all of the above, and the fact that your answers could be as short or as long as you feel appropriate to the very limited number of questions on the checklist, I'm not sure why we're continuing to go around in circles about this matter. I think this could have already gone to the board for approval in the time we've gone back and forth about this issue. Nevertheless we will reach out to MRSC unless you feel it is more prudent to simply fill out the questions on the checklist.

Thank you.

Respectfully,

Brian Russell, P.E., Esq.  
Deputy Prosecuting Attorney  
Yakima County Prosecuting Attorney's Office  
128 N. 2<sup>nd</sup> Street, Room 211  
Yakima, WA 98901  
509-574-1248

Email: [brian.russell@co.yakima.wa.us](mailto:brian.russell@co.yakima.wa.us)

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**From:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>

**Sent:** Thursday, September 5, 2024 1:22 PM

**To:** Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>; Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>

**Subject:** RE: SEPA Checklist/Non-Project Section

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments.

Jason – Yes, please run this by MRSC. It would be interesting to know if they believe you can actually have a project and nonproject SEPA application. Let me know if you have any questions. If you could attach my email address to your inquiry of MRSC, I would appreciate it. Thanks, Bill h. 249-1919

**From:** Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>

**Sent:** Wednesday, September 4, 2024 3:12 PM

**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>; Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>; Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>

**Subject:** RE: SEPA Checklist/Non-Project Section

Good Afternoon Bill,

As you know, I have been out of the office for the last three weeks and have been going through my e-mails and wanted to reach out to you concerning this issue. I assume you know, that Tommy is currently out of the office for the next three weeks. Based upon my understanding of the below e-mail chain, Tommy has determined, after consultation with both the SEPA Register and our Corporate Counsel, that Part D of the SEPA checklist is required for this project. I do understand your frustration on this matter. I would be more than happy to work with our Corporate Counsel to reach out to MRSC, as indicated by Tommy, if that is something you would like me to do?

Additionally, I spoke with Aaron and he will forward you the e-mail we had received from the SEPA Register Helpdesk.

I look forward to working with you to resolve this matter as soon as possible and move forward with this project.

Thanks,

**Jason Earles**

Current Planning Manager  
Yakima County Public Services  
128 N. 2<sup>nd</sup> Street  
Yakima, WA 98901  
Ph: 509.574.2300

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**Aaron Cohen**

---

**From:** Jason Earles  
**Sent:** Thursday, September 5, 2024 2:40 PM  
**To:** Hordan Planning Services; Thomas Carroll; Aaron Cohen; Brian Russell  
**Subject:** RE: SEPA Checklist/Non-Project Section

Sounds good Bill. We will send something over.

Thanks,

**Jason Earles**

Current Planning Manager  
Yakima County Public Services  
128 N. 2<sup>nd</sup> Street  
Yakima, WA 98901  
Ph: 509.574.2300

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**From:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Sent:** Thursday, September 5, 2024 1:22 PM  
**To:** Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>; Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>  
**Subject:** RE: SEPA Checklist/Non-Project Section

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Jason – Yes, please run this by MRSC. It would be interesting to know if they believe you can actually have a project and nonproject SEPA application. Let me know if you have any questions. If you could attach my email address to your inquiry of MRSC, I would appreciate it. Thanks, Bill h. 249-1919



**From:** Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>

**Sent:** Wednesday, September 4, 2024 3:12 PM

**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>; Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>; Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>

**Subject:** RE: SEPA Checklist/Non-Project Section

Good Afternoon Bill,

As you know, I have been out of the office for the last three weeks and have been going through my e-mails and wanted to reach out to you concerning this issue. I assume you know, that Tommy is currently out of the office for the next three weeks. Based upon my understanding of the below e-mail chain, Tommy has determined, after consultation with both the SEPA Register and our Corporate Counsel, that Part D of the SEPA checklist is required for this project. I do understand your frustration on this matter. I would be more than happy to work with our Corporate Counsel to reach out to MRSC, as indicated by Tommy, if that is something you would like me to do?

Additionally, I spoke with Aaron and he will forward you the e-mail we had received from the SEPA Register Helpdesk.

I look forward to working with you to resolve this matter as soon as possible and move forward with this project.

Thanks,

**Jason Earles**

Current Planning Manager  
Yakima County Public Services  
128 N. 2<sup>nd</sup> Street  
Yakima, WA 98901  
Ph: 509.574.2300

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**From:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Sent:** Tuesday, September 3, 2024 2:06 PM  
**To:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>; Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>  
**Cc:** Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>  
**Subject:** RE: SEPA Checklist/Non-Project Section

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments.

Tommy – Thanks for your response below. My below response was based on the position of the Planning Department and not my original position on this application. My original position was summarily rejected by the Planning Department without any discussion and is 180-degrees from the Department's historical position. That is the reason for the push-back. Just for the record, my original position, and that typically of the Department, is this:

WAC 197-11-704(2) – States that 'Actions' fall into "one of two categories" (This means pick one category or the other category, but not both categories) – WAC 197-11-704(2)(a) Project Actions – AND – WAC 197-11(2)(b) Nonproject Actions.

This application falls under WAC 197-11-704(2)(a), (a Project Action) because it meets the definition of an "action" per SEPA definitions and the "action" *"involves a decision on a specific project, such as construction...."*. In this case, the Type 2 Agricultural Market, is a specific project and involves construction. Thus, this is the appropriate WAC to implement, as this is the WAC that has been historically implemented by the Department.

Regarding Aaron Cohen's inquiry of the SEPA Register, I contacted Fran Sant by phone and spoke with her. The reason she gave me for her "recommendation" to complete Part D is because she does not know all the "local" SEPA ordinances in the state. She thought there might a "local twist" to the County SEPA ordinance that might indicate Part D should be completed. Her recommendation to complete Part D, is out of an abundance of caution, due to her not knowing all the state's local ordinances. If you have recent correspondence from her indicating that Part D is "required", as you state below, could you please forward it to me.

I'm not sure why the Department had Tom Durant complete Part D in some recent applications, but I have a call into him to determine the rationale.

One option to consider before making an inquiry with MRSC is described in the paragraph below. If your research indicates that the Department has been inconsistent recently, you can process this application within the historical practices of the Department. This will give the Department an opportunity to review this SEPA process and establish a solid policy moving forward, or:

Process the application without Part D and determine the application complete as a "Project Action", similar to the historical practice of the Department. If that is incorrect, then the SEPA Register will contact the Department and let it know. This is similar to how the SEPA Register recently handled the erroneous SEPA "adoption" process for Miocene Resources.

The important thing to remember is this: In this case, there is no "project action" without the rezone because the "project action" is not permitted within the current zoning district and is "dependent" on the proposed rezone. This alone indicates this is a "project action" under WAC 197-11-704(2)(a).

Lastly, as you know, I have always said I will "play by the rules, but don't change them in the middle of the game." This is one of those instances where the rules have changed in the middle of the game. I'm always open to new policies provided they have been relayed to me, as they are adopted by the Department.

If you want to meet or correspond by phone, please let me know, I'm free all week. My apologies to Aaron Cohen for not returning his call last week. It was the end of the month, and we had to get our invoices out prior to September 1<sup>st</sup>. Unfortunately, invoicing takes several days and always interferes with returning phone calls and emails. Thanks, Bill h. 249-1919

**From:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>

**Sent:** Sunday, September 1, 2024 9:25 AM

**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>; Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>

**Cc:** Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>

**Subject:** SEPA Checklist/Non-Project Section

Bill,

As you know Aaron reached out to the SEPA register regarding the question of whether a minor rezone requires the non-project section filled out and they determined that the section was required. He reached out to Corporate Counsel and they too recommended that the section be filled out since the minor rezone was amending the official zoning map of Title 19. He also reached out to Corporate Counsel regarding SEPA's and minor rezones in UGA's. Corporate Counsel response is as follows:

*I've discussed this with my counterparts here. The import of the exception is that the project be in an urban growth area – the conjunction 'or' does not signify a new or separate line of thought, just that the urban growth area could be in a city or county. To believe otherwise is to eliminate the main element of the exception as urban growth areas are almost by definition outside of a city and all county's with over 50,000 people and/or certain growth rates MUST plan under RCW 36.70A.040. Further, RCW 36.70A.040, after specifying which counties must comply, requires that they map out urban growth areas. Thus the applicant's interpretation would serve to essentially nullify the exception requirement and the RCW which is mentioned at the end of the exception is logically connected to UGAs. Finally, the SEPA help coordinator's email further buttresses our argument as she indicated that since it was outside of a UGA it doesn't meet the exception, although her email is not necessarily definitive on the matter and isn't necessary for our argument.*

*(c) Where an exempt project requires a rezone, the rezone is exempt only if:  
(i) The project is in an urban growth area in a city or county planning under RCW 36.70A.040;*

At this point it would appear the non-project section is required. We researched our past minor rezones and found many were not submitted with the non-project section filled out, however those that were submitted by Tom Durant did. We will need to be more consistent as to the checklist moving forward.

If you still do not want to provide the non-project section, let Jason know and he'll have corporate counsel reach out to MRSC for their take on the matter.

Thanks,

Tommy Carroll

Planning Official  
Yakima County Public Services  
128 N. 2<sup>nd</sup> Street, Fourth Floor Courthouse  
Yakima, WA. 98901  
(w)509-574-2300, (f)509-574-2301  
[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)  
[www.yakimacounty.us](http://www.yakimacounty.us)

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**Aaron Cohen**

---

**From:** Aaron Cohen  
**Sent:** Friday, August 30, 2024 11:39 AM  
**To:** Brian Russell  
**Cc:** Thomas Carroll  
**Subject:** RE: ZON2024-00001/SEP2024-00010 SEPA Checklist Question - Privileged Information

Hi Brian,

Thank you for your quick response, we greatly appreciate it!

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Brian Russell <Brian.Russell@co.yakima.wa.us>  
**Sent:** Wednesday, August 28, 2024 11:14 AM  
**To:** Aaron Cohen <Aaron.Cohen@co.yakima.wa.us>  
**Cc:** Thomas Carroll <thomas.carroll@co.yakima.wa.us>  
**Subject:** RE: ZON2024-00001/SEP2024-00010 SEPA Checklist Question - Privileged Information

Hi Aaron,

I've discussed this with my counterparts here. The import of the exception is that the project be in an urban growth area – the conjunction 'or' does not signify a new or separate line of thought, just that the urban growth area could

be in a city or county. To believe otherwise is to eliminate the main element of the exception as urban growth areas are almost by definition outside of a city and all county's with over 50,000 people and/or certain growth rates MUST plan under RCW 36.70A.040. Further, RCW 36.70A.040, after specifying which counties must comply, requires that they map out urban growth areas. Thus the applicant's interpretation would serve to essentially nullify the exception requirement and the RCW which is mentioned at the end of the exception is logically connected to UGAs. Finally, the SEPA help coordinator's email further buttresses our argument as she indicated that since it was outside of a UGA it doesn't meet the exception, although her email is not necessarily definitive on the matter and isn't necessary for our argument.

(c) Where an exempt project requires a rezone, the rezone is exempt only if:

(i) The project is in an urban growth area in a city or county planning under RCW 36.70A.040;

Hope this helps!

Respectfully,

Brian Russell, P.E., Esq.  
Deputy Prosecuting Attorney  
Yakima County Prosecuting Attorney's Office  
128 N. 2<sup>nd</sup> Street, Room 211  
Yakima, WA 98901  
509-574-1248

Email: [brian.russell@co.yakima.wa.us](mailto:brian.russell@co.yakima.wa.us)

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**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>

**Sent:** Tuesday, August 27, 2024 10:34 AM

**To:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>

**Subject:** RE: ZON2024-00001/SEP2024-00010 SEPA Checklist Question - Privileged Information

Hi Brian,

I will come down at 11, thank you!

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>  
**Sent:** Tuesday, August 27, 2024 10:31 AM  
**To:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Subject:** RE: ZON2024-00001/SEP2024-00010 SEPA Checklist Question - Privileged Information

Yeah, no problem. Feel free to come down at 11:00 or 11:30 this morning or send me a teams link.

Respectfully,

Brian Russell, P.E., Esq.  
Deputy Prosecuting Attorney  
Yakima County Prosecuting Attorney's Office  
128 N. 2<sup>nd</sup> Street, Room 211  
Yakima, WA 98901  
509-574-1248

Email: [brian.russell@co.yakima.wa.us](mailto:brian.russell@co.yakima.wa.us)

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**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Sent:** Tuesday, August 27, 2024 10:24 AM  
**To:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>  
**Subject:** RE: ZON2024-00001/SEP2024-00010 SEPA Checklist Question - Privileged Information

Hi Brian,

Would I be able to come down and talk more to you about this, or via teams? I got another response from the consultant and would like to go over it with you and the intonation is important I think.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Aaron Cohen  
**Sent:** Tuesday, August 13, 2024 8:11 AM  
**To:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>  
**Cc:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Daniel Clark <[daniel.clark@co.yakima.wa.us](mailto:daniel.clark@co.yakima.wa.us)>  
**Subject:** RE: ZON2024-00001/SEP2024-00010 SEPA Checklist Question - Privileged Information

Good Morning Brian,

Thank you for getting back to us quickly, I greatly appreciate it! I will go over everything again with Planning Management if there are any additional questions I will reach out.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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Respectfully,

Brian Russell, P.E., Esq.  
Deputy Prosecuting Attorney  
Yakima County Prosecuting Attorney's Office  
128 N. 2<sup>nd</sup> Street, Room 211  
Yakima, WA 98901  
509-574-1248

Email: [brian.russell@co.yakima.wa.us](mailto:brian.russell@co.yakima.wa.us)

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**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Sent:** Monday, August 12, 2024 1:55 PM  
**To:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>  
**Cc:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Daniel Clark <[daniel.clark@co.yakima.wa.us](mailto:daniel.clark@co.yakima.wa.us)>  
**Subject:** RE: ZON2024-00001/SEP2024-00010 SEPA Checklist Question

Hi Brian,

I would appreciate your response as soon as you can provide one, so we can formulate a full response to the consultant by the end of the week.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>  
**Sent:** Monday, August 12, 2024 1:43 PM  
**To:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Cc:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Daniel Clark <[daniel.clark@co.yakima.wa.us](mailto:daniel.clark@co.yakima.wa.us)>  
**Subject:** Re: ZON2024-00001/SEP2024-00010 SEPA Checklist Question

Thank you Aaron, I would be happy to look into this for you. When are you looking for a response by?

Get Outlook for iOS

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**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Sent:** Monday, August 12, 2024 11:37:11 AM  
**To:** Brian Russell <[Brian.Russell@co.yakima.wa.us](mailto:Brian.Russell@co.yakima.wa.us)>  
**Cc:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>; Daniel Clark <[daniel.clark@co.yakima.wa.us](mailto:daniel.clark@co.yakima.wa.us)>  
**Subject:** ZON2024-00001/SEP2024-00010 SEPA Checklist Question

Hi Brian,

Earlier this year we received a minor rezone application to rezone a property from the RT Zoning District to HTC Zoning District. The property is outside of the UGA. The application also included a conditional use permit application to establish an agricultural market on the property. An agricultural market is not allowed in the RT Zoning District, but is in the HTC Zoning District. The minor rezone is potentially consistent with the comprehensive plan and does not require a comprehensive plan map amendment.

In reviewing the SEPA Checklist, I noticed Part D was not submitted. Since the minor rezone, to my understanding, is a non-projection action, I requested the consultant to submit Part D of the SEPA Checklist. The consultant asked for further clarification on why Part D was needed because he does not think Part D is needed because the whole project is considered a project action. I sent an inquiry to the SEPA Help Desk and attached their response to this email. The final determination on the project will be made by BOCC based on a recommendation from a Hearing Examiner. If approved, the BOCC will pass an ordinance saying such.

We are hoping to gain your insight into the matter, *is Part D of the SEPA Checklist required to be submitted within the application materials?*

I appreciate your response at your earliest convenience,

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division

## Aaron Cohen

**From:** Hordan Planning Services <hordanplanningservices@outlook.com>  
**Sent:** Monday, August 26, 2024 4:01 PM  
**To:** Aaron Cohen; Sant, Fran (ECY); ECY RE SEPA HELP  
**Cc:** Thomas Carroll; Jason Earles  
**Subject:** RE: ZON2024-01/SEP2024-10/ADJ2024-04 -- Marlynn Holdings

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Aaron – Thanks for your explanation below. Unfortunately, I still cannot follow the train of thought to come to the same conclusion. I have been provided some additional information and guidance from the SEPA Team in Olympia and have conducted additional research. It is now my firm belief that this project is exempt from all SEPA requirements. Please see my findings below:

Regarding WAC197-11-800(6)(c) – This section states:

(c) Where an exempt project requires a rezone, the rezone is exempt only if:

- (i) The project is in an urban growth area in a city or county planning under RCW 36.70A.040.
- (ii) The proposed rezone is consistent with and does not require an amendment to the comprehensive plan; and
- (iii) The applicable comprehensive plan was previously subjected to environmental review and analysis through an EIS under the requirements of this chapter prior to the adoption; and the EIS adequately addressed the environmental impacts of the rezone.

Statement for (c) - The proposal is an exempt project that requires a rezone. The project components are less than the county's adopted thresholds of 12,000 square feet for structures and less than 40 parking spaces - YCC 16.04.100(3)(b). (Building 5,600 sq. ft. & 16 parking spaces)

Statement for (c)(i) - The proposal lies within a county planning under RCW 36.70A.040 – Growth Management Act. The requirement is that the project lie within an urban area in a city "**OR**" (**emphasis added**) county planning under RCW 36.70A.040. Yakima County is a GMA county under RCW 36A.70A.040, thus this section of the sentence stands alone and qualifies to further review the other criteria associated with WAC197-11-800(6)(c). See further criteria statements below:

Statement for (c)(ii) - The proposal is consistent with, and does not require, an amendment to the comprehensive plan. A Major Rezone would require an amendment to the comprehensive plan, but this is a Minor Rezone, and does not require an amendment to the comprehensive plan. This Minor Rezone is consistent with Title 19, under Table 19.36-1 "Zoning District consistency with Comprehensive Plan Future Land Use Designation". The Table indicates that the proposed rezone is consistent with the underlying comprehensive plan designation and no comprehensive plan amendment is required.

Statement for (c)(iii) - Horizon 2040 was subjected to environmental review and analysis through an EIS process and the EIS adequately addressed the environmental impacts of the rezone. Specifically, The EIS for Plan 2015 was adopted as required under SEPA, and an Addendum was adopted for Horizon 2040 (SEP2017-011). Through the adoption and addendum of the EIS, flows Title 19, the County's development regulations, which were adequately addressed the necessary environmental impacts and created the consistency chart Table 19.36-1.

The email below states that the proposed rezone is a non-project application under WAC 197-11-704(2)(b)(i).

**Statement** - The appropriate WAC that applies is WAC 197-11-704(2)(a)(i) because this rezone consists of an exempt project "Action", based on the definition of "Action" in WAC197-11-704(2)(a)(i), and meets all the criteria of WAC197-11-800(6)(c).

The below email further states that RCW 43.21C.450 applies to this project.

**Statement** - This section of law deals with amendments to "Development Regulations". No development regulations are being amended as part of this proposal, so this section does not apply.

**Conclusions** - The above "Statements" are the realities associated with this project. The project is clearly exempt from all SEPA review through (YCC 16.04.100(3)(b) and WAC197-11-800(6)(c). Is it possible that the section of WAC197-11-800(6)(c)(i) where it states in part ".....or county planning under RCW 36.70A.040.", was misread or misinterpreted? Yakima County definitely plans under RCW 36.70A.040, as a GMA County. This is pointed out because the below email states that the project is "outside an urban growth area", which is true, but the project qualifies to be considered under WAC197-11-800(6)(c) because it is a "county planning under RCW 36.70A.040." A full reading of the sentence indicates that WAC197-11-800(6)(c)(i) applies to this case.

At best, this is a "project rezone" because without the rezone, there could be no project. An Agricultural Market is not permitted in the current RT zoning district but is permitted in the proposed HTC zoning district. So, the rezone must be put in place to build the project (Ag. Market).

At second best, this project is completely exempt from SEPA through WAC197-11-800(6)(c) because it meets the exemption criteria.

If the Planning Department still comes to same conclusion as the email below. Please provide me with a detailed written explanation of RCW's and WAC's referenced to draw the decision. It is difficult to follow RCW and WAC thoughts just by references with no explanation.

Lastly, if you would like to meet to discuss this situation, I would be more than happy to meet at your convenience.

Thanks for your time in this matter, I await your response. Bill h. 249-1919

**From:** Aaron Cohen <Aaron.Cohen@co.yakima.wa.us>

**Sent:** Tuesday, August 13, 2024 10:54 AM

**To:** Sant, Fran (ECY) <fsan461@ECY.WA.GOV>; Hordan Planning Services <hordanplanningservices@outlook.com>; ECY RE SEPA HELP <sepahelp@ECY.WA.GOV>

**Cc:** Thomas Carroll <thomas.carroll@co.yakima.wa.us>; Jason Earles <jason.earles@co.yakima.wa.us>

**Subject:** RE: ZON2024-01/SEP2024-10/ADJ2024-04 -- Marlynn Holdings

Good Morning Bill,

This email is in response to your August 8, 2024, request for additional information on why Part D of the State Environmental Policy Act (SEPA) environmental checklist is required.

An environmental review under the State Environmental Policy Act (SEPA) is required for the proposed minor rezone because the subject property is outside of an urban growth area and therefore cannot meet all the requirements for a categorical exemption under WAC197-11-800(6)(c).

A minor rezone is deemed a non-project action as a minor rezone in Yakima County requires the adoption of a new ordinance to change the County's zoning map (WAC197-11-704(2)(b)(i)). Additionally, the proposed rezone does not qualify for any of the non-project action exemptions under RCW43.21C.450.



The SEPA process is designed to consider the entire scope of a proposal. Which in this case includes a non-project action (the minor rezone) and a project action (the agricultural market). Part D of the SEPA Environmental Checklist is designed to address the non-project action aspect of the proposal.

In this process, the SEPA Help Desk and Yakima County counsel were consulted as to when Part D of SEPA Checklist is required. Both parties have indicated that Part D of the SEPA checklist should be filled out if an environmental review under SEPA is triggered.

Part D of the SEPA Checklist is attached to this email for your easy access. We hope this email provides the clarifications you are requesting. We continue to look forward in working with you on this application throughout the review process.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Sant, Fran (ECY) <[fsan461@ECY.WA.GOV](mailto:fsan461@ECY.WA.GOV)>

**Sent:** Friday, August 9, 2024 7:29 AM

**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>; Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>; ECY RE SEPA HELP <[sepahelp@ECY.WA.GOV](mailto:sepahelp@ECY.WA.GOV)>

**Cc:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>

**Subject:** RE: ZON2024-01/SEP2024-10/ADJ2024-04 -- Marlynn Holdings

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Hi all,

I want to add some additional information to the conversation.

Ecology does not have enough information about on the ground conditions, a lead agency adopted minor new construction thresholds and other things to determine SPEA applicability.

In the event SEPA was applicable I communicated that Ecology would categorize this type of project on the SEPA database as a "combination" type proposal. One with a non-project action and permit action that would be dependent on the non-project action. For these types of proposals all the SEPA checklist, including part D would be applicable to the proposal.

Mr. Hordan and I did not discuss the definition of an agency action is SEPA in depth. The definition of a non-project action in the SPEA rules should help add clarity.

That definition can be found in [WAC 197-11-704](#):

**(b) Nonproject actions.** Nonproject actions involve decisions on policies, plans, or programs.

- (i) **The adoption or amendment of legislation, ordinances**, rules, or regulations that contain standards controlling use or modification of the environment;
- (ii) The adoption or amendment of comprehensive land use plans or zoning ordinances;
- (iii) The adoption of any policy, plan, or program that will govern the development of a series of connected actions (WAC 197-11-060), but not including any policy, plan, or program for which approval must be obtained from any federal agency prior to implementation;
- (iv) Creation of a district or annexations to any city, town or district;
- (v) Capital budgets; and
- (vi) Road, street, and highway plans.

It was my understanding that a rezone requires an adoption by ordinance for the county. If SEPA is applicable to the proposal, then Part D of the checklist should be completed as part of the SEPA submittal. The information can be minimal or detailed depending on the nature of the proposal.

Please let me know if you have any questions.

Thank you,

*Fran Sant*

(she/her)

Environmental Review

360.529.6375

**From:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>

**Sent:** Thursday, August 8, 2024 1:35 PM

**To:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>; ECY RE SEPA HELP <[sepahelp@ECY.WA.GOV](mailto:sepahelp@ECY.WA.GOV)>; Sant, Fran (ECY) <[fsan461@ECY.WA.GOV](mailto:fsan461@ECY.WA.GOV)>

**Cc:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>

**Subject:** ZON2024-01/SEP2024-10/ADJ2024-04 -- Marlynn Holdings

External Email

Tommy/Jason/Aaron – I received your Incomplete Notice for the above referenced application on Monday.

Also on Monday, I contacted Ms. Fran Sant directly, to inquire about her recommendation to complete Part D of the SEPA Checklist. We spoke for about one-half hour, and I provided her with additional project information about the project. Based on the additional information, we discussed several scenarios and discovered some interesting aspects to how SEPA may, or may not, apply to this project. However, before those other aspects of SEPA can be determined, it is necessary to determine why Part D is being requested.

Ms. Sant suggested that I make an inquiry to Planning requesting why Part D is being required, as the answer may determine a different SEPA outcome. So, based on that suggestion, I am requesting a detailed written explanation as to why Part D is being required for this project (i.e. why is the minor rezone considered Non-project?).

Ms. Sant also asked that my request be kept at the local level at this time because she was not fully aware of the local SEPA rules and regulations and their application to this project. She indicated that she would like to monitor our exchange of information from afar and requested that we keep her on our email chain. I have included her direct email address and the SEPA Help Desk email on this email chain, per her request.

Thank you for your attention to this matter.

Bill Hordan -- 509-249-1919

From: Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>

Sent: Thursday, August 1, 2024 11:20 AM

To: Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>

Cc: Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>

Subject: FW: Combined Minor Rezones with Land-Use Projects

Good Morning Bill,

I received the response below from the SEPA Help Desk and I went over the topic with Tommy. We are continuing with DOE's response that Part D of the SEPA checklist should be filled out as it pertains to the minor rezone. I have attached our SEPA Checklist to this email for your easy access. The last item I need to deem the application complete is Part D. If you are able to submit Part D by noon tomorrow then I can get out the NOA/NOC/NOER/NOFH as soon as possible. I look forward to continuing to work with you on the application.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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member. Public Services Department office hours are Monday – Friday from 8:00 am – 4:00 pm and we are located on the 4<sup>th</sup> floor of the Yakima County Courthouse at 128 N. 2<sup>nd</sup> Street, Yakima, WA 98901.

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**From:** ECY RE SEPA HELP <[sepahelp@ECY.WA.GOV](mailto:sepahelp@ECY.WA.GOV)>  
**Sent:** Thursday, August 1, 2024 8:02 AM  
**To:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Subject:** RE: Combined Minor Rezones with Land-Use Projects

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Hi Aaron,

Thanks for reaching out to SEPA help. I would recommend that you complete Part D of the checklist as it relates to the non-project component of the proposal. Any questions that are not applicable to the proposal do not need to be addressed.

Have a great day.

*Fran Sant*  
(she/her)  
Environmental Review  
360.529.6375

**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Sent:** Wednesday, July 31, 2024 4:55 PM  
**To:** ECY RE SEPA HELP <[sepahelp@ECY.WA.GOV](mailto:sepahelp@ECY.WA.GOV)>  
**Subject:** Combined Minor Rezones with Land-Use Projects

#### External Email

Hi SEPA Help Desk,

I am working on an application that involves a minor-rezone outside a UGA that is combined with a future agricultural market. The entire application (the minor rezone and the land-use) application is being reviewed at the same time. *Is it recommended that Part D of the SEPA checklist be filled out as it relates to the minor rezone application?*

I appreciate your response at your earliest convenience,



All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
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**Aaron Cohen**

---

**From:** Hordan Planning Services <hordanplanningservices@outlook.com>  
**Sent:** Thursday, September 12, 2024 4:27 PM  
**To:** Aaron Cohen  
**Subject:** RE: Yakima County NOI Extension ZON24-001 Marlynn Holdings

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Thanks for the update.

**From:** Aaron Cohen <Aaron.Cohen@co.yakima.wa.us>  
**Sent:** Thursday, September 12, 2024 3:59 PM  
**To:** Hordan Planning Services <hordanplanningservices@outlook.com>  
**Cc:** Thomas Carroll <thomas.carroll@co.yakima.wa.us>; Jason Earles <jason.earles@co.yakima.wa.us>  
**Subject:** RE: Yakima County NOI Extension ZON24-001 Marlynn Holdings

Hi Jamie,

I did find it. My apologies for causing any confusion. We have hired new staff recently and they are getting sped up. I will work on advancing the application quickly.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Aaron Cohen  
**Sent:** Thursday, September 12, 2024 3:29 PM  
**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Cc:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>  
**Subject:** RE: Yakima County NOI Extension ZON24-001 Marlynn Holdings

Hi Jamie,

I checked with our office support staff and they have not seen anything yet. Did you drop off the forms in a box downstairs?

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Sent:** Thursday, September 12, 2024 2:07 PM  
**To:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Subject:** RE: Yakima County NOI Extension ZON24-001 Marlynn Holdings

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Hi Aaron,

I submitted the Part D to the county on Tuesday the 10th. Is an extension request still needed?

Thanks  
Jamie

**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Sent:** Thursday, September 12, 2024 12:00 PM  
**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Cc:** Thomas Carroll <[thomas.carroll@co.yakima.wa.us](mailto:thomas.carroll@co.yakima.wa.us)>; Jason Earles <[jason.earles@co.yakima.wa.us](mailto:jason.earles@co.yakima.wa.us)>  
**Subject:** Yakima County NOI Extension ZON24-001 Marlynn Holdings

Hi Bill,

I know we have been going back and forth on the cases associated with ZON24-001 Marlynn Holdings. The 45 days on the NOI for Part D ends on Monday, September 16<sup>th</sup>. At this time, we have not received an email from MRSC or have come to a full conclusion, which I don't think will happen by the end of the business day on Monday, September 16<sup>th</sup>. Therefore, I do need a written request to for an extension to the NOI. I cannot extend the NOI without the request in some form of writing from yourself. I would rather get the extension process started and then have to change courses rather than wait till the end of the business day on Monday, September 16<sup>th</sup> as well.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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# D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

MARLYNN Yakima County Public Services HOLDINGS - SEP 2024 - 888 10

SEP 10 2024

<p><b>1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?</b></p> <p>No increased discharge to water, emissions to air or toxic/or hazardous substances are proposed. No production, storage or release of toxic or hazardous substances are proposed. No increase in the production of noise is anticipated.</p> <p><b>Proposed measures to avoid or reduce such increases are:</b></p> <p>No measures are proposed, as none are needed.</p>	<p>Case No: <u>SEP2024-00010</u> Assigned To: <u>Aaron</u></p>
<p><b>2. How would the proposal be likely to affect plants, animals, fish, or marine life?</b></p> <p>This proposal will have no affect to plants, animals, fish or marine life.</p> <p><b>Proposed measures to protect or conserve plants, animals, fish, or marine life are:</b></p> <p>None needed, none proposed.</p>	
<p><b>3. How would the proposal be likely to deplete energy or natural resources?</b></p> <p>Not applicable, no energy or natural resources are being exploited.</p> <p><b>Proposed measures to protect or conserve energy and natural resources are:</b></p> <p>None needed, none proposed.</p>	
<p><b>4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?</b></p> <p>The proposal does not affect environmentally sensitive areas.</p> <p><b>Proposed measures to protect such resources or to avoid or reduce impacts are:</b></p> <p>None needed, none proposed.</p>	
<p><b>5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?</b></p> <p>This proposed rezone establishes a consistent and compatible zoning district with the proposed land use. There is no shoreline being affected.</p> <p><b>Proposed measures to avoid or reduce shoreline and land use impacts are:</b></p> <p>Compliance with local, state and federal land use ordinances ensures compliance with the proposed land use and its impacts.</p>	
<p><b>6. How would the proposal be likely to increase demands on transportation or public services and utilities?</b></p> <p>The proposal is a seasonal business that has little, to no, effect regarding demands on transportation or public services, as the transportation network and public services required for this proposal currently exist to accommodate the proposed land use.</p> <p><b>Proposed measures to reduce or respond to such demand(s) are:</b></p> <p>New development is required to meet transportation concurrency requirements and provide basic levels of services and utilities prior to construction occurring.</p>	
<p><b>7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.</b></p> <p>No conflicts are anticipated.</p>	

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HEARING EXAMINER  
EXH # 9 DATE 9/10/24

**Hordan Planning Services**  
**410 N 2nd Street**  
**Yakima, WA 98901**

ATTN: Aaron Cohen

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HEARING EXAMINER

EXH #

9

DATE

2/10/24

LA



# Public Services

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901  
(509) 574-2300 • 1-800 572-7354 • FAX (509) 574-2301 • [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

LISA H. FREUND – Director

August 2, 2024

Bill Hordan  
Hordan Planning Services  
410 North 2<sup>nd</sup> Street  
Yakima, Washington, 98901

**Re: Notice of Incompleteness: Marlynn Holdings LLC Agriculture Market**  
**File Number: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004**

Dear Mr. Hordan,

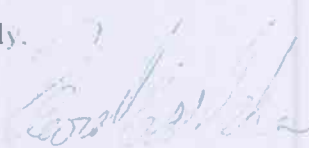
Thank you for your submission of additional information on July 19, 2024, in response to our April 25, 2024, letter. The required information stated in the April 25, 2024, letter has been met. Upon reviewing the submitted information and the existing application materials, Part D of the State Environmental Policy Act (SEPA) Checklist is not included. In consultation with the SEPA Help Desk (see Attachment A) it is recommended by the Washington Department of Ecology that Part D of the SEPA Checklist be filled out as it pertains to the minor rezone portion of the application. The following information is requested:

- 1) *SEPA Checklist*. Please submit Part D of the SEPA Checklist as it pertains to the minor rezone portion of the application. Part D of the SEPA Checklist is attached to this notice in Attachment B

We are required to notify you that, because the application is determined to be incomplete, processing has been placed on hold until we receive the described required information. You have up to **45 days (September 16, 2024)** to return the required submittals after which the file will lapse and become null and void. Once we receive the information, we have 14 days to review the submitted information and determine if the application is complete or if additional information is needed.

If you have any questions pertaining to this letter, please feel free to contact me at (509) 574-2300.

Sincerely,

  
Aaron M. Cohen  
Planner III

FILED 50  
HEARING EXAMINER  
EXH # 10 DATE 8/12/24

CC: File  
Lynnell Brandt

**Attachments**

- A. Correspondence with the SEPA Help Desk
- B. Part D of the SEPA Checklist

Yakima County enforces Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin, or sex in the provision of benefits and services including housing, health, education, employment, and public services. For questions regarding Yakima County's Title VI Program, contact the Title VI Coordinator at 509.454.2400.

If you are going to a meeting and you need special accommodations, please call us at 509.454.2400 by 10:00am three days prior to the meeting. For TDD users, please use the relay toll free 1-800-833-6388 and ask the operator to dial 319-744-2400.

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HEARING EXAMINER

EXH # 10 DATE 8/2/2024



Aaron Cohen

---

**From:** Aaron Cohen  
**Sent:** Thursday, August 1, 2024 11:20 AM  
**To:** Hordan Planning Services  
**Cc:** Thomas Carroll; Jason Earles  
**Subject:** FW: Combined Minor Rezones with Land Use Projects  
**Attachments:** SEPA Checklist Packet Filable Form.pdf

Good Morning Bill,

I received the response below from the SEPA Help Desk and I went over the topic with Tommy. We are continuing with DOE's response that Part D of the SEPA checklist should be filled out as it pertains to the minor rezone. I have attached our SEPA Checklist to this email for your easy access. The last item I need to deem the application complete is Part D. If you are able to submit Part D by noon tomorrow then I can get out the NOA/NOC/NOER/NOFH as soon as possible. I look forward to continuing to work with you on the application.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** ECY RE SEPA HELP <sepahelp@ECY.WA.GOV>  
**Sent:** Thursday, August 1, 2024 8:02 AM  
**To:** Aaron Cohen <Aaron.Cohen@co.yakima.wa.us>  
**Subject:** RE: Combined Minor Rezones with Land-Use Projects

Attachment: A

FILED

HEARING EXAMINER

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hi Aaron,

Thanks for reaching out to SEPA help. I would recommend that you complete Part D of the checklist as it relates to the non-project component of the proposal. Any questions that are not applicable to the proposal do not need to be addressed.

Have a great day.

*Fran Sant*

(she/her)

Environmental Review

360.529.6375

From: Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>

Sent: Wednesday, July 31, 2024 4:55 PM

To: ECY RE SEPA HELP <[sepahelp@ecy.wa.gov](mailto:sepahelp@ecy.wa.gov)>

Subject: Combined Minor Rezones with Land-Use Projects

External Email

Hi SEPA Help Desk,

I am working on an application that involves a minor-rezone outside a UGA that is combined with a future agricultural market. The entire application (the minor rezone and the land-use) application is being reviewed at the same time. *Is it recommended that Part D of the SEPA checklist be filled out as it relates to the minor rezone application?*

I appreciate your response at your earliest convenience,

All the best,

Aaron

Aaron M Cohen

Planner III, Long Range Section

Yakima County Public Services, Planning Division

128 North Second Street

4<sup>th</sup> Floor, County Courthouse

Yakima, WA, 98901

(509) 574-2300

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**D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS**

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

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EXH # 10 DATE 8/2/02  
FILE NO. WPH-02/SEP-0  
ADJ 24-004/200241



5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment

Bill Hordan  
Hordan Planning Services  
410 N 2<sup>nd</sup> St  
Yakima, WA 98901

Lynnell Brandt  
Marlynn Holdings, LLC  
1330 N 16<sup>th</sup> Ave  
Yakima, WA 98902

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HEARING EXAMINER  
EXH # 10 DATE 8/2/2011

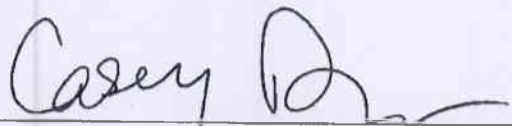
FILE NO.: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004  
NOTICE OF INCOMPLETENESS

**AFFIDAVIT OF MAILING**

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

I, Casey Dunbar, being first duly sworn, and as an employee of the Yakima County Public Services, Planning Division, dispatched through the United States Mails, or otherwise by electronic mail, a NOTICE OF INCOMPLETENESS, a true and correct copy of which is enclosed here-with; that a NOTICE OF INCOMPLETENESS was addressed to the applicant and agencies pursuant to Yakima County Code Title 16B.05, that said parties are individually listed on the Mailing List retained by the Planning Division and that said notice was mailed by me on the 2nd day of August, 2024.

That I mailed said notice in the manner herein set forth and that all of the statements are made herein are just and true. Dated this 2nd day of August, 2024.



Casey Dunbar  
Office Specialist

Casey Dunbar

---

**From:** Aaron Cohen  
**Sent:** Tuesday, July 30, 2024 9:46 AM  
**To:** Hordan Planning Services  
**Subject:** RE: Yakima County ZON2024-00001

Hi Bill,

Thank you for providing that clarification!

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Sent:** Monday, July 29, 2024 2:29 PM  
**To:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Subject:** RE: Yakima County ZON2024-00001

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Aaron – Mr. Brandt indicates that the fruit primarily sold will be from his farm. He does, however, desire to have the opportunity to sell incidental items as provided in the zoning code definition of an “agricultural market”. Please let me know if you have any questions. Thanks, Bill h. 249-1919

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HEARING EXAMINER

EXH # 12 DATE 7/30/24  
FILE NO. 2024-00001-KP014



**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Sent:** Monday, July 29, 2024 2:19 PM  
**To:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Subject:** Yakima County ZON2024-00001

Hi Bill,

Quick question regarding ZON2024-00001 (Marlynn Holdings), is the agricultural market only going to be supplied by produce and products made by the property owner or will there be other outside vendors participating in the agricultural market as well?

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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## Casey Dunbar

---

**From:** Aaron Cohen  
**Sent:** Friday, July 26, 2024 9:55 AM  
**To:** Engelskirchen, David  
**Subject:** RE: [EXTERNAL] Aaron Cohen Email - Yakima County

Hi David,

Thank you for sending that over, it does help! I look out for an email next week.

All the best,

Aaron

Aaron M Cohen  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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**From:** Engelskirchen, David <David.Engelskirchen@fda.hhs.gov>  
**Sent:** Friday, July 26, 2024 9:44 AM  
**To:** Aaron Cohen <Aaron.Cohen@co.yakima.wa.us>  
**Subject:** RE: [EXTERNAL] Aaron Cohen Email - Yakima County

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Aaron,

I have not found the templates yet, but here are a few things to get started.

[Guidance for Industry: Food Security Preventive Measures Guidance for Retail Food Stores and Food Service Establishments | FDA](#)

I will reach out early next week to follow up.

Thanks

David



**David H. Engelskirchen, MA, CP-FS**

*Retail Food Specialist*

U.S. Food and Drug Administration

Office of State Cooperative Programs (OSCP)

Tacoma Resident Post

934 Broadway St, SUITE 100, Tacoma, WA 98402

M: 206-452-9762

E: [david.engelskirchen@fda.hhs.gov](mailto:david.engelskirchen@fda.hhs.gov)

FDA Retail Food web page: [www.fda.gov/retailfoodprotection](http://www.fda.gov/retailfoodprotection)



**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>

**Sent:** Friday, July 26, 2024 9:26 AM

**To:** Engelskirchen, David <[David.Engelskirchen@fda.hhs.gov](mailto:David.Engelskirchen@fda.hhs.gov)>

**Subject:** [EXTERNAL] Aaron Cohen Email - Yakima County

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Hi David,

Thank you again for taking the time to speak with me on the phone. In this email you should have my email and my direct line is 509-574-2256. I look forward to talking with you more on the application.

Safety travels!

Aaron

Aaron M Cohen, AICP  
Planner III, Long Range Section  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

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<https://yakimacountypermits.us/CitizenAccess/Default.aspx>. **Please note, not all Planning applications can be applied for on-**

**line.** If the application type you are wishing to apply for does not appear as an option then you can either e-mail your application materials to [Planning\\_Info@co.yakima.wa.us](mailto:Planning_Info@co.yakima.wa.us) or you can come into the Public Services Department office and meet with a staff

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EXH # 13 DATE 7/26/2024  
FILE NO. 2024-0011

member. Public Services Department office hours are Monday – Friday from 8:00 am – 4:00 pm and we are located on the 4<sup>th</sup> floor of the Yakima County Courthouse at 128 N. 2<sup>nd</sup> Street, Yakima, WA 98901.

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## **HORDAN PLANNING SERVICES**

410 North 2<sup>nd</sup> Street, Yakima WA 98901

Telephone: (509) 249-1919

Public Services

JUL 19 2024

Received By

sg

July 17, 2024

Mr. Aaron Cohen  
Yakima County Public Services  
Planning Division  
Room 400, Courthouse  
Yakima, WA 98901

RE: ZON2024-00001 et al -- Marlynn Holdings-Agricultural Market

Dear Mr. Cohen:

This letter is in response to your request for additional information regarding the above-referenced application. Attached you will find a response to the five items identified in your letter dated April 25, 2024. A narrative of each item you requested is listed below for quick reference and exhibits are attached hereto:

1. **Site Plan** – The original site plan identified, with language, the fence at the corners on the site plan. Additional language has been added to help clarify the fence location and fence type. It should be noted that the identified fence is not on the Marlynn Holdings property line. The fence is located along the southwest property line, of property that is leased from Yakima County, but included within the fenced boundaries of the site. Thus, no fence is located on the Marlynn Holdings southwest property line. (Exhibit 1).
2. **Loading Spaces** – The existing loading dock will be used. No new loading dock is contemplated. (No exhibit needed).
3. **Sign** – A sketch to scale for the sign to be constructed at the southeast corner of the property is attached hereto. The property owner has decided that the sign will not be lighted. (Exhibit 2).
4. **Water Right & Bathrooms** – The property owner has been in contact with both the Yakima County Building Department and the City of Yakima Water Department. According to the Yakima County Building Department, the permanent restroom facilities associated with the existing office may be used for public use, provided they are within 500 feet of the agricultural market. The distance between the agricultural market and restrooms is substantially less than 500 feet and will be available for public use. (Exhibit 3). According to Mike Shane (Water/Irrigation Manager) at the City of Yakima, domestic water is available to the site because the property lies within the City's "Place

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HEARING EXAMINER

EXH # 14 DATE 7/17/2024  
FILE NO. C-0001-2024-00001

of Use/Water Service Area". Based on this, domestic water from the City of Yakima is proposed to be used. (Exhibit 4).

5. **Arguments for an Administrative Adjustment** – This property is subject to the Federal Food Safety Act because fruit is stored on site in controlled atmosphere buildings. According to Mr. Brandt, the Federal Food Safety Act is not so much a law, as it is the use of "best management practices" to prevent the nation's food from being contaminated by bad actors. Mr. Brandt has attended several seminars where the Federal Food Safety Act has been discussed. Mr. Brandt indicated that there are two issues he must deal with regarding this project. The first is that he must be concerned about the "facility" as a whole and the second being cognizant of the fact that a "business", open to the public, is being conducted on the property.

The Federal Food Safety Act recognizes that no two food storage facilities are alike, so no written laws are associated with the Federal Food Safety Act, but "guidelines" of best management practices are provided to food suppliers. Generally, food storage "facilities" are to be fenced along their property perimeter. Fences installed along property lines generally do not provide areas outside of the fence, where undesirable persons can be, or vehicles can park. In this case, removing the existing fence and setting it back 6 feet, provides an area where an unwanted person could be hiding, or a vehicle could park, having the ability to assault the food product inside the building. The existing fence is located on the perimeter of the property and provides a barrier that prevents a bad actor from creating a staging area on the outside of the fence. Best management practices and guidelines of the Federal Food Safety Guidelines indicate that clear (see-through) fencing, without obstructions, is the best way to keep vehicles and persons from entering the property. According to the seminars, the most secure facilities have see-through chain-link fencing (topped with barbed or razor wire). The intent of these guidelines is to protect the entire facility, particularly when the site is not occupied. A clear line of site into, and out of the entire facility, is a necessary aspect of facility security. Mr. Brandt provided me with the addresses of several newer warehousing facilities with similar attributes as his facility that use best management practices and guidelines for reference. Attached are addresses and pictorial exhibits of those facilities. (Exhibit 5).

The agricultural market is proposed to be open to the public. Good management practices and guidelines associated with the Federal Food Safety Act permit outside persons to be present on food storage facility sites. In this case, a small area of the facility is proposed to be dedicated to the agricultural market with a circular drive-around parking lot. The agricultural market and parking lot are located immediately inside the main entrance to the facility. Thus, the location of the agricultural market and parking lot are at a location where vehicles are not passing through the active warehousing facility. To prevent vehicles and unauthorized persons from entering the main warehousing facility, temporary barricades will be erected between the main warehousing facility and the agricultural market/parking lot. Appropriate signage will be attached to the barricades indicating that vehicles and unauthorized persons are not permitted beyond the barricades. The barricades will be placed, and removed, on a seasonal basis, similar to the active dates of the temporary agricultural market.

Two employees will be working in the agricultural market and several more employees are generally working at the main warehouse facility. It is the responsibility of all employees to ensure that customers of the agricultural market remain in the designated customer areas. Additionally, each individual controlled atmosphere room is locked. Prior to closing the entire facility at days end, a designated person patrols the facility for unauthorized persons and/or vehicles and checks the controlled atmosphere room locks before leaving the site. Lastly, the entry gate and secondary gate are each secured with locks.

Based on the need to secure the entire facility, when it is not occupied, and being able to control customers during business hours through appropriate mitigation, the property owner requests that the Administrative Adjustment be approved as submitted.

If you have any questions, please feel free to contact me at 249-1919.

Sincerely,

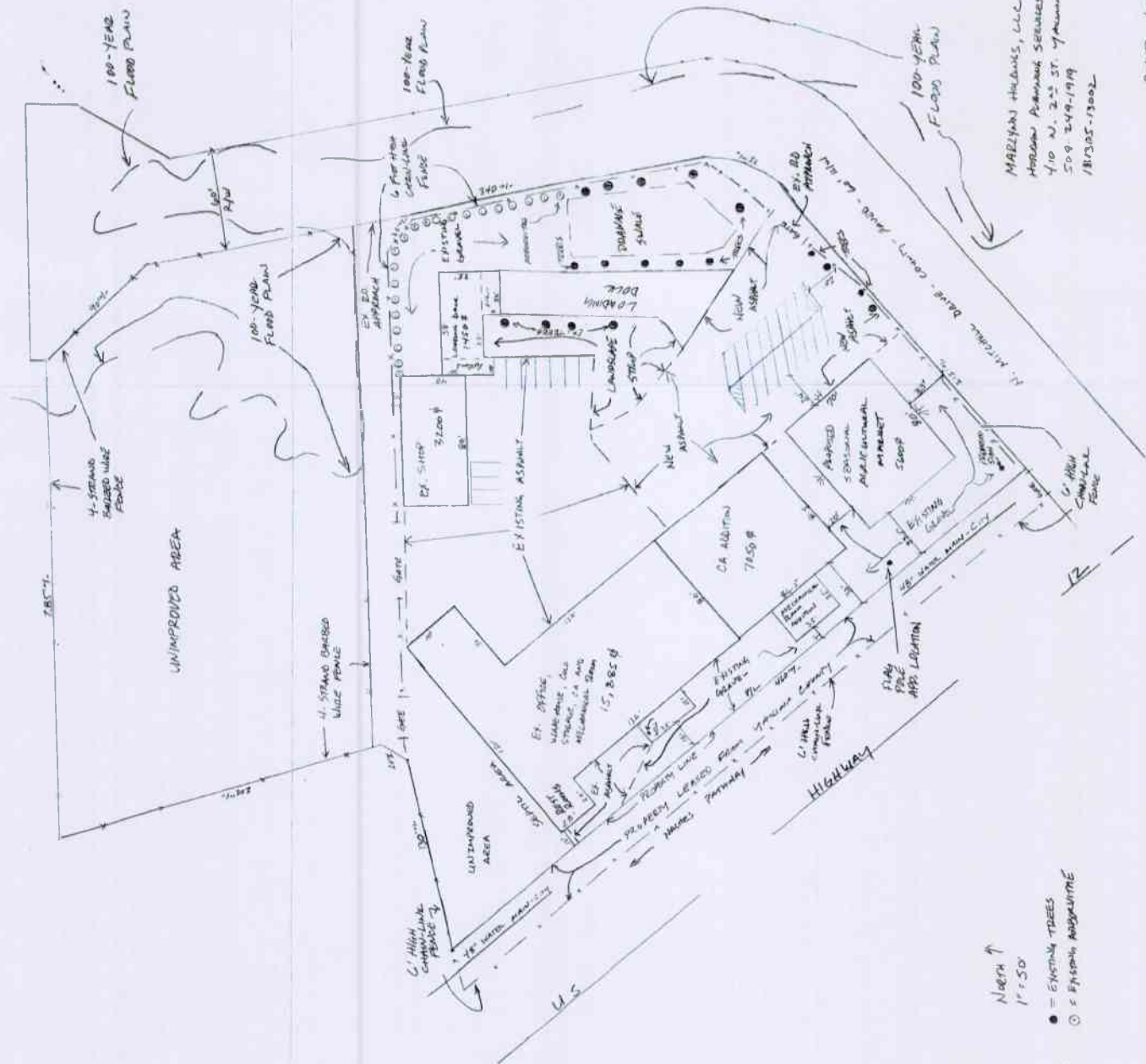


Bill Hordan

# EXHIBIT

1





MARSHALL HILLMAN, LLC - OWNER  
 MARSHALL HILLMAN SERVICES - DEPT.  
 410 N. 2nd ST. YUMA, WA 98901  
 509.249-1919  
 18/05-13002

DESIGNED - 6-25-17  
 REVISED - 2-21-17

NORTH ↑  
 1" = 50'

● = EXISTING TREES  
 ○ = EXISTING PLANTS

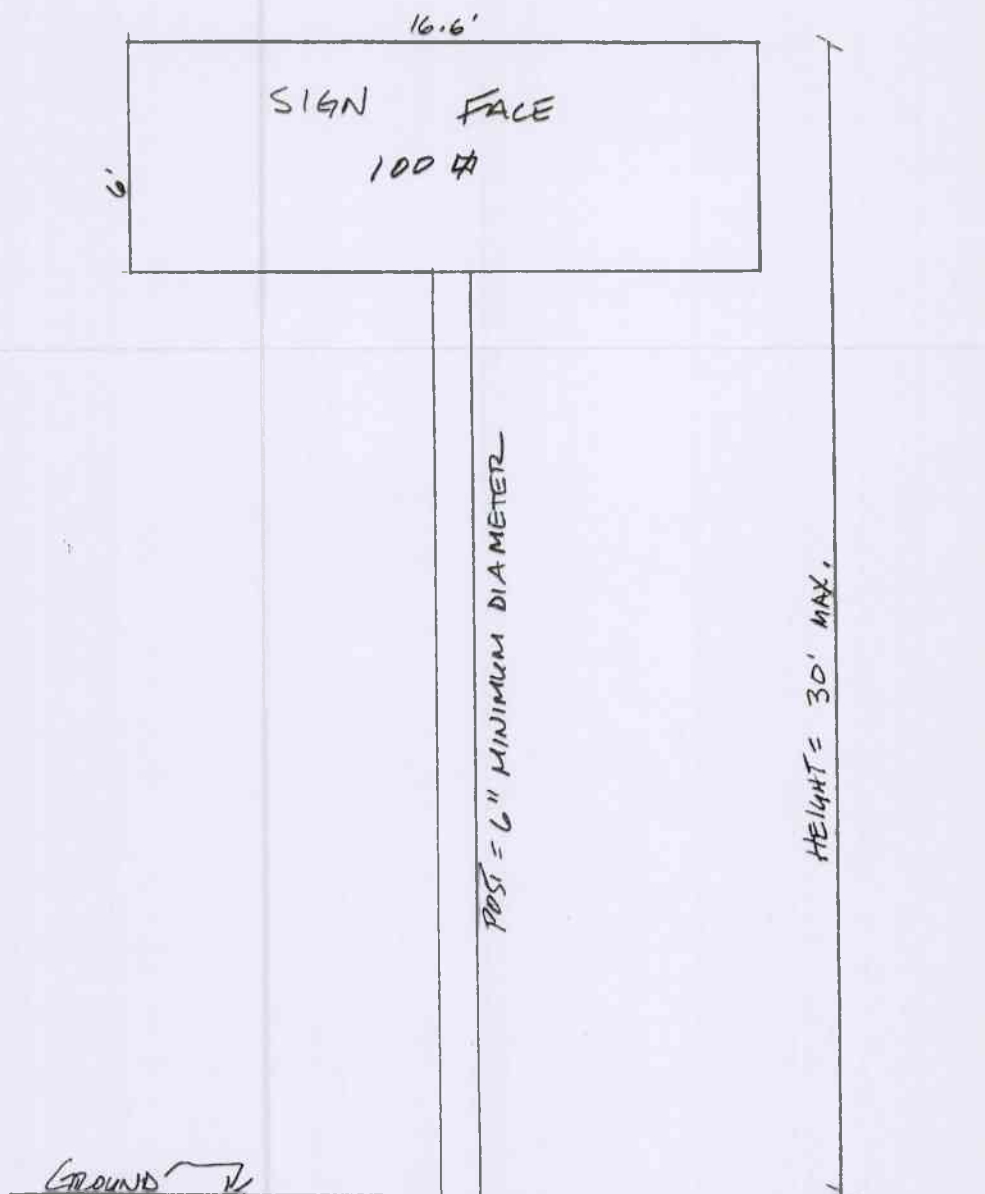
# EXHIBIT

2

FILED

HEARING EXAMINER

EXH # 14 DATE 7/12/2024  
FILE NO 14-024-011 / 15-024-011



MOCK-UP SIGN - PER PLANNING REQUEST

1" = 5'

FILED 70  
HEARING EXAMINER  
EXH # 14 DATE 7/17/2020

# EXHIBIT

3



BRANDT - MARYLYNN  
HOLDINGS

## Hordan Planning Services

**From:** Richard Hembree <Richard.Hembree@co.yakima.wa.us>  
**Sent:** Tuesday, July 9, 2024 1:45 PM  
**To:** Hordan Planning Services  
**Cc:** Marivel Garcia  
**Subject:** RE: ZON2024-1 -- MaryInn Holdings

Bill,

In buildings other than malls, 2018 IBC, Section 2902.3.2, Washington State Amended permits the use of toilet facilities located in another building so long as the building with the toilet facilities are on the same parcel and the path of travel to the existing toilet facilities do not exceed a distance of 500 feet.

Richard Hembree

---

**From:** Hordan Planning Services <hordanplanningservices@outlook.com>  
**Sent:** Monday, July 8, 2024 1:20 PM  
**To:** Richard Hembree <Richard.Hembree@co.yakima.wa.us>; Marivel Garcia <Marivel.Garcia@co.yakima.wa.us>  
**Subject:** RE: ZON2024-1 -- MaryInn Holdings

**CAUTION:** This email originated from outside of this organization. Please exercise caution with links and attachments.

Richard/Marivel – I talked to Mr. Brandt. He indicates that the existing facility has two bathrooms (1 men & 1 women). The bathrooms are in the furthestmost section of the facility (west end). His measurement between the buildings is just under 300 feet in distance. In short, the existing restrooms are well within the 500 feet, as indicated below. If this is sufficient, please let us know, and, if you could, please provide us with some documentation that we can submit to Planning. Feel free to contact me with any questions. Thanks, Bill h. 249-1919 \*

---

**From:** Richard Hembree <Richard.Hembree@co.yakima.wa.us>  
**Sent:** Thursday, June 27, 2024 3:01 PM  
**To:** Marivel Garcia <Marivel.Garcia@co.yakima.wa.us>  
**Cc:** Hordan Planning Services <hordanplanningservices@outlook.com>  
**Subject:** RE: ZON2024-1 -- MaryInn Holdings

Marivel / Bill,

Washington State Amended IBC, Section 2902.3, requires employees and the public to have access to toilet facilities *located within structures and tenant spaces intended for public use*. As a newly constructed building used as a market for several months of the year, toilet facilities are required to be provided within the building at the locations described as required by the code.

However, Washington State Amended IBC, Section 2902.3.2, allows the use of existing toilet facilities provided they are on the same site within 500' of the new building and that employees and the public have access to them.

# EXHIBIT

4

**From:** Shane, Mike <Mike.Shane@yakimawa.gov>  
**Sent:** Tuesday, May 14, 2024 12:08 PM  
**To:** 'Hordan Planning Services'  
**Cc:** Lopez, Emilio  
**Subject:** Brandt's Fruit - 60 N. Mitchell Dr. - Domestic Water Connection  
**Attachments:** CCF\_001564.pdf

Fortunately, this area is within our Place of Use/Water Service Area, so we are able to provide a domestic water service. I'm assuming a ¾" service/meter would be adequate to serve bathrooms?

Water/Irrigation Manager  
City of Yakima  
2301 Fruitvale Blvd.  
Yakima, WA 98902  
Office: 509.576.6480  
Cell: 509-728-3939

Mike – I am working on Parcel Number 181305-13002. It is out in the Glead area and is located at the northwest corner of North Mitchell Drive and US Highway 12. The property currently contains a large fruit warehouse and used to be owned by Edmonds Fruit. A City of Yakima fire hydrant is currently located on the property. The new property owner (Brandt Fruit Trees) wants to construct a fruit stand on the property. The county is requesting that the property owner talk to the City of Yakima about acquiring a domestic water connection for the fruit stand. I have attached a portion of the County letter for your review. Could you please look this over and let me know your thoughts? Thanks, Bill h. 249-1919

# EXHIBIT

5





WASHINGTON FRUIT  
1500 N. 6TH AVE, YAKIMA  
BUILT - 2015  
EAST PROPERTY LINE  
FOR - [illegible] & [illegible]

FILED 710  
HEARING EXAMINER  
EXH # 14 DATE 7/2/2014



FILED 77  
HEARING EXAMINER  
EXH # 14 DATE 7/7/24  
FILE NO. CUP-4-021/5-P24-010  
ADJ24-004/ZON24-001

WILLIAM

O. DOUGLAS

PATHWAY

WASHINGTON FRUIT  
1500 N. 6TH AVE, YAKIMA  
BUILT - 2015  
EAST PROPERTY LINE  
FRUIT PACKING & STORAGE  
ADJOINING PATHWAY



KERSHAW FRUIT  
1405 RIVER RD, YAKIMA  
BUILT-2018  
SOUTH PROPERTY LINE  
CONTROLLED ATMOSPHERE  
FRUIT STORAGE

FILED *JB*  
HEARING EXAMINER  
EXH # *11* DATE *7/7/2024*  
FILE NO *CUP24-02 SEP24-010*



KERSHAW Fruit  
2002 RIVER RD, YAKIMA  
BUILT - 2013  
EAST PROPERTY LINE  
CONTROLLED ATMOSPHERE  
FRUIT STORAGE

FILED 79  
HEARING EXAMINER  
EXH # 1112004  
FILE # 10001 10001  
10001 001/10001 001





# Public Services

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901  
(509) 574-2300 • 1-800-572-7354 • FAX (509) 574-2301 • [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

LISA H. FREUND – Director

June 13, 2024

Bill Hordan, Hordan Planning Services  
410 North 2<sup>nd</sup> Street  
Yakima, Washington, 98901

**Re: Notice of Incompleteness - Request for Extension: Marlynn Holding LLC Agriculture Market**  
**File Number: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004**

Dear Mr. Hordan,

Your request for an extension to the 45-day deadline given in your April 25, 2024, Notice of Incompleteness has been received and reviewed under YCC 16B.04.050. Your June 6, 2024, extension request letter indicated that an extension of 45 days is needed to submit the required information, specifically for that of Item #4.

The Administrative Official hereby approves the extension request for a total of 45 days, which will end on Monday, July 28, 2024. If the requested material is not submitted by this date, the file will lapse and become null and void. We cannot guarantee that additional extensions will be granted as each request is reviewed at the time they are made.

If you have any questions concerning this letter, please contact me at (509)574-2300.

Sincerely,

Aaron M. Cohen  
Planner III

CC: File  
Property Owners

FILED

HEARING EXAMINER

EXH # 15

DATE

6/13/2024

Bill Hordan  
Hordan Planning Services  
410 N 2<sup>nd</sup> Street  
Yakima, WA 98901

FILED 81  
HEARING EXAMINER  
EXH # 15 DATE 10/13/2024  
FILE NO. CUP24-021/SEP24-  
ADJ24-004/2024-001

Lynnell Brandt  
Marlynn Holdings, LLC  
1330 N 16<sup>th</sup> Ave  
Yakima, WA 98902



FILE NO.: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004  
NOTICE OF INCOMPLETENESS

## AFFIDAVIT OF MAILING

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

I, Casey Dunbar, being first duly sworn, and as an employee of the Yakima County Public Services, Planning Division, dispatched through the United States Mails, or otherwise by electronic mail, a NOTICE OF INCOMPLETENESS a true and correct copy of which is enclosed here-with; that a NOTICE OF INCOMPLETENESS was addressed to the applicant and agencies pursuant to Yakima County Code Title 16B.05, that said parties are individually listed on the Mailing List retained by the Planning Division and that said notice was mailed by me on the 13th day of June, 2024.

That I mailed said notice in the manner herein set forth and that all of the statements are made herein are just and true. Dated this 13th day of June, 2024.

Cory D.

Casey Dunbar  
Office Specialist

FILED

HEARING EXAMINER

EXH # 110 DATE 10/13/2024  
FILE NO. CUP24-021/S2P24-01C

## HORDAN PLANNING SERVICES

410 North 2<sup>nd</sup> Street, Yakima WA 98901  
Telephone: (509)249-1919 Fax (509)249-1903

June 6, 2024

Aaron Cohen  
Yakima County Public Services  
128 North 2<sup>nd</sup> Street  
4<sup>th</sup> Floor County Courthouse  
Yakima, WA 98901

Yakima County Public Services *Amc*

JUN 08 2024

ZON24-001/SEP24-010

Case No: CUP24-021/A0524-004

Assigned To: Aaron

**RE: Marlynn Holding, LLC - ZON2024-00001/SEP2024-000010/CUP2024-00021/ADJ2024-00004**

Dear Mr. Cohen,

We are writing in response to your April 25, 2024, Notice of Incompleteness letter. We have been diligently working with the Yakima County Building Official regarding #4 (permanent bathrooms). Attached is an email from the Building Official stating she is researching this topic and will not be able to give us a response until next week. Therefore, we will not be able to respond to your Incompleteness letter by June 10, 2024, deadline. Based on this, we are requesting another 45 days so we can obtain a response from the Building Official regarding permanent bathrooms for this project.

Thank you for your consideration. If you have any questions, please contact me at 509-249-1919.

Sincerely,



Bill Hordan

FILED *83*

HEARING EXAMINER

EXH # 17 DATE 6/6/2024

## Hordan Planning Services

---

**From:** Marivel Garcia <Marivel.Garcia@co.yakima.wa.us>  
**Sent:** Monday, June 3, 2024 3:48 PM  
**To:** Hordan Planning Services  
**Subject:** RE: ZON2024-1 -- Marylnn Holdings

Thank you for providing the additional information. I will do some research and get back to you next week with a response.

Thanks,

**Marivel Garcia, Building Official**

Yakima County - Building & Fire Division  
128 N 2nd Street, 4th floor Courthouse  
Yakima, WA 98901

Main: (509)574-2300 Fax: (509)574-2301

Office hours: 8:00 a.m. – 4:00 p.m.

Register for the Public Services online permitting portal [here](https://yakimacountypermits.us). Apply for Building applications and check the status now by visiting [YakimaCountyPermits.us](https://yakimacountypermits.us).

This email and replies to it are subject to public disclosure under Washington state statute (RCW 42.56 - Public Records Act).

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**From:** Hordan Planning Services <hordanplanningservices@outlook.com>  
**Sent:** Thursday, May 30, 2024 4:56 PM  
**To:** Marivel Garcia <Marivel.Garcia@co.yakima.wa.us>  
**Subject:** ZON2024-1 -- Marylnn Holdings

**CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.**

Marivel – Thanks for the time you spent with me on the phone regarding the need for permanent restroom facilities for the proposed agricultural market associated with the above project. Based on our discussion, I would like to provide you with information as to why permanent restroom facilities will not work at the project site.

- 1) Although domestic water is available from the City of Yakima to serve the project, the water passes the property in a 48-inch water main. The City indicates that it is a challenge to connect a ¾-inch service meter/line to that size of water line. The City also indicates that the water pressure is low and would need a booster pump. Please see email from Mike Shane at the City of Yakima attached hereto. Based on this, the opportunity to be served by the City is severely limiting and difficult to accomplish.
- 2) The project site is not served by sewer, so an on-site septic system would need to be constructed. The problem with an on-site septic system is that it could not meet the required YHD standards. Attached is a copy of the project site plan. The only logical direction to install an on-site drain field is to northeast of site. Unfortunately, that is the location of the drainage swale which serves the existing warehouse facility. Drain fields are not permitted within 100-feet of open water areas. The drainage swale qualifies as

an open water source, so any drain field needs to be setback 100-feet from the edge of the drainage swale. Areas to the east and south of the agricultural market building are used to access the south side of the warehouse facility, as the mechanical building for the warehouses is located on the south side of the building. A drain field in either of the areas will not be approved because the YHD does not allow vehicles to drive over septic drain fields. Areas to the west are currently covered with asphalt that serve the warehouse facility. Thus, there is no area to the west in which to construct a drain field.

- 3) Lastly, as I explained on the phone, we submitted a written narrative indicating that portable restroom facilities would be used. The EAC Meeting notes indicated that one accessible restroom and one accessible parking space were required. There was no mention in the EAC Meeting notes that the restroom accessibility requirements had to be "permanent" facilities. The requirement of permanent facilities was only disclosed to us after the project applications were submitted. This was a big surprise to us. Had we known that aspect at the time of the EAC Meeting, it is likely that we would not have submitted this application. To date, I know we have expenses that exceed \$10k. Obviously, this is hard to swallow.....
- 4) Marivel - I have looked at this situation from all directions. In this case, the property owner needs a variance that permits portable restrooms for the seasonal use of the agricultural market. This is based on the difficulty in acquiring domestic water from the City and the inability to establish a septic drain field on the property. If you could please take another look at this situation based on the above factors, a variance in this situation would be appreciated. If you have any questions, please feel free to contact me. Thanks,  
Bill h. 249-1919

## Casey Dunbar

---

**From:** Aaron Cohen  
**Sent:** Thursday, May 30, 2024 7:31 AM  
**To:** Hordan Planning Services  
**Subject:** Yakima County ZON2024-00001 & Associated Cases (Marlynn Holdings)

Hi Jamie and Bill,

I am following up on ZON2024-00001 and the associated cases regarding the NOI that was sent out. The date stated in the letter is June 10, which is fast approaching. If you require additional time to respond to the letter, please let me know in writing at your earliest convenience.

All the best,

Aaron

Aaron M Cohen  
Planner III  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

If you are wanting to submit any documentation related to an existing application, check the status of an existing application, or are wanting to submit a new application for review please visit the Public Services online permitting portal at <https://yakimacountypermits.us/CitizenAccess/Default.aspx>. **Please note, not all Planning applications can be applied for on-line.** If the application type you are wishing to apply for does not appear as an option then you can either e-mail your application materials to [Planning\\_Info@co.yakima.wa.us](mailto:Planning_Info@co.yakima.wa.us) or you can come into the Public Services Department office and meet with a staff member. Public Services Department office hours are Monday – Friday from 8:00 am – 4:00 pm and we are located on the 4<sup>th</sup> floor of the Yakima County Courthouse at 128 N. 2<sup>nd</sup> Street, Yakima, WA 98901.

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Casey Dunbar

---

**From:** Aaron Cohen  
**Sent:** Monday, May 6, 2024 1:41 PM  
**To:** Hordan Planning Services  
**Subject:** RE: ZON2024-1 -- Marlynn Holdings  
**Attachments:** Title19.20.095.pdf

Good Afternoon Bill,

I have attached the sign illumination code standards to this email.

Regarding the administration adjustment item, I took part of the narrative to state that the adjustment is partially sought for non-monetary reasons. The prime clarification being sought is, on how security standards of the Federal Food Safety Act are to be met if the fenced facility is frequently accessed in relation to the agriculture market. The argument for the adjustment due to security reasons of the fence to comply with federal law and then the proposal for an agriculture market itself appear to be contradictory.

If you have any additional questions, please let me know,

All the best,

Aaron

Aaron M Cohen  
Planner III  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

If you are wanting to submit any documentation related to an existing application, check the status of an existing application, or are wanting to submit a new application for review please visit the Public Services online permitting portal at <https://yakimacountypermits.us/CitizenAccess/Default.aspx>. **Please note, not all Planning applications can be applied for on-line.** If the application type you are wishing to apply for does not appear as an option then you can either e-mail your application materials to [Planning\\_Info@co.yakima.wa.us](mailto:Planning_Info@co.yakima.wa.us) or you can come into the Public Services Department office and meet with a staff member. Public Services Department office hours are Monday – Friday from 8:00 am – 4:00 pm and we are located on the 4<sup>th</sup> floor of the Yakima County Courthouse at 128 N. 2<sup>nd</sup> Street, Yakima, WA 98901.

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**From:** Hordan Planning Services <[hordanplanningservices@outlook.com](mailto:hordanplanningservices@outlook.com)>  
**Sent:** Tuesday, April 30, 2024 8:49 AM

FILED 87  
HEARING EXAMINER

To: Aaron Cohen <Aaron.Cohen@co.yakima.wa.us>

Subject: ZON2024-1 -- Marlynn Holdings

**CAUTION** : This email originated from outside of this organization. Please exercise caution with links and attachments.

Aaron – I received your notice of incompleteness yesterday. I have a couple of questions that I need clarified:

Regarding Number 3 – Can you please provide me with the illumination standards in the code that you are referring to?

Regarding Number 5 – Can you please provide me with the section of the code that indicates that an Administrative Adjustment must be for purposes other than “non-monetarily”?

I will need these clarifications when I meet with Mr. Brandt to discuss your request. I have found him to be a very intelligent person and he likes things explained in detail, as I believe this helps him make sound decisions.

Thanks for your help. If you have any questions, please feel free to contact me. Thanks, Bill h. 249-1919



# Public Services

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901  
(509) 574-2300 • 1-800-572-7354 • FAX (509) 574-2301 • [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

LISA H. FREUND – Director

April 25, 2024

Bill Hordan  
Hordan Planning Services  
410 North 2<sup>nd</sup> Street  
Yakima, Washington, 98901

**Re: Notice of Incompleteness: Marlynn Holdings LLC Agriculture Market**  
**File Number: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004**

Dear Mr. Hordan,

The minor rezone (ZON), conditional use permit (CUP), State Environmental Policy Act (SEPA), and administrative adjustment (ADJ) applications submitted on April 8, 2024, have been designed so that Yakima County can review potential impacts the proposal will have on the property, the surrounding area, and to the natural environment which may occur because of the project development. It has been determined that there is inadequate information in your application to properly review your proposal or continue processing. The requested information is as follows:

- 1) *Site Plan*. The submitted narratives, aerial, and street view photographs demonstrate there is a fence along the southwestern property line that borders Yakima County property, however, a fence is not shown to be in this location on the submitted site plan. The following item is required:
  - a. Please submit an updated site plan depicting the fence along the southwestern property line.
- 2) *Loading Spaces*. The submitted narrative for the agricultural market indicates loading spaces will be provided. It is not clear within the submitted application materials if these loading spaces are in fact the existing loading dock or are proposed to be new loading spaces. The following item is required:
  - a. Please submit documentation clarifying the location of the referenced loading spaces in either a narrative stating the existing loading dock is to be used as the loading spaces, or, provide an updated site plan depicting the newly proposed loading spaces.
- 3) *Sign*. The submitted application materials indicate an illuminated sign is proposed to be placed on the southwestern corner. The following items are required:
  - a. Please submit a mock-up of the sign, drawn to scale, for review at this time. The sign mock-up must indicate how illumination standards are being met.

FILED 1 89  
HEARING EXAMINER  
EXH # 10 DATE 4/25/24

- 4) *Water Right & Bathrooms.* Comments received from the Building & Fire Safety Division (see Attachment A) indicate permanent restroom facilities are required. The following items are required:
- a. An update site plan depicting the location of the permanent restrooms; and,
  - b. A legal water right for all water associated with the bathrooms. As the City of Yakima has a water line adjacent to the property, connecting to the City of Yakima's water system is preferred.
- 5) *Arguments for an Administrative Adjustment.* The submitted narrative states the current fence is required to meet the standards under the Federal Food Safety Act, specifically the requirements of maintaining a secure facility. The following item is required:
- a. Please provide reasoning, non-monetarily, on why the fence must stay in its current location and configuration to meet the Federal Food Safety Act, especially as the facility is proposed to be easily accessed for the public to patron the agriculture market.

We are required to notify you that, because the application is determined to be incomplete, processing has been placed on hold until we receive the described required information. You have up to **45 days (June 10, 2024)** to return the required submittals after which the file will lapse and become null and void. Once we receive the information, we have 14 days to review the submitted information and determine if the application is complete or if additional information is needed.

If you have any questions pertaining to this letter, please feel free to contact me at (509) 574-2300.

Sincerely,



Aaron M. Cohen  
Planner III

CC: File

**Attachments:**

A. Internal Comments

Yakima County ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin, or sex in the provision of benefits and services resulting from its federally assisted programs and activities. For questions regarding Yakima County's Title VI Program, you may contact the Title VI Coordinator at 509-574-2300.

If this letter pertains to a meeting and you need special accommodations, please call us at 509-574-2300 by 11:00 a.m. three days prior to the meeting. For TDD users, please use the State's toll free relay service 1-800-833-6388 and ask the operator to dial 509-574-2300.

FILED<sup>2</sup> 90  
HEARING EXAMINER  
EXH # 20 DATE 4/25/24





# Yakima County Public Services

## Workflow Comments

CUP2024-00021

128 North 2nd Street \* Fourth Floor, Courthouse \* Yakima, WA 9890  
(509) 574-2300 \* FAX (509) 574-2301

Date Printed: 4/23/2024

## Workflow History

Task	Status	Comment	Date	Staff
Address Review	Complete	Parcel has an existing address. No new address to be assigned to parcel.	4/15/2024	Jamie West
Building Review	Complete	<p>Based upon the information submitted, proposals to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed require Building, Fire, Mechanical and/or Plumbing Permits (IBC, S.105.1). All construction is required to comply with all applicable provisions of the current adopted International Building Codes (IBC, S.101.2) with Washington State Amendments and Washington State Energy Code-Commercial (WSEC-C, S.C101.2) at the time of building permit submittal. Building permits and Building Codes are based on the building's use and construction type. The entire site, which includes buildings, structures, facilities, elements, and spaces, temporary or permanent, shall be accessible to individuals with disabilities (IBC, S.1103.1). A complete building code compliance plan review will be performed when construction drawings are submitted for building permits. Based upon the submitted site plan, a new building is proposed south of the existing warehouse building. The proposed is a 5,600 square foot building of unknown construction type designed to be used as a seasonal agricultural market. The site and market building are required by code to be fully accessible to individuals with disabilities (18IBC, S.1103.1). At 5,600 square feet in area, all architectural plans are required by Washington State RCW are to be prepared by an architect licensed in the State of Washington (RCW 18.08.410). All structural plans, details and structural calculations are required by code to be prepared by a structural engineer licensed in the State of Washington (18IBC, 107.1). All documents including plans, details and structural calculations prepared by an engineer is required by Washington State RCW to have an engineer's Washington State seal and signature (RCW 18.43.070). Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new</p>	4/15/2024	Richard Hembree

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FILE NO. WPI4-021/52P24-C  
AD24-004/20N24-001

Attachment: A

market building lie within the FEMA designated 500-year floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5)).

Building Review Complete

Amended Building Comments: Based upon the information submitted, proposals to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed require Building, Fire, Mechanical and/or Plumbing Permits (IBC, S.105.1). All construction is required to comply with all applicable provisions of the current adopted International Building Codes (IBC, S.101.2) with Washington State Amendments and Washington State Energy Code-Commercial (WSEC-C, S.C101.2) at the time of building permit submittal. Building permits and Building Codes are based on the building's use and construction type. The entire site, which includes buildings, structures, facilities, elements, and spaces, temporary or permanent, shall be accessible to individuals with disabilities (IBC, S.1103.1). Permanent men's and women's accessible toilet rooms will be required (18IBC, S.2902.3). The number of fixtures required is determined by the calculated occupant load of the structure based on the building's use. Preliminarily, based on the narrative, without plans, this building is classified as a mercantile, Group M Use (18IBC, S.309.1). At this point in the process, without a preliminary floor plan showing the different areas of the building and the room or space areas, it is impossible to calculate the occupant load to determine the number of required fixtures to serve the customers and employees. Looking at the preliminary elevation submitted with the CUP application, there is only 1-side swinging man-door provided for exiting. Based upon the calculated occupant load, additional man-doors may be required for emergency exiting purposes. A complete building code compliance plan review will be performed when construction drawings are submitted for building permits. Based upon the submitted site plan, a new building is proposed south of the existing warehouse building. The proposed is a 5,600 square foot building of unknown construction type designed to be used as a seasonal agricultural market. The site and market building are required by code to be fully accessible to individuals with disabilities (18IBC, S.1103.1). At 5,600 square feet in area, all architectural plans are required by Washington State RCW are to be prepared by an architect licensed in

4/23/2024

Richard  
Hembree

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the State of Washington (RCW 18.08.410). All structural plans, details and structural calculations are required by code to be prepared by a structural engineer licensed in the State of Washington (18IBC, 107.1). All documents including plans, details and structural calculations prepared by an engineer is required by Washington State RCW to have an engineer's Washington State seal and signature (RCW 18.43.070).

Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new market building lie within the FEMA designated 500-year floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5)).

Code Enforcement Review	Comments Not Required		4/16/2024	Janna Jackson
Current Planning Review	Incomplete	There are issues relating to the site plan, sign, restroom proposals, loading spaces, and the administrative adjustment. AMC	4/23/2024	Aaron Cohen
Env. Planning Review	Complete	The application is complete for review. AMC	4/23/2024	Aaron Cohen
Fire Review	Complete	Reviewed for code compliance.	4/15/2024	Douglas Werts
Flood/Hazard Review	Complete	Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new market building lie within the FEMA designated 500-year floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5)).	4/15/2024	Richard Hembree
Health Dist. Review	Complete	YHD has no concerns with this proposal as described. A septic clearance will be required prior to issuance of building permits.	4/12/2024	Kait Wolterstorff

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Whole, uncut produce is exempt from foodservice permit requirements. If any non-exempt foods will be sold or served, a permit will be required from YHD. Please contact YHD.Help.Desk@co.yakima.wa.us or 509-249-6508 with questions.

If permanent plumbing will be installed, the water supply system and sewage disposal system will need to be reviewed and approved by YHD. Please contact YHD.Help.Desk@co.yakima.wa.us or 509-249-6508 with questions.

Long Range Planning Review	Complete w/Conditions	The proposed development is in line with YCC providing the rezone is approved. AMC	4/23/2024	Aaron Cohen
PC Building Review	Complete w/Conditions	A building permit is required for the proposed 5600sf AG Market structure. Any groundwork prior to the issuance of building permits will require a separate Grading & Excavation Permit. A building permit is required for the proposed lighted sign.	4/17/2024	Jessica Pearson

Research:

Original Structure built prior to the requirement for building permits.

BLD2013-00032 Loading Dock Addition - Final Approved 6/4/15

BLD2013-00033 Sliding Doors Addition - Final Approved 6/18/15

BLD2016-00364 CA Addition - Final Approved 9/26/16

No other structures/permits were researched. If you want additional research on permits for the Parcel, please submit a Public Disclosure Request.

Transportation Review	Complete w/Conditions	Conditions 1 Obtain a road approach permit for parcel 18130513002.	4/12/2024	Victor Shaul
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Comments

Parcel 18130513002 is fronted by North Mithcell Drive (Functional Class 19 - Urban Local Access Road) Said roadway falls within the FHWA Highway Urban Boundaries. Per YCC Title 19.23.045 these roadways are substandard for their classification. Per YCC Title 19.23.040(2)(C)(i)(a) and (b), the roadways are exempt from roadway improvements being required if the annual average daily traffic (AADT) volumes of the expected land use do not exceed the existing AADT for the approved land use of a Market. Based on the ITE trip generation manual, a market for a building of this size does not exceed the ADT of a Market; However, Yakima County Roads cedes jurisdictional authority to WSDOT within 150' of a public highway. Any conditions of approval required by WSDOT along North Mitchel Drive will be required by Yakima County Roads.

Yakima County Roads has no record of a Road Approach Permit for the parcel 18130513002. Per Sections 10.08.020 and 19.10.040 YCC, the applicant shall obtain a RAP from the Yakima County Transportation Division for all existing unpermitted access(es) to the County roadway system. The fact that the road approach application is in conjunction with a CUP must be disclosed by the applicant at the time of

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application. No future building permits can be issued without the completion and approval of a RAP.

Water Resources Review	Complete	Ongoing Conditions: * Stormwater must be retained on site. * Any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250. See also SEP2024-00010 CUP2024-00021 ADJ2024-00004 ZON2024-00001	4/12/2024	Nellie Soptich
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## Related Record Workflow History

CUP2024-00021

RECORD ID	Task	Status	Comment	Date	Staff
ZON2024-00001	Address Review	Complete	No addressing changes to occur with a rezone.	4/15/2024	JAMIEW
ZON2024-00001	Assign Planner	Assigned		4/11/2024	JASONE
ZON2024-00001	Building Review	Complete	<p>Based upon the information submitted, proposals to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed require Building, Fire, Mechanical and/or Plumbing Permits (IBC, S.105.1). All construction is required to comply with all applicable provisions of the current adopted International Building Codes (IBC, S.101.2) with Washington State Amendments and Washington State Energy Code-Commercial (WSEC-C, S.C101.2) at the time of building permit submittal. Building permits and Building Codes are based on the building's use and construction type. The entire site, which includes buildings, structures, facilities, elements, and spaces, temporary or permanent, shall be accessible to individuals with disabilities (IBC, S.1103.1). A complete building code compliance plan review will be performed when construction drawings are submitted for building permits.</p> <p>Based upon the submitted site plan, a new building is proposed south of the existing warehouse building. The proposed is a 5,600 square foot building of unknown construction type designed to be used as a seasonal agricultural market. The site and market building are required by code to be fully accessible to individuals with disabilities (18IBC, S.1103.1). At 5,600 square feet in area, all architectural plans are required by Washington State RCW are to be prepared by an architect licensed</p>	4/15/2024	RICHARDH

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in the State of Washington (RCW 18.08.410). All structural plans, details and structural calculations are required by code to be prepared by a structural engineer licensed in the State of Washington (18IBC, 107.1). All documents including plans, details and structural calculations prepared by an engineer is required by Washington State RCW to have an engineer's Washington State seal and signature (RCW 18.43.070). Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new market building lie within the FEMA designated 500-year floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5)).

ZON2024-00001	Code Enforcement Review	Comments Not Required		4/16/2024	JANNAJ
ZON2024-00001	Current Planning Review	Incomplete	There are issues relating to the site plan, sign, restroom proposals, loading spaces, and the administrative adjustment. AMC	4/23/2024	AARONMC
ZON2024-00001	Environmental Review	Complete	The application is complete for review. AMC	4/23/2024	AARONMC
ZON2024-00001	Fire Review	Complete	Reviewed for code compliance.	4/15/2024	DOUGLASEW
ZON2024-00001	Flood/Hazard Review	Complete	Based on current FEMA mapping, GIS overlay, and preliminary submitted site plan, there is FEMA	4/15/2024	RICHARDH

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designated 100-year floodplain at the northeast corner of the parcel. All existing buildings and proposed new market building lie within the FEMA designated 500-year floodplain. There are no additional flood-resistive construction requirements for buildings located within the 500-year floodplain. However, any new construction, including alterations and additions located within the 100-year floodplain, is required to comply with all applicable flood-resistant construction provisions of the applicable adopted building codes, FEMA Standards, and ASCE 24 Flood Resistant Design and Construction. All new construction, including alterations and additions, are required by code to have building and flood determination permits. The introduction of fill materials within the FEMA-designated 100-year floodplain is prohibited by the Yakima County Code (YCC, Title 16C.06.10(9) and 16C.06.03(5)).

ZON2024-00001	Health Review	Complete	YHD has no concerns with this proposal as described. A septic clearance will be required prior to issuance of building permits.  Whole, uncut produce is exempt from foodservice permit requirements. If any non-exempt foods will be sold or served, a permit will be required from YHD. Please contact YHD.Help.Desk@co.yakima.wa.us or 509-249-6508 with questions.  If permanent plumbing will be installed, the water supply system and sewage disposal system will need to be reviewed and approved by YHD. Please contact YHD.Help.Desk@co.yakima.wa.us or 509-249-6508 with questions.	4/12/2024	KAITGW
ZON2024-00001	Intake	Routed for Review		4/10/2024	APRIL.SCHMITT
ZON2024-00001	Intake	Routed to Admin		4/8/2024	JULIAW
ZON2024-00001	Intake	Routed to File Prep		4/10/2024	APRIL.SCHMITT
ZON2024-00001	Intake	Routed for Scanning	4/8/24: Routed to scanning. -MM	4/8/2024	MARLENEM
ZON2024-00001	Long Range Review	Complete	The application is complete for review. AMC	4/23/2024	AARONMC



ZON2024-00001	Transportation Review	Complete	See CUP2024-00021	4/15/2024	VICTOR SHAUL
ZON2024-00001	Water Resources Review	Comments Not Required	See also SEP2024-00010 CUP2024-00021 ADJ2024-00004	4/12/2024	NELLIES

Bill Hordan  
Hordan Planning Services  
410 N 2<sup>nd</sup> St  
Yakima, WA 98901

Lynell Brandt  
Marlynn Holdings, LLC  
1330 N 16<sup>th</sup> Ave  
Yakima, WA 98902

FILE NO.: ZON2024-00001/SEP2024-00010/CUP2024-00021/ADJ2024-00004  
NOTICE OF INCOMPLETENESS

**AFFIDAVIT OF MAILING**

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

I, Casey Dunbar, being first duly sworn, and as an employee of the Yakima County Public Services, Planning Division, dispatched through the United States Mails, or otherwise by electronic mail, a NOTICE OF INCOMPLETENESS, a true and correct copy of which is enclosed here-with; that a NOTICE OF INCOMPLETENESS was addressed to the applicant and agencies pursuant to Yakima County Code Title 16B.05, that said parties are individually listed on the Mailing List retained by the Planning Division and that said notice was mailed by me on the 25th day of April, 2024.

That I mailed said notice in the manner herein set forth and that all of the statements are made herein are just and true. Dated this 25th day of April, 2024.

  
\_\_\_\_\_  
Casey Dunbar  
Office Specialist

## Casey Dunbar

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**From:** Aaron Cohen  
**Sent:** Monday, April 22, 2024 7:11 AM  
**To:** Richard Hembree  
**Subject:** RE: CUP2024-00021 Building Comment Question

Hi Richard,

Thank you for letting me know.

I had the workflow re-opened. If you can please update the comments with the bathrooms addressed that would be greatly appreciated!

All the best,

Aaron

Aaron M Cohen  
Planner III  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

If you are wanting to submit any documentation related to an existing application, check the status of an existing application, or are wanting to submit a new application for review please visit the Public Services online permitting portal at <https://yakimacountypermits.us/CitizenAccess/Default.aspx>. **Please note, not all Planning applications can be applied for on-line.** If the application type you are wishing to apply for does not appear as an option then you can either e-mail your application materials to [Planning\\_Info@co.yakima.wa.us](mailto:Planning_Info@co.yakima.wa.us) or you can come into the Public Services Department office and meet with a staff member. Public Services Department office hours are Monday – Friday from 8:00 am – 4:00 pm and we are located on the 4<sup>th</sup> floor of the Yakima County Courthouse at 128 N. 2<sup>nd</sup> Street, Yakima, WA 98901.

**This email and replies to it are subject to public disclosure under Washington state statute (RCW 42.56 - Public Records Act).**

**CONFIDENTIALITY NOTICE:** This electronic mail transmission may contain legally privileged, confidential information belonging to the sender. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking any action based on the contents of this electronic mail is strictly prohibited. If you have received this electronic mail in error, please contact the sender and delete all copies.

**From:** Richard Hembree <Richard.Hembree@co.yakima.wa.us>  
**Sent:** Tuesday, April 16, 2024 2:12 PM  
**To:** Aaron Cohen <Aaron.Cohen@co.yakima.wa.us>  
**Subject:** RE: CUP2024-00021 Building Comment Question

Aaron,



This is a market open to the public for what I am assuming is probably every day. Not open every once in a while.

Permanent toilet facilities will be required.

Richard Hembree

**From:** Aaron Cohen <[Aaron.Cohen@co.yakima.wa.us](mailto:Aaron.Cohen@co.yakima.wa.us)>  
**Sent:** Tuesday, April 16, 2024 2:08 PM  
**To:** Richard Hembree <[Richard.Hembree@co.yakima.wa.us](mailto:Richard.Hembree@co.yakima.wa.us)>  
**Cc:** Building Info <[BuildingInfo@co.yakima.wa.us](mailto:BuildingInfo@co.yakima.wa.us)>  
**Subject:** CUP2024-00021 Building Comment Question

Hi Richard,

I did not see anything in the comments submitted that specifically called out restrooms being required. I know the applicants must conform to all building code and ADA requirements. They are not proposing any bathrooms at this time except for port-o-potties. If there is an ADA port-o-potty is that acceptable or are bathrooms required?

Rather than opening up the workflow, the PC Building comments have not been put in yet, the bathroom requirement can also be put there.

All the best,

Aaron

Aaron M Cohen  
Planner III  
Yakima County Public Services, Planning Division  
128 North Second Street  
4<sup>th</sup> Floor, County Courthouse  
Yakima, WA, 98901  
(509) 574-2300

If you are wanting to submit any documentation related to an existing application, check the status of an existing application, or are wanting to submit a new application for review please visit the Public Services online permitting portal at <https://yakimacountypermits.us/CitizenAccess/Default.aspx>. **Please note, not all Planning applications can be applied for on-line.** If the application type you are wishing to apply for does not appear as an option then you can either e-mail your application materials to [Planning\\_Info@co.yakima.wa.us](mailto:Planning_Info@co.yakima.wa.us) or you can come into the Public Services Department office and meet with a staff member. Public Services Department office hours are Monday – Friday from 8:00 am – 4:00 pm and we are located on the 4<sup>th</sup> floor of the Yakima County Courthouse at 128 N. 2<sup>nd</sup> Street, Yakima, WA 98901.

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APR 08 2024



# GENERAL APPLICATION FORM

Yakima County Public Services

 128 North Second Street · Fourth Floor Courthouse · Yakima, Washington 98901  
 (509) 574-2300 · 1-800 572-7354 · FAX (509) 574-2301 · [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

 Received By ML  
 Revised 6/05/2019

(Staff Use Only – Fill In / Circle As Applicable)

Zoning District: RT Reviewed By: JHL  
 Proposed Land Use: Rezone to HTC Case #(s): ZON 2024-0001 Date Submitted: 4/8/2024  
 Overlay: Airport / Greenway / Floodplain Floodplain SEP 2024-00010 4/8/2024  
 UGA: NA CAO/Shoreline: Floodplain CWP 2024-00021 4/8/2024  
 Sewer: Septic Clearance / As Built ADJ 2024-00004 4/8/2024  
 Potable Water: N/A or Exempt  
 Purveyor: \_\_\_\_\_ YCWRS Well: \_\_\_\_\_  
 FAAR: \_\_\_\_\_ WUI-FD: \_\_\_\_\_ M / H / E \_\_\_\_\_  
 Occupancy: A B E F H I M R R1 R2 R3 S U \_\_\_\_\_  
 Type of Construction: IA IIA IIIA IB IIB IIIB IVA IVB VA VB \_\_\_\_\_  
 Name of Short Plat, Subdivision or Manufactured Home Park: \_\_\_\_\_ Lot or Space # \_\_\_\_\_  
 Planning Forms for Project: Rezone

Please Tell Us About Your Proposal: (If you need assistance call us at (509) 574-2300 or come into the office)

Parcel Numbers(s): A. 181305-13002 B. \_\_\_\_\_ C. \_\_\_\_\_Property Owner's Name: Lynnell BrandtDay Phone: \_\_\_\_\_ Company (if any): Marlynn Holdings, LLCMailing Address: 1330 N 16<sup>th</sup> Ave City: Yakima State: WA Zip: 98902Subject Property Address: (if Different) 60 N Mitchell Drive, Yakima WA 98908

E-mail Address: \_\_\_\_\_

Scope of Work: Minor-Rezone from RT to HTC, SEPA, TYPE I AG Market, Administrative Adjustment, SignAre you requesting the Optional Consolidated Permit Review Process as provided under YCC 16B.03.060? Yes ☒ No ☐

Applying For A Building Permit? Please Fill Out The Following:

Number of Bedrooms: Existing: \_\_\_\_\_ Total: \_\_\_\_\_ Size/Dimensions: \_\_\_\_\_ Square Footage: \_\_\_\_\_

Number of Bathrooms: \_\_\_\_\_ Size/Dimensions: \_\_\_\_\_ Square Footage: \_\_\_\_\_

Construction Valuation (Contractor Estimate) \$ \_\_\_\_\_

How will you provide legal domestic water for your project? Please check one below:

- ☒ N/A  
☐ Water right permit from Department of Ecology (Please attach a copy to this application), or  
☐ Letter from an approved water purveyor stating the ability to provide water, or  
☐ A Yakima County Water Resource System (YCWRS) domestic well within the Agriculture zoning district, or  
☐ A Yakima County Water Resource System (YCWRS) domestic well outside of the Agriculture zoning district, or  
☐ Other adequate evidence of interest in a suitable water right held for mitigation proposed by an existing water bank, or  
☐ Yakama Nation Water Code permit for properties located within the exterior boundaries of the Yakama Nation, or  
☐ Documentation that the well site is located outside the Yakima River watershed.

Please note that evidence of an adequate water supply must be submitted to Yakima County prior to the issuance of the permit.

By signing this form, I agree to the following:

- I hereby state as true that all ownership interests of the property have reviewed the proposal as presented in the application materials and support the proposed change(s).
- I hereby give Yakima County permission to enter my property during this review to inspect my property as needed.
- I hereby agree to pay all additional fees associated with the processing of this application including but not limited to the Hearing Examiner fees, Transportation fees or any other fees that may be associated with the proposed project.

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CONTINUE ON BACK →

- I hereby acknowledge that the application with the Yakima County Permit Services Department has been filled out completely.
- I hereby acknowledge that verification of an approved potable water supply is a requirement and part of the procedure to obtain a permit from Yakima County.
- I shall provide Yakima County with proof of an adequate water source as indicated in Ordinance 13-2017 or obtain a YCWSR domestic well permit.
- I understand that Yakima County shall be held harmless for misinterpretation or misrepresentation of documents to obtain my permits.
- I am aware my Permit WILL NOT be issued until I provide proof of an approved source of potable water and associated documentation.

(If the property is owned by a corporation or LLC please attach documentation showing that the person signing has the authority to sign on behalf of the corporation or LLC.)

Please Fill Out This Section In Blue or Black Ink. (Please check the box to indicate the primary contact person)

☐ **Property Owner Signature:** [Signature] (required) Date: \_\_\_\_\_

☐ Check If You Are Acting As Your Own Contractor – (Signature required at declaration at bottom of page)

☒ **Applicant/Agent:** Bill Hordan

Day Phone: (509) 249-1919 Company (if any) Hordan Planning Services

Mailing Address: 410 N. 2nd St City: Yakima State: WA ZIP: 98901

E-mail Address: Hordanplanningservices@outlook.com

**Signature:** [Signature] Date: 4/8/2024

☐ **Contractor Name:** \_\_\_\_\_

Day Phone: ( ) \_\_\_\_\_ Company (if any) \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Contractor License Number: \_\_\_\_\_

**Signature:** \_\_\_\_\_ Date: \_\_\_\_\_

If there are additional owners, provide an attachment in the same format and with the same declarations

**This Section To Be Completed For Construction Permits Only**

Pursuant to RCW 19.27.095 (2)(i-ii) The requirement for a fully completed construction application shall include:

- i. The name, address, and phone number of the office of the lender administering the interim construction financing, if any; OR
- ii. The name and address of the firm that has issued a payment bond, if any, on behalf of the prime contractor for the protection of the owner, if the bond is for an amount not less than 50% of the total amount of the construction permit.

If for any reason the information requested below is not available at the time of application, the applicant shall provide the information as soon as it can be reasonably obtained.

☐ **Lending Agency Name:** \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

☐ I acknowledge by checking this box that this project has no lending agency for construction financing.

**Bonding Agency Name:** \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

☐ I acknowledge by checking this box that this project has no bonding agency.

**If you are the Property Owner and Acting as Your Own Contractor, Please Complete the Following Declaration:**

- I acknowledge that I am applying for a permit thru the Yakima County Public Services Department.
- I also acknowledge that I am not a licensed contractor, specialty or general, or that I am not acting as a contractor and wish to be exempt from the requirements of the Washington State Contractor's Act, per RCW 18.27.090, and will abide by all provisions and conditions of the exemption as stated.
- I agree that if I use the assistance of any person(s) to provide labor and/or assistance, I will retain only contractors registered and currently licensed as required under the laws of the State of Washington.

I (print name) \_\_\_\_\_ certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

**Owner Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## BUSINESS INFORMATION

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Business Name:

**MARLYNN HOLDINGS, LLC**

UBI Number:

**603 225 486**

Business Type:

**WA LIMITED LIABILITY COMPANY**

Business Status:

**ACTIVE**

Principal Office Street Address:

**1330 N 16TH AVE STE A, YAKIMA, WA, 98902-1354, UNITED STATES**

Principal Office Mailing Address:

**1330 N 16TH AVE STE A, YAKIMA, WA, 98902-1354, UNITED STATES**

Expiration Date:

**07/31/2024**

Jurisdiction:

**UNITED STATES, WASHINGTON**

Formation/ Registration Date:

**07/26/2012**

Period of Duration:

**PERPETUAL**

Inactive Date:

Nature of Business:

**REAL PROPERTY INVESTMENT**

## REGISTERED AGENT INFORMATION

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Registered Agent Name:

**SEL, INC.**

Street Address:

**1420 FIFTH AVE STE 3000, SEATTLE, WA, 98101-0000, UNITED STATES**

Mailing Address:

**1420 FIFTH AVE STE 3000, SEATTLE, WA, 98101-0000, UNITED STATES**

## GOVERNORS

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Title	Governors Type	Entity Name	First Name	Last Name
GOVERNOR	INDIVIDUAL		MARCIA	BRANDT
GOVERNOR	INDIVIDUAL		LYNNELL	BRANDT





# CONDITIONAL USE PERMIT FORM

FINAL  
Revised: 052819

Yakima County Public Services

128 North Second Street · Fourth Floor Courthouse · Yakima, Washington 98901  
(509) 574-2300 · 1-800 572-7354 · FAX (509) 574-2301 · [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

Please answer all of the following questions as completely as possible. (If a question is not applicable, write N/A.) In your narrative, please describe your project in detail to help reviewers understand what you want to accomplish.

	Annotation by Planner
1. What are you proposing? <u>Agricultural Market</u>	
2. Have you had an Early Assistance Meeting? <input checked="" type="checkbox"/> Yes, Case no. <u>2017-00016</u> <input type="checkbox"/> No	
3. Are you:	
a. Proposing a <b>new</b> structure(s). <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
b. Changing the Use of an <b>existing</b> structure? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I. If you answered yes to either a. and/or b. above, what is the structure used for? Provide details (such as: type of business, estimated customers/guests, will the new structures be pertinent to any existing structures). The proposal is to construct a seasonal agricultural market.	
II. What are the dimensions (length, width, height) of new structure(s)? 70'x80'x35'	
4. Will the project be conducted entirely within a structure? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
a. If No, describe the outdoor activities (e.g., outdoor eating, playground, park):	
What is the approximate square footage, or seating capacity of your outdoor use area(s)?	

b. What type of noises will the outdoor use generate? (e.g. music, machinery, vehicles)  
Not applicable

#### EMPLOYEES

5. Number of Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Seasonal 2-3

6. Maximum number at any given shift 2-3

7. What are the days & hours of operation? (List all)

- ☒ Monday Hours 9am-5pm
- ☒ Tuesday Hours 9am-5pm
- ☒ Wednesday Hours 9am-5pm
- ☒ Thursday Hours 9am-5pm
- ☒ Friday Hours 9am-5pm
- ☒ Saturday Hours 9am-5pm
- ☒ Sunday Hours 9am-5pm

8. Will the operation be seasonal? If so, list months

Yes, June through November

#### PARKING & LOADING (YCC 19.22)

9. How many **existing** parking spaces do you have? 10

a. Surface type (e.g., paved, gravel, dirt)? paved

10. How many **new** parking spaces are you proposing? 16

a. Surface type (e.g., paved, gravel, dirt)? paved

11. Does the use require loading or unloading from trucks or other large vehicles?

☒ Yes ☐ No (If yes, designate areas on your site plan.)

*Note: Depending on the proposed use, Americans with Disabilities Act (ADA) facilities may be required. Our Building Division can assist you.*

#### SIGNS (YCC 19.20)

12. Will you have signage? ☒ Yes ☐ No (if yes, please use the separate sign form.)

PRIVATE ROAD OR SHARED DRIVEWAY (YCC 19.23)

13. If you are on a Private Road or Shared Driveway, is there an existing Road Maintenance Agreement?

☐ Yes ☐ No (If yes, please attach a copy to your application)

14. What is the name of the private road? \_\_\_\_\_

15. Is the road paved, gravel, dirt? \_\_\_\_\_

16. What is the width of the road? \_\_\_\_\_

17. Do you have a recorded access easement? ☐ Yes ☐ No Width? \_\_\_\_\_

18. Have you been told you may need to do Road Improvements? ☐ Yes ☐ No

a) If yes, have you met with the Transportation Division? ☐ Yes ☐ No

Please explain \_\_\_\_\_

STORMWATER

19. How are you proposing to manage your stormwater runoff? If you have questions pertaining to stormwater runoff you can talk with our Water Resources Division.

On-site drainage swales

20. Will the proposal disturb more than one acre of ground? ☐ Yes ☒ No

FENCES (YCC 19.10.040(9))

21. Is there an **existing** fence? ☒ Yes ☐ No (If yes, answer the following)

a. Fence Material Chainlink

b. Is the fence a view obscuring fence? ☐ Yes ☒ No

c. Is there barbed wire on the top of the fence? ☒ Yes ☐ No

d. What is the total height of the fence (including the barbed wire)?  
6 feet

22. Are you proposing a **new** fence? ☐ Yes ☒ No (If yes, answer the following)

a. Fence Material \_\_\_\_\_

b. Will the fence be a view obscuring fence? ☐ Yes ☐ No

c. Will you be placing barbed wire on the top of the fence? ☐ Yes ☐ No

d. What is the total height of the fence (including the barbed wire if proposed)? \_\_\_\_\_

23. Are you proposing, or do you have a retaining wall and/or recreational screen?

☐ Yes ☒ No (If yes, please describe)

SITESCREEING AND/OR LANDSCAPING (YCC 19.21)

24. Does your proposed use require?

Sitescreening? ☒ Yes ☐ No (e.g, fences, walls)

Landscaping? ☒ Yes ☐ No (e.g, trees/shrubs/groundcover)

If yes, what type (E.g., trees/shrubs/groundcover/view obscuring)?

An administrative Adjustment application is also being submitted with the Type 1 application to forgo perimeter sitescreening.

*Indicate the locations on your site plan, E.g. parking areas, along street frontages, perimeters.*

What is the proposed source of irrigation water? unknown

OUTDOOR LIGHTING (YCC 19.10)

25. Is any outdoor lighting proposed? ☒ Yes ☐ No

wall-pack

*If yes, indicate type and the locations on your site plan.*

WATER

26. Does this project require potable water? ☐ Yes ☒ No

27. What is the proposed source of potable water?

a. ☐ Public Water: Name of provider: \_\_\_\_\_

b. ☐ Community Well: What is the well ID number? \_\_\_\_\_

i. Parcel # where the well is located? \_\_\_\_\_

ii. Is there an existing Well Maintenance Agreement? ☐ Yes ☐ No

*(If yes, please attach a copy with this application)*

c. ☐ Shared Well

i. Parcel # where the well is located? \_\_\_\_\_



ii. Is there an existing Well Maintenance Agreement? ☐ Yes ☒ No

(If yes, please attach a copy with this application)

d. ☐ Individual Well

e. ☒ Other, explain: bottled water

#### SANITARY DISPOSAL

28. Does this project require sanitary disposal? ☐ Yes ☒ No

29. What is the proposed method of sanitary disposal?

a. ☐ Public Sewer: Name of provider: \_\_\_\_\_

b. ☐ Community Septic System:  
Parcel where the septic system is located \_\_\_\_\_

c. ☐ Individual Septic System

d. ☒ Other, explain: portable toilets with washing facilities

#### COMPLETION OF PROPOSAL

30. What is your proposed timeline for completing your proposal? If phases are proposed, please describe in detail.

Summer of Fall of 2024

***Use this form to answer the questions. Use addition pages as needed.***

Yakima County will make reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities. Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service or activity of Yakima County, should contact the Yakima County ADA Coordinator at 509-574-2210 as soon as possible but no later than 48 hours before the scheduled event.



## SIGN SUPPLEMENTAL FORM

Revised 1/3/2019

Yakima County Public Services

128 North Second Street · Fourth Floor Courthouse · Yakima, Washington 98901  
(509) 574-2300 · 1-800 572-7354 · FAX (509) 574-2301 · [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

Please answer all of the following questions with narrative when required (If a question is not applicable, write N/A.) Your narrative should be described in detail which will expedite the review process. You may refer to Yakima County Title 19 to show how your proposal meets the legal requirements in the code. <http://codepublishing.com/wa/yakimacounty/>

### Annotation by Planner

If you are proposing a sign, complete the following questions (if not applicable, explain why):

1. Are you:

a. Proposing a new sign(s)? ☒ Yes ☐ No

b. Changing or replacing an existing sign? ☐ Yes ☒ No

2. How many signs are you proposing? 1

3. What type of sign are you proposing (such as: wall sign, billboard, directional, projecting, etc.)? Describe the sign in detail:

free-standing

4. What is the size of the sign area (height, width) of the proposed sign? \_\_\_\_\_

100 sq.ft.

5. What is the total height of the sign from grade to top? 30 feet or less

6. Is the proposed sign:

☒ On-Premise ☐ Off-Premise

a. If the sign is Off-Premise, what is the parcel number for the sign location?

**Indicate the location of all proposed signs on your site plan.**

FILED 112  
HEARING EXAMINER  
EXH # 22 DATE 4/8/2011



## MINOR REZONE FORM

Form FINAL  
Revised 10/1/15

Yakima County Public Services

128 North Second Street · Fourth Floor Courthouse · Yakima, Washington 98901  
(509) 574-2300 · 1-800 572-7354 · FAX (509) 574-2301 · [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

1. The property owner(s) request that the subject property(s) be rezoned from: RT - Rural Transitional  
to HTC - Highway / Tourist Commercial.
2. The current comprehensive plan designation is: Rural Transitional.
3. Attach a written narrative that addresses the following criteria:
  - a. The suitability of the property in question for uses permitted under the proposed zoning;
  - b. The extent to which the proposal complies with and/or deviates from the goals and policies of the comprehensive plan and intent of the zoning ordinance;
  - c. The adequacy of public facilities, such as roads, sewer, water and other required public services;
  - d. The compatibility of the proposed zone change and associated uses with neighboring land uses;
  - e. The public need for the proposed change; and
  - f. What substantial changes in circumstances have occurred to warrant a change in the current zoning?

**Please submit the following:**

- ☐ Minor Rezone Application Fee (see fee schedule)
- ☐ General Application
- ☐ Complete site plan (show the boundaries of the properties to be rezoned. Map can be obtained from Yakima County GIS or Public Service Division)
- ☐ Environmental Checklist and Fee (Separate packet)

Yakima County will make reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service or activity of Yakima County, should contact the Yakima County ADA Coordinator at 509-574-2210 as soon as possible but no later than 48 hours before the scheduled event.



# SEPA ENVIRONMENTAL CHECKLIST SUBMITTAL SUPPLEMENTAL

Form # PLN ENR 003-SS1-A  
Revised: 8/12/14

Yakima County Public Services

128 North Second Street · Fourth Floor Courthouse · Yakima, Washington 98901  
(509) 574-2300 · 1-800 572-7354 · FAX (509) 574-2301 · www.co.yakima.wa.us

## WAC 197-11-960 Environmental checklist.

### *Purpose of checklist:*

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

### *Instructions for applicants:*

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

### *Use of checklist for nonproject proposals:*

For nonproject proposals complete this checklist and the supplemental sheet for nonproject actions (Part D). The lead agency may exclude any question for the environmental elements (Part B) which they determine do not contribute meaningfully to the analysis of the proposal.

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

(For Staff Use Only)

DATE: \_\_\_\_\_  
REVIEWED BY: \_\_\_\_\_  
PROJECT #: \_\_\_\_\_  
CASE #: \_\_\_\_\_  
RELATED FILES: \_\_\_\_\_



**A. BACKGROUND**

1. Name of proposed project, if applicable: Not applicable.

2. Name of applicant:

Hordan Planning Services

3. Address and phone number of applicant and contact person:

410 North 2<sup>nd</sup> Street, Yakima, WA 98901 – (509) 249-1919. Bill Hordan

4. Date checklist prepared:

March 23, 2024

5. Agency requesting checklist:

Yakima County Public Services – Planning Division

6. Proposed timing or schedule (including phasing, if applicable):

Project is to commence upon land use approvals with construction expected to start in the summer/fall of 2024.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No future expansions are proposed at this time.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

The property owner is not aware of any other environmental information directly related to this proposal.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

No other applications are pending for governmental approvals of other proposals directly affecting the property covered this proposal.

10. List any government approvals or permits that will be needed for your proposal, if known.

Minor rezone, Type 1 Review,

Administrative Adjustment & Building Permit

FILED  
HEARING EXAMINER

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1. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The proposal is to construct a 5,600 square foot seasonal agricultural market with 16 parking spaces on about one-half acre of a 4.12-acre parcel of property. The property is currently zoned Rural Transitional and is proposed to be rezoned from Rural Transitional to Highway/Tourist Commercial through this process to accommodate the proposed land use.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The property generally lies at the northwest corner of the intersection of North Mitchell Drive and US Highway 12, about 2 miles northwest of the Yakima City Limits. The Yakima County Assessor's website lists the address as 60 North Mitchell Drive. (Assessor's Parent Parcel No. 181305-13002).

## **B. ENVIRONMENTAL ELEMENTS**

### **1. Earth**

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other.....

b. What is the steepest slope on the site (approximate percent slope)?

The steepest slope on the area where construction is occurring site is approximately 1 percent.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

According to the Soil Survey of Yakima County Area Washington, the project site consists of Weirman fine sandy loam. The soil is not classified as prime farmland. No soil is proposed to be removed from the site.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

No.

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HEARING EXAMINER

e. Describe the purpose, type, total area, and approximate quantities and total area of any filling, excavation, and grading proposed. Indicate source of fill.

No significant filling or grading is proposed, as the site is flat. A light gravel base currently exists at the construction site, as it is used to control weeds and dust. New gravel will be placed for the building pad and parking lot prior to the pouring of asphalt and concrete. Approximately 135 cubic yards of gravel will be imported for the total project. The gravel will come from an approved source.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Minor erosion could occur during construction activities by means of storm water runoff and blowing dust.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Approximately 33 percent of the site will be covered with impervious surface.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

BMP's such as silt fencing will be used to control storm water runoff. A water truck will be available to control blowing dust.

## 2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Some minor equipment exhaust from clearing and grubbing the site, if necessary, as well as, grading/construction of the building pad and parking lot can be expected during these construction activities. After construction, vehicle exhaust from farm delivery trucks, employee vehicles and customers can be expected. Quantities of emissions are not known but should be minimal.

b. Are there any offsite sources of emissions or odor that may affect your proposal? If so, generally describe.

There are no known off-site sources of emissions or odor that may affect this proposal.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Vehicles used on site and temporary construction equipment will be well-maintained to prevent excessive exhaust. Improvements such as, asphalt and gravel will also mitigate emissions.

STAFF USE ONLY

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HEARING EXAMINER

### 3. Water

#### a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

There are no known surface water bodies on the property. The Naches River lies approximately one-half to three-quarters of a mile south of the project. An open irrigation canal, not at this property runs along the west property line.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

The project will not require any work over, in, or adjacent to (within 200 feet), the described waters.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable no fill or dredge material will be placed or removed from the surface water.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No.

5) Does the proposal lie within a 100-year flood plain? If so, note location on the site plan.

A small portion of the property, north/northeast area, lies within a floodplain. The construction activities associated with this project do not occur within the floodplain. The floodplain is noted on the site plan.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No.

#### b. Ground:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well? Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

No ground water is needed for this new project. Domestic water for the proposed new use will be provided by bottles. No water will be discharged to groundwater.

STAFF USE ONLY

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HEARING EXAMINER



2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

No waste material will be discharged into the ground. The project is proposed to use temporary toilet facilities.

c. Water runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Storm water will be directed to catch basins located around the site and then the storm water will be piped northwesterly to a retention swale located within the project site. The storm water will be allowed to percolate and evaporate.

2) Could waste materials enter ground or surface waters? If so, generally describe.

No.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

No drainage patterns in the vicinity will be altered.

d. Proposed measures to reduce or control surface, ground, runoff water, and drainage pattern impacts, if any:

A storm water plan will be submitted with the building permit to ensure that storm water is properly disposed of, and retained on-site. The storm water plan will be designed by a Professional Engineer licensed in the State of Washington.

#### 4. Plants

a. Check the types of vegetation found on the site:

XX Deciduous tree: Alder, maple, aspen, other

XX Evergreen tree: Fir, cedar, pine, other

XX Shrubs

-- Grass

— Pasture

— Crop or grain

— Orchards, vineyards or other permanent crops.

— Wet soil plants: Cattail, buttercup, bullrush, skunk cabbage, other

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HEARING EXAMINER

— Water plants: Water lily, eelgrass, mi other

**XX** Other types of vegetation - **WEEDS**

b. What kind and amount of vegetation will be removed or altered?

The proposed building site and parking lot are currently graveled. No vegetation is proposed to be removed at those locations, as part of this project.

c. List threatened and endangered species known to be on or near the site.

The property owner does not know of any endangered species to be on, or near, the site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Since purchasing the property, the property owner has planted arborvitae and deciduous trees native to the area, along the east and northeast perimeter of the property. Trees have also been planted around an on-site drainage swale located near the entrance to the site (near east property line). This vegetation has been done to enhance vegetation in this area.

e. List all noxious weeds and invasive species known to be on or near the site.

No noxious or invasive species have been observed on or near the site.

## 5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include:

Birds: Hawk, heron, eagle, songbirds, other: QUAIL

Mammals: Deer, bear, elk, beaver, other:

Fish: Bass, salmon, trout, herring, shellfish, other:

b. List any threatened and endangered species known to be on, or near, the site.

The property owner is not aware of any threatened or endangered species to be on, or near, the site.

c. Is the site part of a migration route? If so, explain.

No.

d. Proposed measures to preserve or enhance wildlife, if any:

None proposed.

e. List any invasive animal species known to be on or near the site.

The property owner has not observed any invasive animal species on, or near, the site.

STAFF USE ONLY

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HEARING EXAMINER



**b. Noise**

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

No known noise in the area will affect this project.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Short-term noise – Commercial and vehicle construction noise associated with the development of the site and structure can be expected during the construction period. The hours will be approximately 7:00 am to 6:00 pm.

Long-term noise – Normal noise associated with farm delivery vehicles, employee vehicles and customer vehicles entering and leaving the site can be expected upon completion of the project. The project is seasonal and will generally be open from June to November, seven days per week from 9am to 5pm. Although the months and daily hours may slightly increase or decrease based on the time of year and amount of business that is being conducted.

3) Proposed measures to reduce or control noise impacts, if any:

The project will be constructed and operated in accordance with the Yakima County Noise Ordinance.

**8. Land and shoreline use**

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

The current use of the site is an agricultural warehouse facility. Adjacent properties to the north and west are residential properties on large acreages. Properties to the south contain an abutting public pathway, US Highway 12 and further south, residential properties on large acreages. Property to the east is a fruit bin and pallet manufacturing facility. This proposal should not adversely affect current land uses or adjacent properties.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

The proponent is not aware of this property being used for working agricultural/forest lands of long-term commercial significance.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

No.

FILED 122  
HEARING EXAMINER



## c. Describe any structures on the site.

The site is currently consists of a 22,935 square foot warehouse facility, its associated 875 square foot mechanical room, a 3,200 square foot shop, a 1,450 square foot loading dock and 10 paved parking spaces.

## d. Will any structures be demolished? If so, what?

No structures will be demolished.

## e. What is the current zoning classification of the site?

The current zoning is Rural Transitional (RT).

## f. What is the current comprehensive plan designation of the site?

The current comprehensive plan designation is Rural Transitional.

## g. If applicable, what is the current shoreline master program designation of the site?

Not applicable.

## h. Has any part of the site been classified critical area by the city or county? If so, specify.

No.

## i. Approximately how many people would reside or work in the completed project?

The completed project, including the existing fruit warehouse facility, will employ about 7 part-time persons.

## j. Approximately how many people would the completed project displace?

No persons will be displaced.

## k. Proposed measures to avoid or reduce displacement impacts, if any:

None proposed.

## l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

The proposal is subject to Type 1 Review which is being conducted along with this rezone and environmental review. Compatibility issues will be determined and implemented through the SEPA process and Type 1 Review site plan approval process.

## m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

Not applicable, no agricultural or forest lands of long-term commercial significance are being affected.

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**9. Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not applicable, no housing units are being proposed.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable.

c. Proposed measures to reduce or control housing impacts, if any:

Not applicable, no mitigation is proposed.

**10. Aesthetics**

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

The tallest height of the proposed agricultural market building will be approximately 35 feet. The building, which is designed to look like a barn, will be constructed of steel and is expected to be red in color.

b. What views in the immediate vicinity would be altered or obstructed?

No known views in the immediate vicinity will be altered or obstructed.

c. Proposed measures to reduce or control aesthetic impacts, if any:

The building will be designed to look like a rural barn which will be aesthetically similar to other agricultural structures in the area. Additionally, the new structure will be of similar height as surrounding buildings currently constructed on the property.

**11. Light and glare**

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

The agricultural market building will have wall-pack lighting around the perimeter of the structure for security purposes. Lighting will occur at night.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No.

c. What existing offsite sources of light or glare may affect your proposal?

No known sources of off-site light or glare exist in the immediate area that would adversely affect this project.

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d. Proposed measures to reduce or control light and glare impacts, if any:

All lighting will be directed inward and downward to prevent light from leaving the site.

**12. Recreation**

a. What designated and informal recreational opportunities are in the immediate vicinity?

A public trail abuts the property on its south side. The trail is mainly used by walkers, runners and bicyclists. Additionally, US Highway 12, which also runs along the south property line, is the gateway to the Chinook Pass and White Pass Byways, which are designated tourist routes through the Cascade Mountains.

b. Would the proposed project displace any existing recreational uses? If so, describe.

No.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None needed, none proposed.

**13. Historic and cultural preservation**

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.

To the property owner's knowledge, there are no structures on or near the site that are eligible for historical or cultural preservation.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation. This may include human burials or old cemeteries. Is there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

The property owner has no knowledge of landmarks, features or other evidence of Indian or historic use or occupation of the site.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

The property has historically been used a warehousing facility associated with the fruit industry. The property owner has had the opportunity to visually inspect the property which is generally void of vegetation in unimproved areas and found no evidence of cultural or historic resources on the property, or project site, have been found or are known to be found.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

An Inadvertent Discovery Plan is proposed to be drafted, given to the general contractor and posted on-site. If evidence of cultural resources is found during construction activities, the project will be shut down and the appropriate agency notified.

#### 14. Transportation

a. Identify public streets and highways serving the site or affected geographic area, and describe proposed access to the existing street system. Show on site plans, if any.

The site is served with direct access to North Mitchell Drive, a dead-end hard-surfaced local access roadway. North Mitchell Drive connects with US Highway 12, which lies south of the subject property.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

The site is not served by public transit. The nearest public transit stop is about 2 miles to the east within the City Limits of Yakima, Washington.

c. How many additional parking spaces would the completed project or nonproject proposal have? How many would the project or proposal eliminate?

The agricultural market proposes to have 16 new parking spaces. No parking spaces are being eliminated.

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

During the Early Assistance Meeting previously held on this project, comments received from WSDOT and Yakima County Roads Department, it was determined that no roadway improvements would be required for this project. This proposal is slightly scaled down with a smaller structure and condensed hours of operation.

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No.



f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

According to the property owner, the agricultural market is expected to generate approximately 40 vehicle trips per day. The peak period for business is between 10am and 1pm. Typical vehicles visiting the site during business hours consist of passenger vehicles and pick-up trucks. The existing warehouse facility generates about 10 vehicle trips per day. Peak periods are 6am and 2pm. The property owner previously operated a fruit stand at 561 Ragan Road in the Wapato area. The above vehicle estimates are based on his knowledge and data of vehicle trips from that location, which is expected to be similar to this location.

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

No.

h. Proposed measures to reduce or control transportation impacts, if any:

None proposed.

#### 15. Public services

a. Would the project result in an increased need for public services (for example: Fire protection, police protection, public transit health care, schools, other)? If so, generally describe.

No increased need for public services is expected, as the site lies within an organized fire district and receives police protection from the Yakima County Sheriff's Department.

b. Proposed measures to reduce or control direct impacts on public services, if any.

None proposed.

#### 16. Utilities

a. Circle utilities currently available at the site: Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Electricity will be used for the project and supplied by Pacific Power. Construction activity will consist of underground trenching, as needed, to extend electricity to the agricultural market.

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**C. SIGNATURE**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Date Submitted: 4/8/2024

## WRITTEN NARRATIVE

This project consists of 4 applications. The first application is a minor rezone to change the zoning of the property from Rural Transitional (RT) to Highway/Tourist Commercial (HTC). The second application is a Type 1 Review which will permit the construction of an agricultural market within the HTC zoning district. The third application is a SEPA Checklist, associated with the minor rezone application and agricultural market. The fourth application is an Administrative Adjustment to the Sitescreening and Landscaping Standards that are associated with required perimeter sitescreening.

The property currently contains a 22,935 square foot agricultural warehouse facility (with interior ancillary uses and necessary outdoor agriculturally related storage), a 3,200 square foot shop and outdoor loading dock. There are 10 total parking spaces associated with the current use of the property. The above land use is currently a nonconforming use within the RT zoning district. A change of the properties zoning from RT to HTC will continue the nonconformity of those structures and their land uses.

The intent of this proposal is to construct an agricultural market to capture pass-by traffic associated with tourism, during day-light hours, that is generally heading west towards the Town of Naches, City of Tieton and the Cascade Mountains. It is anticipated that a small portion of business will come from within the local surrounding market area.

The proposal is to rezone the property from RT to HTC and construct a 5,600 square foot agricultural market near the southeast corner of the property. The change in zoning is consistent with the underlying comprehensive land use designation (Rural Transitional) and is considered a minor rezone, which requires the submittal of the SEPA Checklist. Once the property is rezoned to HTC, the agricultural market becomes a Type 1 Review within that zoning district, thus, a Type 1 Review application has been submitted. Due to the rural nature of the project, an Administrative Adjustment is also being requested regarding required perimeter sitescreeing.

As proposed a 5,600 square foot (70' x 80') steel building which includes an attached 20-foot cover canopy, will be constructed on an approximate 4.12-acre property. The building will be constructed to look like a barn and be approximately 35 feet in height. Sixteen hard-surfaced parking spaces are proposed for the project. The spaces will be typical 9' x 19' parking stalls with angled parking at 60-degrees and one-way driveways around the exterior of the parking spaces.

The agricultural market is proposed to be seasonal and will generally be open each year from June to November, seven days per week from 9am to 5pm. Although the months and daily hours may slightly increase, or decrease, depending on the time of year and amount of business that is being conducted. The anticipated number of employees will be 2-3.

A lighted sign is proposed near the southeast corner of the property. The sign will not exceed 100 square feet per sign face nor be higher than 30 feet.

Since the proposal is in a rural setting and seasonal in nature, no public drinking water system or toilets will be constructed as part of this project. However, bottled water will be available and portable toilets with hand-washing facilities will be provided.



## WRITTEN NARRATIVE

### Rezone

**a. The suitability of the property in question for uses permitted under the proposed zoning.**

The property in question is suitable for uses permitted under the proposed zoning because this proposal meets the purpose and intent for the rezone. The proposed zoning of Highway/Tourist Commercial (HTC) is consistent with the underlying comprehensive land use designation of Rural Transitional. The process that determined compatibility of certain zoning districts with comprehensive plan land use designations went through an extensive public hearing process prior to adoption and implementation. In this case, it was determined that the HTC zoning district is compatible with the Rural Transitional land use designation.

The actual land uses categorized in "Table 19.14-1 Allowable Land Uses" of the Yakima County Zoning Ordinance list the allowable land uses as Type 1 Reviews, Administrative reviews land uses as Type 2 Reviews and land uses not generally appropriate in the zoning district as Type 3 Reviews. These levels of review provide protection to surrounding property owners and ensure compatibility.

The actual number of land uses allowed in the HTC zoning district is relatively low because the zoning district is intended to serve the travelling public and provide recreational, tourist and some commercial services to the motoring public. The intent of the district is not to create commercial centers and the land uses permitted by the zoning ordinance in this district do not provide for this type of intense development. Based on the limited number of permitted land uses provided in Table 19.14-1, any development at the subject site will be small scale. Further complicating intense development of the property is the fact that the property is not served with public water and sewer, so portable restroom facilities will be provided for development of this property.

This specific rezone is intended for the establishment of a seasonal fruit stand. The property is flat, located at the intersection of a county local access road (North Mitchell Drive), which is a dead-end road, and a state highway (US Highway 12). The property has good visibility from both North Mitchell Drive and US Highway 12, which is a necessary factor for HTC zoned properties and their land uses. The subject property is located on the north side of US Highway 12 and is provided with access from North Mitchell Drive beyond state limited access-controlled areas and outside the functional limits of the intersection of the two roadways. These conditions help ensure traffic hazards are minimized and interference from highway-oriented businesses do not occur.

The subject property is located along a tourist route of the Chinook Pass & White Pass Scenic Byways, which are both gateways to the Cascade Mountains and Mt. Ranier National Park. This route is widely used by tourists, campers, fisherman, hunters, hikers,

bicyclists, boaters, river floaters and so many other recreational land uses. The persons participating in these activities need quick convenient goods and services along the route in which they are passing. This proposal will help meet the needs of those that desire to stop into this site to experience the Yakima Valley's fresh fruit and vegetables, all of which promotes and enhances the local tourism industry.

The subject parcel is large enough (over 4 acres) to construct the proposed new agricultural market, parking lot and other improvements a substantial distance from the North Mitchell Drive to satisfy the needs of a modern commercial development, where access is almost entirely dependent on motor vehicles. Type 1 Review will ensure that compatibility between existing and proposed land uses can be achieved. The property is encumbered by a small area of floodplain near its northern property line, however, this project proposal will not affect that area of the property.

All other necessary facilities and services to establish a small rural commercial business located along a state highway and lying outside an urban growth area are available. In this instance, an improved transportation network, police protection and fire protection are provided. Any other services or facilities, currently not provided, can be provided on-site as necessary, to serve the needs of the business and/or its customers.

**b. The extent to which the proposed rezone is consistent with and/or deviates from the goals, objectives, mapping criteria and policies adopted in the comprehensive plan, and intent of the zoning ordinance;**

The proposed rezone is consistent with the goals, objectives, mapping criteria and policies adopted in the comprehensive plan. The proposal specifically meets the goals, objectives, mapping criteria and policies because there is no need to change the underlying comprehensive land use designation to accommodate this rezone request. The proposed HTC zoning district is consistent with the underlying comprehensive land use designation and was reviewed for zoning and land use designation consistency when the underlying comprehensive land use designation and zoning district were adopted in "Table 19.36-1 Zoning District Consistency With Comprehensive Plan Future Land Use Designations" of the Yakima County Zoning Ordinance. That table was adopted after public review and it was determined that the Highway/Tourist Commercial Zoning District was consistent with the underlying Comprehensive Land Use Plan Designation of Rural Transitional.

Specifically, this proposal continues to promote the rural character of the area, makes feasible the use of existing public facilities and services, while minimizing conflicts with adjoining or nearby resource lands because adequate setbacks can be accommodated between land uses. As previously stated in this narrative, the area is provided with adequate police, fire and other emergency services and the property is served with hard-surfaced roadways.

The proposal also meets the goals, objectives mapping criteria and policies of the following Economic Development comprehensive plan goal based on the specific request of the property owner:

#### **PURPOSE STATEMENT ED 5**

The Yakima Valley offers leisure opportunities that include recreational and tourism. Tourism is a major industry in Yakima County, responsible for an estimated \$350 million in direct sales annually, 3,540 jobs, and \$23 million in taxes paid by visitors. Yet it is still comparatively underdeveloped and under-marketed. This goal and its related policies support the County's tourism expansion.

Goal ED 5: Expand the County's tourism and recreation-related economy.

**Policy ED 5.1** – Support the development of programs, activities and facilities which increase tourism and recreation opportunities in Yakima County.

**Policy ED 5.3** – Maintain tourist commercial zoning to promote and enhance the recreational 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 travelling public at selected limited access highway interchange areas if they satisfy the following criteria.

1. The uses do not conflict with adjacent city business areas;
2. Adjacent land uses are buffered from the commercial area;
3. The site is not designated as an agricultural, forest or mineral resource area, and resource lands are not materially affected by the use;
4. The operation and effectiveness of the interchange is not impacted by the commercial use; and,
5. If outside an urban growth area, the uses can be accommodated without the extension of urban level services to the site.

This proposal meets all the criteria for this rezone request to HTC, thus meeting the intent of the comprehensive plan goals and policies, as stated in Horizon 2040. Many of the features of meeting the above criteria are found throughout this written narrative and apply to more than just one question of this application.

The proposal is consistent with the intent of the proposed Highway/Tourist Commercial Zoning District because the rezone would provide an area for a commercial establishment which would offer goods and services to recreational users and tourists travelling by the site. The property is large enough (approximately 4.12 acres) to provide adequate and

sufficient depth from the street to satisfy the needs of a modern commercial development, where access is almost entirely dependent on motor vehicles. Access to the site is from North Mitchell Drive, and access is located outside WSDOT limited access areas. Direct access to the site is well outside the functional limits of the US Highway 12 and North Mitchell Drive intersection.

This proposal is located at the intersection of US Highway 12 and North Mitchell Drive. The zoning code indicates at YCC 19.11.040(b) that the Highway/Tourist Commercial Zoning District *"shall only be located at freeway interchanges, along or at the intersections of state highways or generally recognized tourist routes and the approaches thereto."* Thus, this proposal is consistent with that aspect of the intent of the zoning district, as well.

**c. The adequacy of public facilities, such as roads, sewer, water and other public services;**

The subject property lies at the northwest intersection of US Highway 12 and North Mitchell Drive. Both roadways are hard surfaced. US Highway 12 is a divided highway at this location and both North Mitchell Drive and South Mitchell Drive are controlled by stop signs. Since the site is outside of an Urban Growth Area, the site must either be served with on-site wells/on-site septic system or an alternative such as portable systems. This is not an unusual situation for Highway/Tourist Commercial properties. Other public services, such as electricity, cable service and telephone service are located on, or near, the subject property. The site is served with police protection by the Yakima County Sheriff and fire protection is by the Glead Fire District. All necessary public facilities and services for the intended land use can be accommodated at this site.

**d. The compatibility of the proposed zone change and associated uses with neighboring land uses;**

The proposed zone change is compatible with neighboring land uses because of its rural character and surrounding low density development. The property lies at the intersection of US Highway 12 and North Mitchell Drive, a fairly major intersection along this highway corridor. Properties to the south generally consist of a public pathway (Naches Trail), US Highway 12, scattered residential housing on large lots and a large bin storage lot. Property to the east consists of a large manufacturing facility that builds bins and pallets for the fruit industry. Properties to the north and west are residential structures on large lots. For reference, a large majority of the residential of residential lots in the immediate surrounding area exceed one-acre in size.

The subject property currently contains a large agricultural warehouse, shop and loading dock. The property is 4.12 acres in size. Due to the specific location of the existing structures on the subject property, their height(s) and the physical barrier they create between the proposed agricultural market and surrounding land uses, properties to the



west and north will not be impacted by the proposed land use. In essence, the location of the agricultural market is buffered from surrounding land uses in those two directions by existing landscaping and existing structural improvements. The distance between the proposed agricultural market and the nearest residence is about 400 feet away (northeast). The buffering created by the existing structures on-site, and the distance between existing land uses and the proposed land use is substantial, which provides adequate buffering and distance between land uses and promotes compatibility.

Properties to the south include a public pathway and US Highway 12. Further south, across US Highway 12 are several existing residential structures on large lots. A large fruit bin storage yard is also located to the south. Due to the substantial distance (over 400 feet) between the proposed land use and the nearest existing residential uses, along with the highway fairly constant vehicle noise and pedestrian activities associated with the highway and pathway, the addition of an agricultural market, north of the highway, should not have a negative impact on land uses lying south of the proposed project.

Property to the east is a large manufacturing facility that produces bins and pallets mainly for the fruit industry. Activities associated with the facility occur indoors and outdoors. The subject property owner has observed the manufacturing facility for several years and has determined that the two proposed land uses are compatible with one another, as they are similar in nature because both have indoor and outdoor activities. Peak periods of use for the seasonal agricultural market will be during weekends, when the manufacturing facility is likely to be closed, which will help ensure compatibility between the land uses.

Lastly, it could be expected that traffic associated with this proposal may be of concern and its compatibility with surrounding land uses. Since this property, and the property to the east (manufacturing facility), are the nearest properties to the US Highway 12 and North Mitchell Drive intersection, traffic associated with this proposed land use, should not interfere with neighboring properties. Specifically, traffic associated with this property will not pass by, or through, any residentially occupied properties. Any traffic associated with the agricultural market will turn north, off of the highway, travel approximately 300 feet on North Mitchell Drive, and then turn west onto the property. Traffic leaving the property will return to US Highway 12 the exact same way it entered, as North Mitchell Drive is a dead-end road to the north.

Based on the above factors, the proposed rezone, and any proposed use, should be compatible with the neighboring land uses.

**e. The public need for the proposed change;**

There is a public need for the proposed rezone because there is currently no HTC zoning along US Highway 12 between the City of Yakima and the Chinook Pass/White Pass "Y", or beyond. The zoning district was established to provide safe and convenient access to, and from, the highway system for necessary conveniences to the travelling public. At present, the Official County Zoning Map, does not show any Highway/Tourist



Commercial zoning along US Highway 12 or State Route 410, west of the City Limits of Yakima, Washington. This would be the only parcel zoned Highway/Tourist Commercial along that highway corridor. Thus, there is a shortage, or total lack of, HTC zoning and a need for the zoning along this highway corridor.

This site provides a safe and convenient location for a highway/tourist commercial facility to locate. The site will not interfere with the existing transportation network because the subject property can provide adequate access to, and from, the site.

Based on specific goals and policies listed in the Economic Development section of the comprehensive plan, and provided above in Letter "b" of this narrative, there is a need to change the current zoning to implement the comprehensive plan to provide for tourist commercial establishments that offer accommodations, supplies, services or recreational activities to the travelling public, especially along a known tourist route.

**f. What substantial changes in circumstances exist to warrant a change in the current zoning;**

In addition to the normal changes in circumstances that come with the US Highway 12 and State Route 410 corridor, which is a well-travelled commercial/tourist vehicle route, the following substantial changes in circumstances have occurred:

Several outdoor activities along this corridor were previously free and did not need reservations. Some examples are that it was free to view the elk at Oak Creek feeding Station and there was no need to visit certain portions of Mt. Rainer national Park. This has changed and there is now a fee to view the elk and reservations are needed to visit Sunrise and Paradise in the national park. Since transportation is needed to visit such sites as these, it only makes sense that there has been an increase in vehicle counts, which is a change in circumstances.

The City of Tieton has become an artist enclave with the establishment of the Mighty Tieton Warehouse, Boxx Gallery and other activities that periodically take place at Tieton Square. Likewise, the Town of Naches has experienced a substantial growth in residential housing over the years and continued to expand its general business district. The annual Naches Sportsman's Days and the Fall opening of the Thompson Pumpkin Patch are just a few of the local tourist and recreational activities. Between these two jurisdictions, they generate numerous tourist activities in the immediate area of the subject property that did not originally occur when the property was originally zoned Rural Transitional.

Recently, a large fruit stand in the immediate area was closed. The fruit stand is located at the northwest corner of the intersection of US Highway 12 and Eschbach Road, about one mile northwest of this site. This unfortunate change in circumstances benefits this proposal with the opportunity to now enter the market.

Some activities are novel to the highway corridor, such as side-by-side off-road vehicles, which bring new recreationists into the area, especially in the Little Naches Recreational Area. This new use is in addition to the typical recreationist that pass by this site for camping, fishing, hunting, hiking and boating.

Based on the increased demand for leisure activities along the highway corridor, there has been a change in circumstances. The change in circumstances is that: the more people that use this corridor, the more there is a need to provide goods and services. Some, but not all, of those travelling the highway corridor are looking for tourist opportunities along the way. This rezone request fulfills that opportunity, specifically by offering fresh fruit and other local products, to the local service area and the travelling public and taking full advantage of the changed circumstances.

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EXH # 23 DATE 4/8/02

## WRITTEN NARRATIVE

(Sitescreening – Administrative Adjustment)

### Answer to Question Number 5.

#### **Why is the proposed adjustment needed?**

The proposed adjustment is needed for several reasons. The main reason a fence is needed is because of stored within the existing controlled atmosphere warehouses. This facility is subject to the Federal Food Safety Act, which requires a secure food source. Currently, approximately one-half of the total property is fenced. Perimeter fencing is located along the east, north and south perimeter property lines. A portion of the existing 6-foot high fence bisects the property, roughly in half, from north to south, at about the half way point of the property (see site plan for existing fence details).

To meet Title 19 Sitescreening requirements along the east and north property lines, the fence would need to be removed from its present location and setback into the property 6 feet from its current location. The linear distance of this setback along the east and north property line is approximately 750 feet.

To complete the sitescreening requirement along the northeast/north property line to code, where only a 4-strand barbed wire fence exists, a new 6-foot high fence approximately 550 feet in length would need to be installed. A 6-foot strip of land outside the fence would then need to be landscaped with Sitescreening Standard A. Depending on the type of landscaping chosen, an irrigation system may be needed for the vegetation. To the owner's knowledge, there is no irrigation available to the property.

The west property line would be required to remove the existing 4-strand barbed-wire fence and construct approximately 280 linear feet of 6-foot high view obscuring fence to meet code. Again, the existing 6-foot strip of land outside the fence would need to be landscaped with Sitescreening Standard A, under the same circumstances listed above.

The southwest property line, as it abuts an existing residence is currently a 4-strand barbed wire fence, which would need to be removed and replaced with Sitescreening Standard C, a 6-foot high view obscuring fence, for a distance of approximately 360 feet.

The south property line is approximately 460 feet and abuts a public pathway, and beyond that, US Highway 12. According to Title 19, Sitescreening Standard C, a 6-foot high view obscuring fence is required along that property line. In this situation, the existing 6-foot high chain-link fence would need to be fitted with view obscuring slats.

The primary need of this adjustment is to meet the Federal Food Safety Standards and secure the site because fruit is being stored on-site. The other reason is due to the extensive Sitescreening Standards required to establish a seasonal agricultural market on about one-half acre of a 4.12 acre parcel. In the written answer in Number 8 below, the request to reduce the Sitescreening Standard to "No Standard", explains the negative impact to neighbors based on existing site conditions.

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HEARING EXAMINER

EXH # 22

DATE

4/8/02

**Answer to Question Number 8.**

**How will the proposed adjustment impact your neighbors?**

The request is to have the Sitescreening Standards along all property lines reduced to "No Standard" because the project will not impact neighboring properties. This proposal will only occupy approximately one-half acre of a 4.12 acre parcel. The project site is near the southeast corner of the property, which also happens to be the intersection of North Mitchell Drive and US Highway 12. This condition isolates the agricultural market to an area where its impacts to neighbors is extremely limited.

From a sitescreening perspective, the property to the east, a manufacturing facility, will be most impacted. Its nearest structure to this proposal is approximately one-hundred feet away, across North Mitchell Drive, directly east of the proposed agriculture market. The west property line of the manufacturing facility is fenced with a 6-foot high open chain-link fence, with a narrow landscaping strip on the inside of the fence. Between the fence and landscape strip, is an unimproved area, most likely for service and emergency vehicle access to other areas of the structure and facility. The fence and landscaping strip, associated with the manufacturing facility, extend northerly to the northwest corner of the facilities property, except at the gated entrance. The entrance to the manufacturing facility and the entrance to this project are directly across the street from one another, so no sitescreening would be required in those areas. Sitescreening associated with the manufacturing facility was likely required at some time in the past, to visually protect the areas lying west of it, which happens to be this subject property. Those sitescreening improvements have a positive impact on this proposal because the manufacturing facility is a higher intensity use and would typically have a negative impact on this proposed land use. The impact between the existing manufacturing facility and this proposal is mitigated because there are two 6-foot high open chain-link fences (one on each property), a landscape strip and a public street (North Mitchell Drive) between the two land uses. This is adequate buffering between these two uses due to their commercial/manufacturing characteristics.

Properties to the northeast, north and west are generally residential in nature. A review of the site plan indicates that an existing line of arborvitae plantings are located inside the fence, along North Mitchell Drive, north of the entrance to the property and storm water pond. The arborvitae are in a continuous row, and follow the existing 6-foot high open chain-link fence, to the east edge of the shop. This vegetative buffer provides adequate sitescreening to residents in that area and no additional sitescreening is proposed in that area.

Residences to the north and west of the subject property, border an unimproved portion of this property. The unimproved portion of property was recently acquired through a Boundary Line Adjustment and generally is a weedy lot. This unimproved area is encompassed by a 4-strand barbed wire fence. Based on the location of the existing shop and warehouse building, in relationship to the agricultural market, and a distance between the uses of well over 500 feet between the residences and agricultural market, the agricultural market will not impact those properties. In essence, the existing buildings located on the property shield and buffer the



surrounding residential uses located to the north and west from any impact associated with the agricultural market. Based on this, no sitescreeing is proposed along those property lines.

Properties to the south, along South Mitchell Drive and South Mitchell Place are generally residential in nature, except for a bin storage lot. All these improvements lie south of a public pathway (Naches Trail) that abuts the subject property and US Highway 12. The nearest structure is a residence which is about 400 feet away. Due to the distance between the uses, and the fact that they are separated by a divided state highway, no amount of sitescreeing will buffer any adverse impact produced by the users of the highway. Thus, no sitescreeing is proposed along the south property line.

This project has been carefully designed, so as to have as little visual and audible impact on surrounding neighbors as possible. The agricultural market has been designed to have openings on only two sides of the building. Those two openings are located on the north and south sides of the building and consist of double roll-up doors. The north opening to the building will be adjacent to the parking lot and customers will be able to park and walk directly into the building. The south opening will front US Highway 12 and allow for air-flow and visually indicate to the public that the business is open to passing vehicles. The east wall of the building will be solid and thus buffers the nearest neighboring building (manufacturing building) from visual and audible impacts.

Abutting the parking lot on the north, is a landscaped storm water retention pond, that provides required parking lot landscaping requirements. The row of existing arbovitae beyond the storm water retention pond further buffers properties to the north/northeast. These existing sitescreeing improvements meet the intent of Title 19 by providing a visual buffer between the proposed and existing land uses.

The existing shop and warehouse provide solid walls which protect residential land uses to the north and west from the visual impact of the agricultural market. Additionally, the undeveloped property lying west and north of the shop and warehouse provide substantial distance between the agricultural market and residential land uses in that area, further reducing visual and audible impacts.

One of the main reasons businesses chose to locate along highway-tourist corridors is to capture pass-by vehicle traffic. The other reason is because a business can be seen from the travelled roadway. Based on this, it does not make sense to construct a 6-foot high barrier fence along the roadway from which customers are trying to be diverted. The construction of Sitescreeing Standard C obviously defeats the purpose of the business being seen from the travelled roadway. In this case, the adjoining property to the south is a public pathway. The agricultural market has no impact on that particular land use. In fact, it is likely that the agricultural market will draw walkers, runners, bikers etc., into the business, as also intended. Beyond the pathway is US Highway 12, a divided highway, with a minimum right-of-way width of at least 150 feet. Residential structures that lie south of the highway have large bushes and well-established mature trees that buffer them from the highway, and now, this proposed land use. Thus, Sitescreeing Standard C along the south property line is impractical and does not serve any redeeming purpose.



Based on the above findings, the proposed Administrative Adjustment will not have an adverse impact on neighboring properties because existing improvements and site conditions provide adequate sitescreening that meets the intent of the zoning code. The adjustment also permits a circular driveway around all the structures located on the property for the use by service and emergency vehicles, thus providing for fire, life and safety purposes.

FILED 141

HEARING EXAMINER

EXH # 23 DATE 4/8/02



# ADMINISTRATIVE ADJUSTMENT FORM

FINAL  
Revised 5/5/2021

Yakima County Public Services  
128 North Second Street · Fourth Floor Courthouse · Yakima, Washington 98901  
(509) 574-2300 · 1-800 572-7354 · FAX (509) 574-2301 · [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

## Zoning Ordinance Requirement and Adjustment Requested: (Answer the following)

1. Is this adjustment being processed under the Optional Consolidated Permit Review Process?

☒ Yes ☐ No

2. Type of Adjustment Requested (Check as applicable)

☐ Setbacks: Which setback is proposed to be adjusted? ☐ Front ☐ Side ☐ Rear

☐ Parking: ☐ Loading

☐ Sign height ☐ Building height

☐ Fence height ☐ Walls and Recreational Screens

☒ Site screening ☐ Landscaping

☐ Lot coverage ☐ Waste and Recycling Storage

☐ Siting Criteria for manufactured homes located outside UGA, and outside RT, RS zoning districts:

☐ Roof Pitch ☐ Roof materials

☐ Pit setting ☐ Siding materials

*NOTE: Mobile Homes constructed prior to June 15, 1976 do not meet the current safety standards as a "Manufactured Home". Before these older mobile homes can be moved to a new location within Yakima County, the Department of Labor and Industries (L&I) must do a Fire Life Safety Inspection. You will need to provide Yakima County Public Services Department a copy of L&I's Fire Safety Certificate prior to issuance of the placement permit.*

**Washington State Department of Labor and Industries**  
15 West Yakima Ave., Yakima 98902  
(509) 454-370

### Contact Information:

☐ Other:

3. Zoning standard 6' high view obscuring fence with 6' strip of landscaping requires:

*(example: 15-foot rear yard setback from southern property line, or 6-foot fence along west property line)*

4. Proposed standard: None proposed

*(example: 10-foot rear yard setback from southern property line, or 8-foot fence along the west property line)*

5. Why is the proposed adjustment needed?

See written narrative

6. Are there other alternatives to your design that could be made in order to meet the standard? ☐ Yes ☒ No  
If Yes, explain:

7. What is the minimum adjustment needed to accommodate the proposed use?  
The minimum adjustment needed is a 6' high open chain-link fence.

8. How will the proposed adjustment impact your neighbors?  
See written narrative

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HEARING EXAMINER  
CYU # 23 DATE 4/2/22

9. Are there developments in the neighborhood that are similar to your proposal?

☐ Yes ☐ No

10. Are there physical features, such as topography, right-of-way, and existing constraints on the property?

☒ Yes ☐ No

*If Yes, explain:* Existing fencing, structures and landscaping on the property constrain the implementation of standard sitescreeing requirements.

**Answer the following questions if you are requesting an adjustment to the sign standards:**

11. What is the proposed sign? Height: Size: Shape: Color:

12. How many signs are proposed?

13. What is the proposed location of the sign?

14. What is the proposed landscaping associated with the sign?

15. How does the proposed sign relate to the immediate area?

16. Is the sign associated with a multiple-use complex? ☐ Yes ☐ No

*If yes, explain how the available sign area will be allocated between tenants or leasable spaces:*

**Answer the following questions if you are requesting an adjustment to Site Screening or Landscaping standards:**

*See narrative*

17. Is the adjustment needed due to inadequate sunlight? ☐ Yes ☒ No

18. What is the distance between the proposed structure and the existing structures on the adjoining property?

19. What is the proposed setback from the front of the new structure?

20. Does the area in front of the building have any of the following? ☐ Decorative paving/pavers ☐ Trees

☐ Planters ☐ Other Amenities (*explain*)

21. Are you proposing to utilize Xeriscape (drought tolerant) landscaping? ☐ Yes ☐ No

22. Is there existing vegetation within the required landscaping areas? ☐ Yes ☐ No

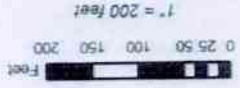
*If yes, describe size, location, and type:*

Yakima County will make reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service or activity of Yakima County, should contact the Yakima County ADA Coordinator at 509-574-2210 as soon as possible but no later than 48 hours before the scheduled event.

Subject Property  
Brandt Fruit Trees  
181305-13002

 Subject Property  
 Taxlots  
— All Roads



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HEARING EXAMINER




EXH #

DATE

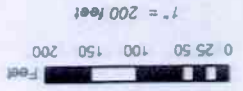
4/19/2024



**Subject Property**  
**Brandt Fruit Trees**  
**181305-13002**

 **Subject Property**  
 **Taxlots**  
 **All Roads**

2023 Ortho-photo mosaic  
taken April



**Yakimap.com**

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therein. There are no warranties for this product  
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### Critical Areas

### Brandt Fruit Trees 181305-13002

 Subject Property

Stream Type - 2013 CAO


-  1
-  2
-  3
-  4
-  4 or 5
-  Undetermined
-  5
-  Man-made

FEMA 100 Year Floodplain


-  Zone A
-  Zone AE
-  Potential Wetlands
-  Floodway/CMZ

Streams Environment

-  Conservancy
-  Natural
-  Rural
-  Urban
-  Urban Conservancy

 Taxlots

 All Roads

 Feet  
0 2550 100 150 200

1" = 200 feet



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18130513002

N Mitchell Dr

W US Highway 12

E US Highway 12

Mitchell Dr

S Mitchell Dr

S Mitchell Dr

FILED  
HEARING EXAMINER  
EX# 100 DATE 4/1/14



## Current Plan Designation

**Brandt Fruit Trees**  
**181305-13002**



Subject Property

### Horizon 2040 Designations

- Agricultural Resource
- Forest Resource
- Rural Settlement LAMRD
- Rural Transitional
- Rural Self-Sufficient
- Rural Remote/ELDP
- Fed/Trust Lands/Closed Area
- Urban Residential
- Urban Commercial
- Urban Industrial
- Urban Public
- Urban Growth Area
- Taxlots
- All Roads

Feet  
0 25 50 100 150 200

1" = 200 feet




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Plot Date: 3/7/2024



## Current Zoning

**Brandt Fruit Trees**  
**181305-13002**

 Subject Property

Yakima County Zoning

-  Forest Watershed
-  Agriculture
-  Remote/Extremely Limited
-  Rural 10/5
-  Rural Transitional
-  Rural Settlement
-  Highway/Tourist Commercial
-  Mining
-  Master Planned Development Overlay
-  Planned Development (Ord. 8-1974)
-  Suburban Residential
-  Single-Family Residential
-  Two-Family Residential
-  Multi-Family Residential
-  Professional Business
-  Local Business
-  Small Convenience Center
-  Large Convenience Center
-  General Commercial
-  Light Industrial
-  Federal Land/Tribal Trust
-  Yakama Nation Closed Area
-  Taxlots
-  All Roads

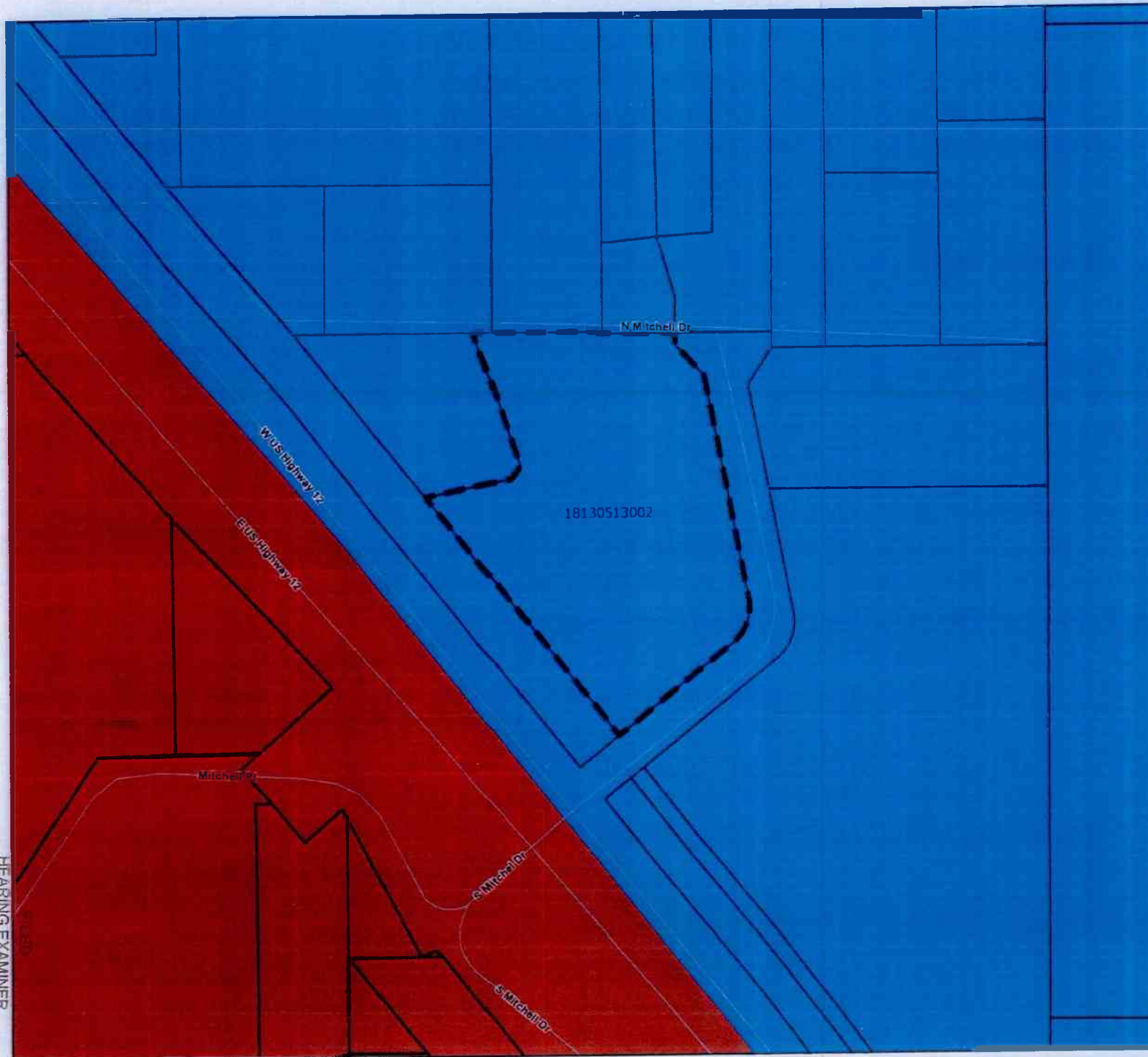
 Feet  
0 25 50 100 150 200

1" = 200 feet



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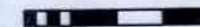
## Proposed Zoning

**Brandt Fruit Trees  
181305-13002**

 Subject Property

Yakima County Zoning

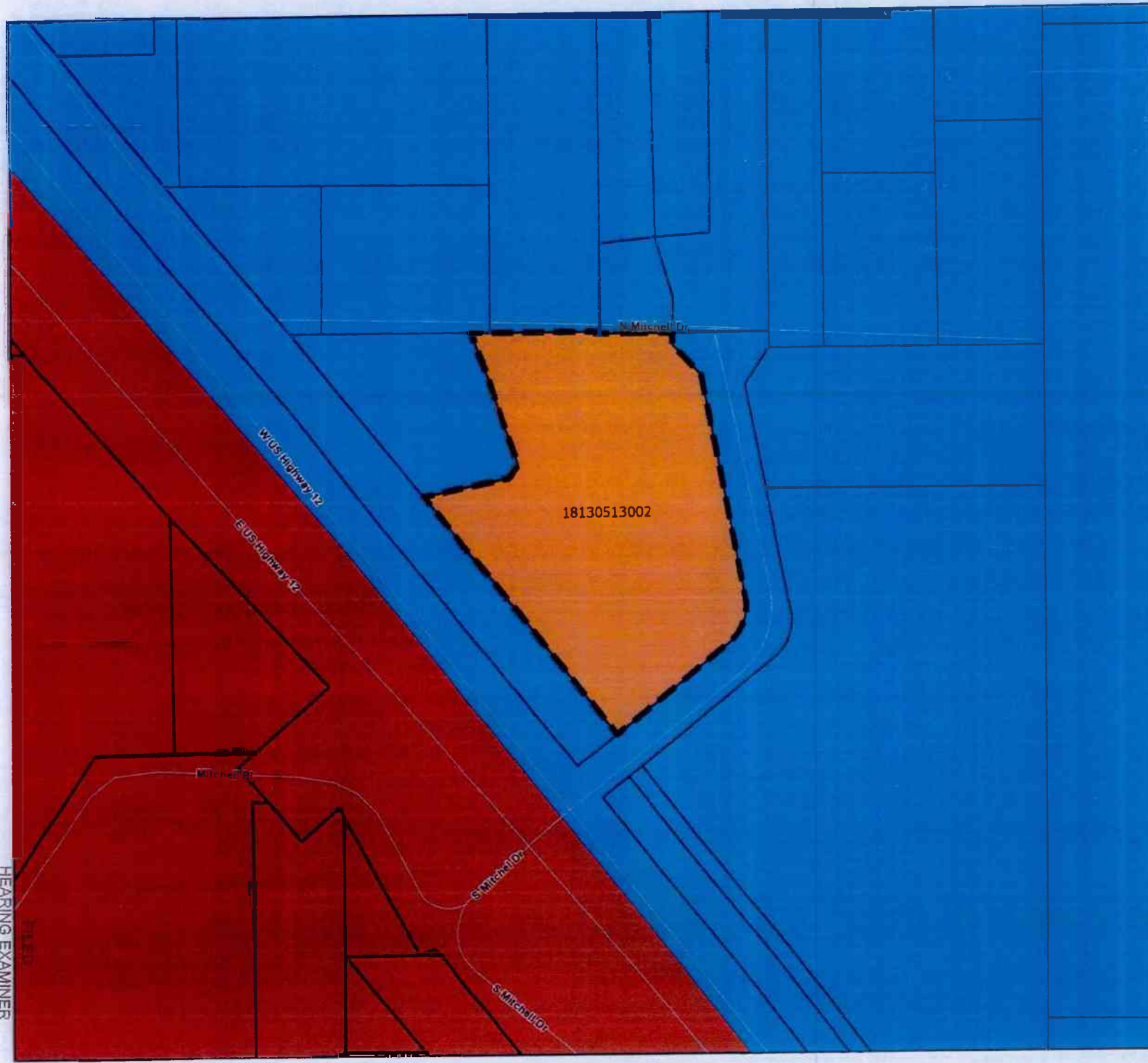
-  Forest Watershed
-  Agriculture
-  Remote/Extremely Limited
-  Rural-10/5
-  Rural Transitional
-  Rural Settlement
-  Highway/Tourist Commercial
-  Mining
-  Master Planned Development Overlay
-  Planned Development(Ord. 8-1974)
-  Suburban Residential
-  Single-Family Residential
-  Two-Family Residential
-  Multi-Family Residential
-  Professional Business
-  Local Business
-  Small Convenience Center
-  Large Convenience Center
-  General Commercial
-  Light Industrial
-  Federal Land/Tribal Trust
-  Yakama Nation Closed Area
-  Taxlots
-  All Roads

 Feet  
0 25 50 100 150 200  
1" = 200 feet



**Yakimap.com**





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HEARING EXAMINER

Infrastructure

Brandt Fruit Trees  
181305-13002

-  Subject Property
-  Taxlots
-  State and Federal Highways
-  All Roads

18130513002

N Mitchell Dr

W US Highway 12

E US Highway 12

Mitchell

S Mitchell Dr

S Mitchell Dr

0 25 50 100 150 200 Feet

1" = 200 feet



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Vegetation

Brandt Fruit Trees  
181305-13002

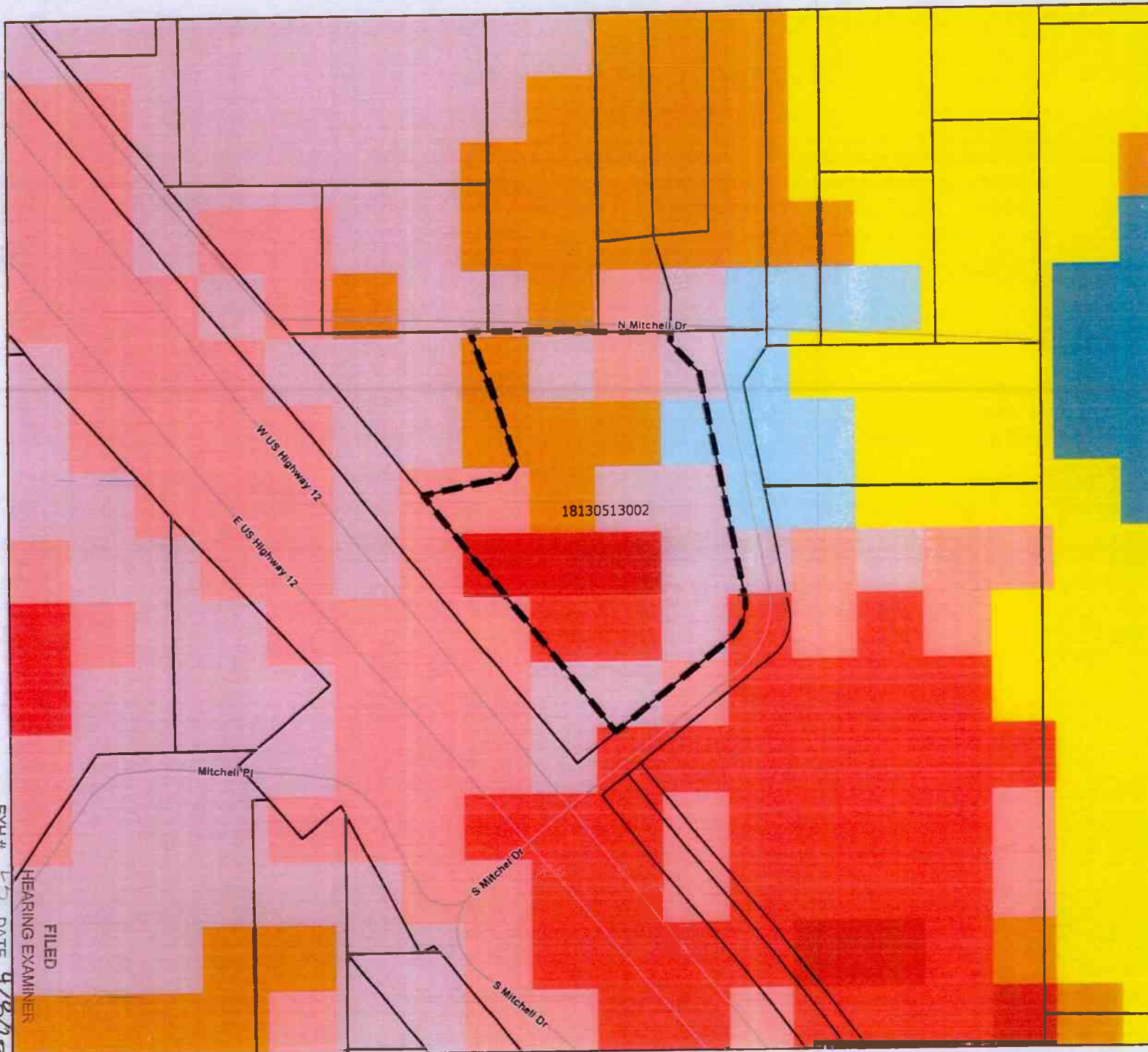
-  Subject Property
- NLCD 2011 Land Cover
  -  Developed, Open Space
  -  Developed, Low Intensity
  -  Developed, Medium Intensity
  -  Developed, High Intensity
  -  Pasture/Hay
  -  Cultivated Crops
  -  Woody Wetlands
  -  Emergent Herbaceous Wetlands
-  Taxlots
-  All Roads

 Feet  
0 25 50 100 150 200  
1" = 200 feet

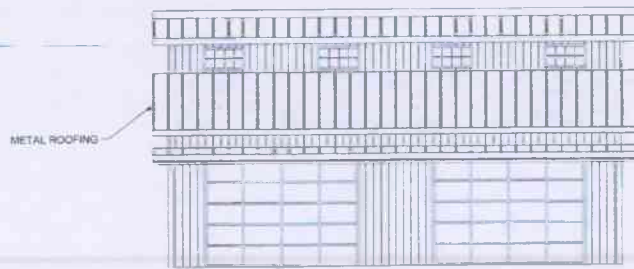


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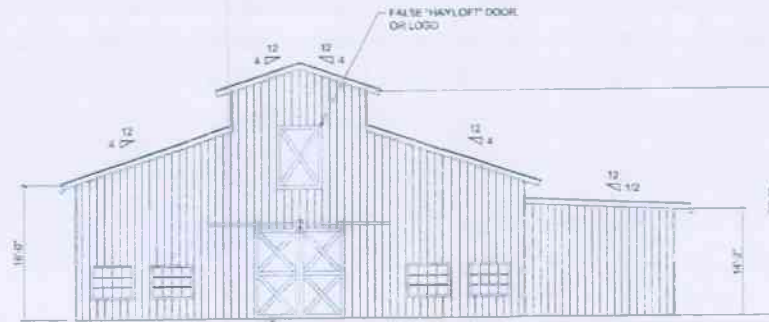
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Plot Date: 5/7/2024



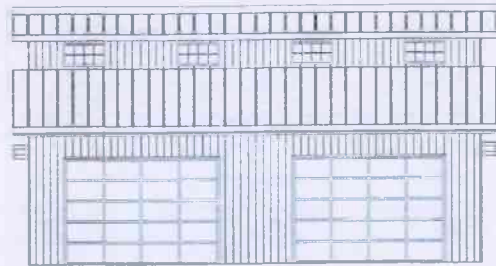
EXH # 15 DATE 4/8/2024  
FILED  
HEARING EXAMINER



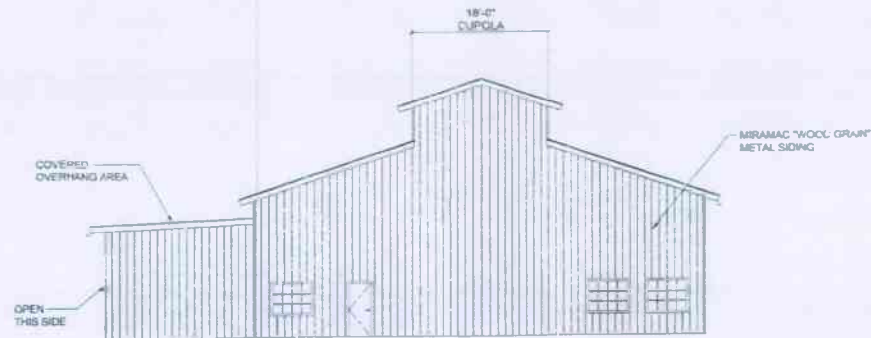
① NORTH-EAST ELEVATION  
1/16" = 1'




② SOUTH-EAST ELEVATION  
1/16" = 1'



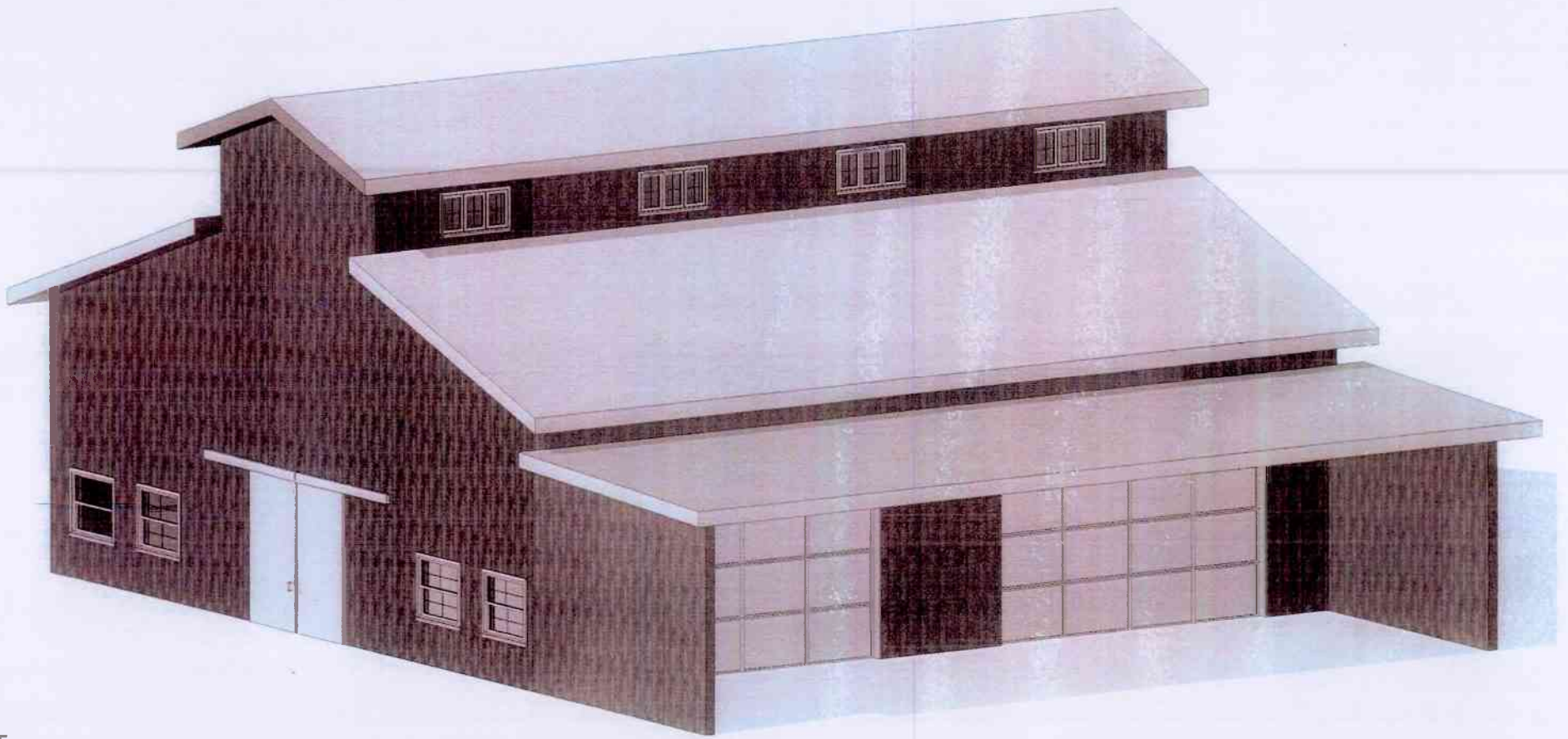
③ SOUTH-WEST ELEVATION  
1/16" = 1'



④ NORTH-WEST ELEVATION  
1/16" = 1'

 <b>SYSTEMS WEST CONSTRUCTION</b> <small>ALL RIGHTS RESERVED. NO REUSE OR REPRODUCTION IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF SYSTEMS WEST.</small>	
BRANDT'S FRUIT TREES FRUIT STAND GLEED, WA	
EXTERIOR ELEVATIONS - OPTION J	
PROJECT: 27807, A-3.0 DATE: AS NOTED	DATE: 08/25/23 J
<b>A-3.0</b>	

FILED  
HEARING EXAMINER  
DATE 4/9/23



option 2

FILED

HEARING EXAMINER

15:

EXH # 13 DATE 4/8/00