



APPEAL 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

Please answer the following questions. Please attach additional sheets if needed:

File Number of Permit Being Appealed: PRJ 2016-00744/CUP 2016-00073/VAR 2016-00028/SSE 2016-00044

1. Please describe below how you have standing as required under YCC 16B.09.020:

See attached.

2. Please describe the specific proposal and specific actions, omissions, conditions or determination for which the appeal is sought:

See attached.

3. Please explain the particular grounds for the appeal, the principal points of the appeal and why you believe the decision to be wrong:

See attached.

4. What is the desired outcome or relief sought:

See attached.

The appellant may submit any additional information that they feel will support their argument.

OPEN RECORD APPEALS:

1) Are you requesting a Prehearing Conference as described in YCC 16B.09.045 (4)?

Yes No

If no, the appellant must comply with all the requirements as outlined under YCC 16B.09.045

CLOSED RECORD APPEALS:

If this is a closed record appeal (as outlined in YCC 16B.09.050) to the Yakima County Board of County Commissioners the appellant shall follow all of the required procedures as outlined in YCC 16B.09.055.

APPEAL NARRATIVE

Kristi Wilbert (“Appellant”) appeals the Final Decision issued by Yakima County Planning Division with respect to the “Douglas Boundary Line Adjustment with Second Farm Dwelling and Resource Setback Reduction” application:

File No.:

PRJ 2016-00744/CUP 2016-00073/VAR 2016-00028/SSE 2016 – 00044.

The property owner is Bill Douglas and applicant agent is Bill Hordan.

1. **Appellant.** Appellant’s name, address and phone number is as follows:

Kristi M. Wilbert
1470 Selah Heights Road
Selah, WA 98942

Phone: 509.697.7050

2. **Standing.** Appellant has standing to challenge the land use decision. Appellant is the owner of adjacent property and is directly impacted by the project approval; is adversely impacted by expansion of easement usage; and is injured by the adjacent development and reduction in resource setbacks. Appellant has provided written comment on the application.

3. **Identification of Appeal Issues.** Appellant specifically appeals the following determinations set forth in the Final Decision:


- (a) Applicant has requested authorization for a “Second Farm Dwelling” on a single parcel of land. The approval conditions occupancy upon recordation of a covenant “...stipulating that this second residence be exclusively for use by farm employees, laborers and their families.” The existence of a covenant does not include an effective enforcement mechanism for violations. The unit has historically been a “guest house” for family members and no farm employees, laborers or their families have resided in the residence. The decision should include an automatic termination of the land use approval if there is a violation of this requirement.
- (b) Staff Findings incorrectly conclude that the subject property and new parcel have access via a “30’ easement recorded under AFN 7059339”. This is incorrect. The short plat and expansion of residential usage constitutes an impermissible expansion of the easement use and requires consent and approval from the underlying property owner. I have not consented to that usage and any determinations with respect to legal

access should be determined through a judicial process prior to issuance of a land use decision. Yakima County does not have authority to make legal determinations with respect to the scope and extent of easements.

- (c) The proposed plat does not comply with access requirements set forth in YCC 19.10.040 and YCC 19.23.050. Planning also erroneously concludes that "...easterly access easement was established on the short plat that created parcels 181433-12401 and -01402, SUB 2001-00004.
- (d) The land use decision does not specify specific requirements applicable to the project with respect to fire apparatus access including width, turn arounds and all weather surface. Such determination may not be deferred and must be set forth in the land use decision.
- (e) The land use decision fails to consider the placement of trees and irrigation systems within the easement and access areas. No provision is made with respect to removal and replacement of such trees and irrigation facilities.
- (f) There is not sufficient factual basis to establish review criteria for Administrative Adjustments under YCC 19.35.020.

4. **Relief Requested.** Appellant requests the following relief:

- (a) That the Final Decision of Yakima County Planning Division with respect to the "Douglas Boundary Line Adjustment with Second Farm Dwelling and Resource Setback Reduction" application be reversed and denied.
- (b) That any decision with respect to the land use application be deferred until legal access and rights of use of easement are fully determined by courts.
- (c) That the final decision include specific fire access road standards and development conditions.
- (d) Such other and further relief as determined just and property by Hearing Examiner.


Kristi Wilbert

NOTICE OF APPEAL

To: Yakima County Planning Division
128 North Second Street
Fourth Floor Courthouse
Yakima, WA 98901

Appeal of
Final Decision: Dated January 31, 2017

File Number: PRJ 2016-00744/CUP 2016-00073/VAR 2016-00028/SSE 2016 -- 00044.

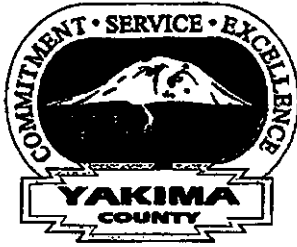
Prepared By: Julia Loudon, Planner, Zoning and Subdivision

Project Name: Douglas Boundary Line Adjustment w/Second Farm Dwelling and
Resource Setback Reduction

Parcel Numbers: 181433-12401, 181433-12402 and 181433-11409

Property Owner: Bill Douglas
P.O. Box 430
Yakima, WA 98907

Applicant/Agent: Bill Hordan
Hordan Planning Services
410 North 2nd Street
Yakima, WA 98901



Public Services

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901
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VERN M. REDIFER, P.E. - Director

YAKIMA COUNTY PLANNING DIVISION
Type 1 Conditional Use Permit / Type 2 Resource Setback Reduction / Boundary Line
Adjustment
- FINAL DECISION -

PROJECT NAME:	Douglas Boundary Line Adjustment w/ Second Farm Dwelling and Resource Setback Reduction
REVIEW PROCESS:	Type 2
FILE NUMBER:	PRJ2016-00744 / CUP2016-00073 / VAR2016-00028 / SSE2016-00044
ZONING:	Agriculture (AG)
FUTURE LAND USE DESIGNATION:	Agricultural Resource
PARCEL NUMBERS:	181433-12401, 181433-12402, and 181433-11409
PROPOSAL:	Type 1 application for a second farm dwelling together with a boundary line adjustment to create a vacant 3 acre lot. A Type 2 resource setback reduction is also included to reduce the 150 foot resource setback to 115 feet from the western property line and 75 feet from the eastern property line for a proposed residence on the 3 acre lot.
PROPERTY OWNER:	Bill Douglas P.O. Box 430 Yakima, WA 98907
APPLICANT/AGENT:	Bill Hordan Hordan Planning Services 410 North 2 nd Street Yakima, WA 98901
PREPARED BY:	Julia Loudon, Planner, Zoning and Subdivision JL
DECISION:	Approved with the following conditions:

The following conditions must be obtained within three years of the date of this decision. Please note that this decision and time limit pertains to conditional authorization for the subject land use only and failure to comply with all conditions will result in the revocation of this permit. This Final Decision includes the following conditions and the findings as described.

1. The applicants shall obtain and finalize all necessary Yakima County Public Services: Building & Fire Safety Division permits for the proposed building. Please contact the Building & Fire Safety Division at (509)574-2300.
2. The applicants shall obtain a Road Approach Permit (RAP) from the Yakima County Transportation Division for any existing access to the county roadway system. The fact that the road approach application is in conjunction with a CUP and SSE must be disclosed by the applicant at the time of application.
3. The applicants shall ensure that the driveways meet the fire apparatus access requirements, which includes having the appropriate width, turnaround, and all-weather surface. Please contact the Building & Fire Safety Division at (509)574-2300 regarding these requirements.
4. For the new residence on the 3 acre parcel, the applicant shall provide at least two (2) parking spaces that meet the requirements of YCC 19.22. All required parking shall be installed prior to occupancy or commencement of use.
5. The applicants shall provide documentation from the Yakima Health District showing that the well for the primary home and the second farm dwelling has been reviewed and approved as a 2-party shared well.
6. The attached Second Farm Dwelling Covenant shall be signed by the owner(s) and submitted to the Yakima County Planning Division, along with the appropriate recording fee and the legal description for the subject property, stipulating that the second farm dwelling is exclusively for use by farm employees, laborers and their family members.
7. At the time of building permit application submittal for the new single-family residence, the applicant shall provide a site plan that shows mitigating site screening from the orchard property to the east in accordance with YCC 19.21.030(2)(g).
8. The attached Declarative Covenant for Especially Sensitive Land Uses shall be signed by the owner(s) and submitted to the Yakima County Planning Division, along with the appropriate recording fee and the legal description for the subject property, prior to the issuance of building permits.
9. The owners, their grantees and assignees in interest will abide by the terms of YCC 16B.07.050 – Compliance, Extension, Expiration and Reinstatement attached to this decision. 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.

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 project shall be completed in conformance with the project description and site plan submitted with the application referenced as file number CUP2016-0073/VAR2016-00028/SSE2016-00044. Any changes may require a modification to this authorization. If changes are planned in the future, please contact the Yakima County Public Services Department: Planning Division at (509)574-2300 for assistance with the permitting process.

11. The second farm dwelling shall be used exclusively to house a farm employee that is employed or otherwise actively participating in the farm and their family members.
12. The proposed single-family dwelling on the 3 acre parcel shall be located no closer than 115 feet from the western property line and 75 feet from the eastern property line.
13. The applicants shall ensure that a vision clearance triangle as described in YCC 19.10.040(7)(b) is maintained at the access points onto Selah Heights Road.
14. The applicants shall ensure that any exterior lighting and fencing installed in the future meets the requirements as outlined below and in 19.10.040.
15. Stormwater shall be retained on site and upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.130. A Washington State Department of Ecology Industrial Stormwater Permit and Construction Stormwater Permit may be required.

Based upon information supplied by the applicant and a review of the Yakima County Comprehensive Plan (*Plan 2015*) and Yakima County Code Title 19 (the Unified Land Development Code), the Administrator enters the following:

FINDINGS AND ANALYSIS

Location:

1. 1480 Selah Heights Road. The subject parcels are located about 100 feet west of Selah Heights Road with the driveway approach about 1/3 of a mile south of the intersection of Selah Heights Road and Selah Naches Road, approximately 1 mile west of the city of Selah. Parcel numbers 181433-12401, 181433-12402, and 181433-11409. Parcel 181433-11409 is tied to parcel 181433-13405 as a district segregation.

Project Description:

2. The applicants are proposing to move the existing boundary line between parcels 181433-12401 and 181433-12402 to create a vacant 3 acre parcel. A small portion of the line between 181433-12402 and 181433-11409 is also being adjusted to allow for a better building site on this proposed 3 acre parcel. The adjustment of the line between -12401 and -12402 will result in two homes being located on the large remaining agricultural lot. As such, the applicants are proposing to establish the smaller home as an accessory farm dwelling. Due to the configuration of the proposed 3 acre parcel, the applicants are also proposing a reduction to the required 150 foot agricultural resource setback for a proposed new home.

The accessory farm dwelling and the primary home are proposed to continue using an existing shared well. These dwellings are proposed to continue using individual septic systems. Access for the existing homes is proposed to be via an existing 30 foot wide access easement across adjacent parcel #181428-43406 to Selah Heights Road. Access to Selah Heights Road for the proposed 3 acre lot is to be via an existing 30 foot wide access easement across adjacent parcel #181433-12018.

Zoning and Land Use:

3. Pursuant to the Yakima County Unified Land Development Code, Title 19, subject parcels 181433-12401 and 181433-12402 are completely within the Agriculture (AG) zoning district.

Subject parcel 181433-11409 is primarily within the AG zoning district, with a small section being located within the Rural Transitional (RT) zoning district. The purpose of the Agriculture (AG) district is "to preserve and maintain areas for the continued practice of agriculture by limiting the creation of small lots, permitting only those new uses that are compatible with agricultural activities, protection of agricultural lands of long-term commercial significance, and providing measures to notify and separate especially sensitive land uses from customary and innovative agricultural land management practices" (YCC 19.11.010(1)(b))

In accordance with the Yakima County Comprehensive Plan (*Plan 2015*), the property is designated Agricultural Resource. The intent of this designation is to implement the Growth Management Act planning goal related to maintaining and enhancing natural resource-based industries, which includes productive agricultural industries. The *Plan 2015* policy that applies to the proposed accessory farm dwelling is as follows:

LU-ER-AG 1.17 A second farm dwelling may be allowed on an agricultural parcel of at least twenty acres, subject to an administrative review. Siting approval should include location and capacity of the well(s) and septic system(s), road access, and impact on the agricultural productivity of the land. The property owner shall be required to sign a covenant stipulating that the second farm dwelling is intended for use by family or employees.

The *Plan 2015* policy that applies to the proposed resource setback adjustment is as follows:

LU-ER-AG 1.7 Non-farm residences and uses within or adjacent to agricultural lands of long term commercial significance shall be located, designed and subject to special setbacks and other appropriate buffers to minimize conflicts with agricultural practices and other activities associated with agricultural lands. A 150-foot setback from the adjoining agricultural activity shall be required for all non-farm related uses, except where it can be demonstrated that a smaller setback will not interfere with accepted farm practices. Considerations in reducing the setback may include the size or shape of the parcel, historic use, natural features, physical barriers, crop type and structures on the adjoining resource parcel, location of structures on adjoining properties, proposed site design, and use of screening, berms, barriers and landscaping.

Parcel 181433-12401 is 2.32 acres in size and currently contains a 4,594 sf residence, an approximately 700 sf shed, an approximately 700 sf lean-to, and a tennis court. Parcel 181433-12402 is 34.72 acres in size and contains a 1,100 sf residence, a hayshed, pasture, and orchard. Parcel 181433-11409 is currently 51.5 acres in size and contains a residence and two sheds. Surrounding parcels to the north, east, and west are also in the AG zoning district and primarily contain agricultural uses mixed with residential uses. Parcels to the southeast are within the RT zoning district and are primarily residential in use.

Jurisdiction and Process:

4. This proposal consists of a boundary line adjustment, a second farm dwelling, and a resource setback reduction. According to YCC 19.30.030(1)(b), a boundary line adjustment application requires a Type 1 review. Based on the land use table YCC Table 19.14-1, a second farm dwelling (in addition to the owner's single-family residence) on a parcel that is at least 20 acres in size and is in active agricultural use is considered a Type 1 use in the AG zoning district. Type 1 uses are allowed uses, subject to approval of applicable permits where required. The resource setback reduction, however, is considered an administrative adjustment and is subject to a Type 2 review,

according to YCC 19.35.020(6)(b). As such, this proposal is being reviewed under the Type 2 process. Type 2 applications may be conditioned to ensure compatibility with the provisions of YCC Title 19 and applicable comprehensive plans (YCC 19.30.030(2)(b)(iv)).

Environmental Review:

5. According to the Yakima County Critical Areas maps, there are Type 5 streams and potential wetlands located on the subject properties.

Staff Finding: The Environmental & Natural Resources Section provided the following comment:

"No CAO or SEPA review required. Type 5 stream should not be blocked or altered."

Based on the above comment, neither a SEPA environmental review nor a Critical Areas review are required at this time. For questions related to SEPA review and Critical Areas, please contact the Environmental & Natural Resources Section at (509)574-2300.

Notice of Application:

6. After the application was originally submitted, an internal notice of project review was emailed to representatives of the Transportation Division, the Building and Fire Safety Division, the Environmental and Natural Resources Planning Section, the Water Resources Division, the Utilities Division, and the Yakima Health District on July 18, 2016. Internal comments were received from the Environmental and Natural Resources Planning Section, the Transportation Division, the Water Resources Division, and the Yakima Health District and are addressed under Findings 5, 7(c), 7(l), and 8(c). Copies of the comments are attached for further detail.

Once the application was determined complete, a combined Notice of Application and Notice of Completeness were mailed to property owners within 300 feet of the property and to agencies having jurisdiction or interest in the proposal on August 10, 2016, with the comment period ending August 24, 2016. One neighbor comment was received.

After the comment period had ended, the application was completely revised. A second internal notice of project review was emailed to the above representatives and to the Right-Of-Way Division. Internal comment was received from the Fire Safety Division and is addressed under Finding 7(c). A second combined Notice of Application and Notice of Completeness were mailed to property owners within 300 feet of the property and to agencies having jurisdiction or interest in the proposal on November 10, 2016, with the comment period ending November 28, 2016. One neighbor comment was received and is addressed below:

- a. **Neighbor Comment:** The neighbor provided several comments regarding both the proposed second farm dwelling and the resource setback reduction. The issues are summarized below:
- i. The neighbor stated that the residence to be established as a second farm dwelling has historically been used as a guest house. It is not occupied by a farm employee or family members and there is no recorded farm dwelling covenant.

Staff Finding: The subject lot 181433-12402, in its current configuration, contains only one residence. Only one home per parcel is allowed in the AG zoning district, however the code does allow for a second home to be placed on a property as either an accessory dwelling unit or as a second farm dwelling under either a Type 2 or Type 1 land use

review. The applicants for this project have applied to establish the existing residence as a second farm dwelling after the completion of a boundary line adjustment. Approval of this land use requires certain conditions to be met, which includes requiring a covenant to be recorded stipulating that this second residence be exclusively for use by farm employees, laborers and their family members. This covenant must be recorded in order to finalize the conditional use permit, otherwise the permit will be revoked.

- ii. The neighbor has indicated that the proposed occupant of the second farm dwelling primarily does lawn maintenance and landscaping and any commercial ag operations are incidental.

Staff Finding: The proposed lot that will contain the second farm dwelling is to be 34.9 acres and is considered to be in active agricultural use, which meets the requirement for a second farm dwelling. The applicants, however, will be required to ensure that this home is occupied by a farm employee that is actively participating in the farm. If the home is not occupied by a farm employee, they would be in violation of the permit which could then be revoked.

- iii. The neighbor expressed concerns with the 30' access easements that provide access to the subject lots. They state that the use of the 30' access easement across their parcel is not authorized.

Staff Finding: Subject lots 181433-12401 and -12402 were created under a previously approved short plat recorded under AFN 7227369. The short plat showed that the northern lot has access to Selah Heights Road via a 30' easement recorded under AFN 7059339. The larger lot is shown to have access to Selah Heights via a 30' access easement over the neighbor's property. The description and declaration of this 30' access easement is on the face of the short plat and is signed by both the subject property owner and the neighboring property owner. The declaration states that the easement "shall exist for the benefit of both parties, their successors, and assignees in interest." Based on this, it appears that the proposed 3 acre lot (reconfigured from parcel 181433-12402) would have access via that easement. According to YCC 19.10.040(6)(c), no building, fence or structure, other than a gate permitted by the easement owner can be located within or encroach on a private access easement.

- iv. The neighbor owns an adjacent property that shares a border with the area of the proposed notch of the boundary line adjustment. They object to the proposed resource setback and state that a setback should also be applied from their property.

Staff Finding: To provide a buffer between resource lands and adjacent especially sensitive land uses (ESLUs), such as dwellings, Yakima County Code (YCC) 19.18.205 requires a 150 foot setback from an adjacent AG zoned lot. However, when part of a property line of the lot proposed to contain a new or expanded ESLU adjoins another parcel that is equal to or less than three acres in size and contains a lawfully established ESLU, the resource setback does not apply from that adjoining lot (YCC 19.35.020(6)(d)(vi)). According to the Yakima County Assessor's information, the property owned by this neighbor is 2 acres in size and contains a dwelling that predates the Yakima County Code, therefore the resource setback does not apply from this neighboring parcel and the standard setbacks of the AG zoning district must be met.

Development Standards:

7. The development standards that generally apply for the type of project being proposed are as follows:

- 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: The proposed second farm dwelling and the proposed new residence will conform to all of the applicable regulations of Title 19 and the Agriculture (AG) zoning district, provided the above conditions are met.

- b. **Yards, Lots, Open Space and Off-Street Parking and Loading Spaces:** (YCC 19.10.040(2)(c)) "No yard or lot existing at the time of the adoption of this Title shall be reduced in dimension or area below the minimum requirements in this Title."

Staff Finding: As the proposed second farm dwelling is to be established in an existing residence, it will not reduce the dimension or area of the existing yards.

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

Staff Finding: The applicants are proposing to have the existing primary home and the second farm dwelling continue to use the existing 30 foot wide northern access easement that connects to Selah Height Road. The proposed dwelling that is to be located in the 3 acre parcel is to use an existing 30 foot wide access easement along the east property line of the project site. This easterly access easement was established on the short plat that created parcels 181433-12401 and -12402, SUB2001-00004. The Yakima County Transportation Division provided the following comments:

"Per title 10.08.020 the applicant shall obtain a Road Approach Permit (RAP) from the Yakima County Transportation Division for any existing access 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 build permits cannot be issued without the completion and approval of a Road Approach Permit."

Based on these comments, the applicants will be required to obtain Road Approach Permits (RAPs) for the proposed lots. For further information regarding RAPs, please contact the Yakima County Transportation Division at (509)574-2300.

The Yakima County Fire Safety Division provided the following comment:

“Driveways must meet fire apparatus access requirements. Including width, turnarounds and all weather surface.”

The applicants shall be required to ensure that the driveways meet the fire apparatus access requirements, which includes having the appropriate width, turnaround, and all-weather surface. For further information, please contact the Fire Safety Division at (509)574-2300.

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

Staff Finding: According to Table 19.14-1 Allowable Land Uses, a second farm dwelling (in addition to the owner's single-family residence) on a parcel at least 20 acres in size that is in active agricultural use is considered a Type 1 use in the AG zoning district. However, as the project involves a resource setback reduction for the new residence on the proposed 3 acre parcel, this project is being reviewed under the Type 2 process.

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

Staff Finding: The applicants will be required to obtain and finalize any necessary permits for the proposed dwellings. For more information on building and fire code permits, please contact the Building and Fire Safety Division at (509)574-2300.

- f. **Setbacks, Easements and Right-of-Way:** (YCC 19.10.040(6) & Table 19.11.010-2) Private shared driveways with an access easement sixty feet or less in width require a ten (10) foot from edge of right-of-way or easement building setback in the AG zoning district. Buildings and structures in the AG zoning district also have a ten (10) foot interior side and rear setback from property lines. YCC 19.18.205 also requires a 150 foot setback from other AG zoned lots in order to provide a buffer between resource lands and especially sensitive land uses, such as dwellings.

Staff Finding: The proposed residences do not appear to encroach on the required road or standard property line setbacks. Part of this project involves reducing the resource setback from the east and west property lines of the 3 acre parcel for the new single-family residence. This resource setback reduction is addressed below under Finding 10.

- 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, as illustrated in Figure 19.10.040-2. The third side of the triangle shall be a straight line connecting the 15 foot sides described above. No sign or associated landscaping shall be placed within this triangle so as to materially impede vision between the heights of two and one-half and ten feet above the centerline grade of the streets.”

Staff Finding: The applicants shall ensure that a vision clearance triangle as described in YCC 19.10.040(7)(b) is maintained at the access points onto Selah Heights Road.

- h. **Maximum Building Height and Lot Coverage:** (YCC 19.10.040(8)(a) & Table 19.11.010-2) Building height is considered to be the vertical distance from grade plane to the average height of the highest roof surface. The maximum building height is intended to maintain building and structure heights that are compatible with the character and intent of the zoning district. Lot coverage is the percentage of the area of a lot covered by buildings, accessory structures, or other impervious surfaces. According to Table 19.11.010-2, the maximum building height and the maximum lot coverage are not specified for the AG zoning district.

Staff Finding: This proposal will result in a 34.9 acre parcel that contains about 13,000 sf in structures and a 3 acre parcel with an approximately 4,300 sf residence. As there is no specified building height limit or maximum lot coverage, this project will not exceed these standards. Though a maximum building height is not specified in the AG zoning district, it may be limited by building code, conditions of project review, or state and federal regulations.

- 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 new fencing at this time. If fencing is to be installed in the future, it must meet the requirements of YCC 19.10.040(9).

- 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 Yakima County Code contain examples of exterior lighting sources and fixtures.

Staff Finding: According to the application, no lighting is proposed as part of this project. The applicants shall ensure that all exterior lighting installed in the future meets the requirements as outlined above and in 19.10.040(10).

- 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. Yakima County will utilize existing flood hazard data and mapping to assist applicants with the layout and design of their proposal. If the potential adverse impacts cannot be mitigated through the Flood Hazard Permit under YCC 16A.05, 16C.05 and 16D.05, a critical areas and shoreline permit will be required under Yakima County Critical Areas and Shoreline codes."

Staff Finding: Based on the Yakima County Critical Areas maps, the subject property is not located within a floodplain. As such, a pre-application meeting was not required for this proposal.

- I. **Stormwater Requirements:** (YCC 19.10.040(12)) Stormwater quality and quantity concerns for project permits can be addressed through YCC Chapter 12.10, the State Environmental Policy Act environmental review process, or through the requirements of the Washington Department of Ecology. This is to ensure public and private development projects comply with National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act (CWA) where applicable.

Staff Finding: The Yakima County Water Resources Division provided the following comments regarding surface water runoff:

“Stormwater must be retained on site and upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.130. A Washington State Department of Ecology Industrial Stormwater Permit and Construction Stormwater Permit may be required.”

The applicants will be required to retain all surface water runoff on-site and comply with the requirements of YCC 12.10.130. Any natural drainageways must not be altered or impeded. For questions regarding stormwater information, contact the Water Resources Division at (509)574-2300.

- m. **Parking:** (YCC 19.22) All off-street parking and vehicle storage shall be in conformance with YCC 19.22. According to Table 19.22-2, a single-family dwelling requires 2 parking spaces per dwelling unit.

Staff Finding: The residence to be used as a second farm dwelling currently has 2 hard-surfaced parking spaces, which will satisfy the requirement of Table 19.22-2. For the new residence on the proposed 3 acre parcel, the applicants shall be required to provide at least 2 parking spaces.

Farm Labor Housing Requirements:

8. Farm labor housing consists of temporary worker housing, farm labor dwellings and shelters, and accessory farm dwellings (YCC 19.18.210). Farm dwelling(s) for farm employees, laborers, and their families, not for temporary seasonal housing subject to RCW Chapter 70.114A are subject to the following requirements:

- a. Occupants. The dwelling units are used exclusively to house persons employed or otherwise actively participating in the farm and their family members.

Staff Finding: The proposed second dwelling is to be for a farmworker and his family. According to the application, this employee performs agriculturally related work on the subject parcel.

- b. Regulatory Compliance Required. The facilities shall conform to zoning, building and health regulations.

Staff Finding: The second farm dwelling will conform to zoning, building, and health regulations, provided the above conditions are met.

- c. Access, Water Supply and Sewage Disposal. The location for the units will be reviewed to evaluate access, public safety considerations, and provisions for potable water and sewage disposal, with preference given to community systems.

Staff Finding: The applicants have proposed to have the second farm dwelling use the same northerly 30 foot wide access easement as the primary home. Based on the comments from the Transportation Division, a Road Approach Permit is required for any existing access onto the County roadway system. This driveway will also be required to meet the fire apparatus access requirements as discussed above under Finding 7(c).

As the second farm dwelling is to be established in an existing residence, the applicants have proposed to continue to utilize the existing septic system and the existing shared well. The Yakima Health District (YHD) provided the following comment:

"Well serving proposed 2nd farm dwelling must be reviewed & approved for 2-party use."

The applicants will be required to provide documentation from the YHD showing that the well has been reviewed and approved as a 2-party shared well.

- d. Siting. The units shall be sited with consideration to minimizing negative effects on agricultural productivity of the site and adjoining farm operations, and minimizing effects on residences on neighboring properties.

Staff Finding: The second farm dwelling is proposed to be established in a previously approved residence. This home is located in an area that is near other existing homes and is set at a distance from the existing pasture and orchard areas on-site. Utilizing the existing facilities and access, along with complying with the above conditions, will minimize the effect on neighboring properties.

- e. Covenant Required. A covenant shall be recorded in a form acceptable to the County, stipulating the second farm dwelling or farm labor shelters/center are exclusively for use by farm employees, laborers and their family members.

Staff Finding: The applicant will be required to execute and record a covenant with the County Auditor, stipulating that the second farm dwelling is exclusively for use by farm employees, laborers and their family members.

- f. Second Farm Dwelling. A second farm dwelling for a farm employee and family members, in addition to the primary single-family residence, shall be located on a lot at least 20 acres in size or one-half quarter-quarter section, including public right-of-way, that is primarily in active agricultural use.

Staff Finding: The parcel that will contain the second farm dwelling is proposed to be 34.9 acres in size. As the Yakima County Assessor's information shows the current land use of the site as agriculture and due to the existing orchard and pastureland covering a majority of the parcel, this lot is considered to be in active agriculture.

g. Farm Labor Shelters and Centers.

- i. Ownership. Farm Labor Shelters and Centers shall be owned and maintained by the owner or operator of an agricultural operation which evidences the need for farm laborers; or by an established non-profit organization, housing authority, growers co-op, or other corporate entity with a binding commitment to long-term maintenance and operation of the shelters/center; and
- ii. Annual Inspection. Farm Labor Shelter and Center facilities are subject to an annual inspection for compliance with this Section.

Staff Finding: This proposal is for a second farm dwelling, not a farm labor shelter or center, therefore this portion does not apply to this proposal.

Review Criteria for Especially Sensitive Land Uses:

9. According to YCC 19.01.070(5), especially sensitive land uses (ESLUs) are "those that are, by their nature, especially sensitive to farm, forest or mineral resource, linear transmission facilities and management practices. These land uses include dwellings (excluding caretaker dwellings), schools, day care facilities, churches or other places of worship or assembly, medical facilities such as hospitals, clinics and convalescent care facilities, outdoor recreational facilities and similar uses." YCC 19.18.205(3) provides review criteria for proposals for especially sensitive land uses:

- a. "The proposal will not adversely impact, or interfere with accepted farm, forest or mining practices on adjacent or nearby AG or FW zoned land, or mineral resource designated land, respectively. Consideration shall include the type of agricultural, forest or mining activities in the area and the relative susceptibility to nuisance complaints;

Staff Finding: The 3 acre parcel to be created by the associated boundary line adjustment is to be the site of the proposed new residence. The surrounding parcels that are larger than 3 acres in size and are within the AG zoning district require a 150 foot agricultural resource setback, according to YCC 19.18.205(a)(ii) and 19.35.020(6)(d)(vi). The proposed home will meet the required setback from the north and south property lines. The setback from the east and west is to be reduced in accordance with YCC 19.35.020(6)(b). A letter from the orchard owner to the east accompanied this application and stated that the owner has no objection to the proposal. The surrounding parcel to the north, west, and south will be owned by the same property owner and continue to be used as pasture. The short plat that originally created the subject lots in this proposal also contained a statement notifying purchasers and lessee that the site is situated in an agricultural area and the lots are subject to noise, dust, smoke, odors, and the applications of chemicals resulting in the usual and normal practices associated with nearby agricultural uses. Based on the type of agricultural activities on the surrounding parcel, the existing note on the previous short plat, and on the letter from the nearby orchard owner, it has been determined that the proposal is not likely to adversely impact farming practices on the nearby AG zoned properties.

- b. The proposal uses mitigation measures to reduce the potential for land use conflicts and separate the site from active agricultural, forest or mining activities, such as: landscape buffers and screening identified in Chapter 19.21; special setbacks; site design using physical

features such as rock outcrops, ravines, irrigation canals, or critical areas; or proximity to established dwellings, small lots or other especially sensitive land uses; and

Staff Finding: The proposed location of the 3 acre parcel places the new residence on a relatively flat building site, with reductions to the AG resource setback from the east and west property lines. The location avoids the pastureland to the west that drops down to a Type 5 stream and potential wetlands and keeps the site in the general area of other established homes. According to YCC 19.21.030(2)(g), sitescreening may be required as a condition of approval for resource setback reductions in order to mitigate impacts on especially sensitive land uses. This decision conditions that, at the time of building permit application submittal, the applicant provide a site plan that shows mitigating site screening from the orchard property to the east in accordance with YCC 19.21.030(2)(g).

- c. When in the AG zone, to the maximum extent possible, the especially sensitive land use shall be located on the least productive portion of the property.”

Staff Finding: The proposed home is to be located on a 3 acre parcel that will be positioned in an area currently used for pasture. It will not result in the removal of the orchards that are also located on the subject lots. Therefore, the placement of a single-family residence in the proposed location is not likely to affect agricultural production on the property.

Review Criteria for Administrative Adjustments:

10. The applicants have proposed to reduce the 150 foot agricultural resource setback and locate the new single-family residence 115 feet from the western property line and 75 feet from the eastern property line. YCC 19.35.020(6)(b) states that a reduction to the resource setback requirement “may be granted subject to Type 2 review and recording of a declarative covenant as provided in Section 19.18.205(4), if an applicant can document” the following:

- a. “The lot does not have sufficient buildable area as defined by this code to accommodate the space for the proposed ESLU outside the special setback;

Staff Finding: YCC 19.01.070(2) defines buildable area as “that area of a lot, tract or parcel remaining after the minimum required setbacks, yard areas, open space, sanitary control areas, on-site sewage system and reserve areas, where designated by the Yukima Health District, and excepting any floodplains, wetlands, steep slopes or manmade conditions or restrictions that would prevent construction of a habitable structure under existing County development standards.” The 3 acre parcel that will contain the new residence is to be located along the east property line of the project site. The proposed lot size is the maximum that is allowed for small lots in the AG zoning district and will allow the resource setback to be met from the north and south property lines. This lot location will allow for a building site that is as flat as possible and avoids the critical areas and steeper slopes to the west. It will also allow the lot to still be connected to an existing access easement. Based on the application and on the existing environmental factors, the proposed lot will not have a sufficient buildable area to accommodate the proposed ESLU outside of the special setback.

- b. An intervening physical barrier mitigates the effects of placing an ESLU closer to the agricultural, mineral or forest zoned lot or use; and

Staff Finding: The applicant has not proposed any measures to mitigate the effects of establishing their dwelling closer to the agriculturally zoned lots. As specified in Section 7(b) of this decision, the applicant shall be required to submit a site plan that shows mitigating site screening from the property to the east at the time of building permit submittal.

- c. Based on a response, if any, from the adjoining resource operator, a reduction of the setback will not now, or in the future, adversely affect accepted agricultural, mineral or forest practice.”

Staff Finding: The application contains a letter from the owner of the large AG zoned parcel to the east, subject parcel 181433-11409. This letter states that the resource owner does not have an objection to the requested setback of 75' from the orchard property. As such, it has been determined that the proposed dwelling on the 3 acre parcel will not adversely impact agricultural activity in that area.

BOUNDARY LINE ADJUSTMENT

In order to complete the processing of the Boundary Line Adjustment application referenced above, the following items must be completed and submitted to Public Services, Planning Division within one year. Please note that prior to recording of all documents a letter of authorization must be issued by the Planning Division. Once the documents have been recorded, copies of the recorded documents must be submitted to the Planning Division within 30 days from the date of recording.

1. A Record of Survey shall be prepared by a licensed professional surveyor meeting the requirements of Chapter 58.09 RCW and a copy must be submitted to the Planning Division for review. Every survey filed for record must contain or be attached to a declarative covenant or deeds giving a full and correct description of the lands divided as they appear, including a statement in substantially the following form:

LANGUAGE FOR DECLARATION OF BOUNDARY LINE ADJUSTMENTS: This boundary line adjustment has been made with the free consent and in accordance with the desires of the owner or owners. No fractional part of contiguous lots merged in this action may hereafter be sold, leased, transferred or developed through building permit or other development permit as a division separate or distinct from the land into which it is merged subject to the applicable code that is in effect at the time of application.

2. The Record of Survey shall contain the following disclaimer:

Disclaimer: Approval of this Boundary Line Adjustment does not guarantee a buildable site within said parcel(s). Such determination depends on approvals of water, septic, bulk and dimensional setbacks, and critical area/shoreline requirements.

3. A copy of the attached “Declaration of Reconfiguration of Legal Descriptions”, signed by the property owner(s) of parcels 181433-12401 and 181433-12402, shall be submitted to the Planning Division for review. The existing and proposed legal descriptions that have been stamped by a licensed surveyor must accompany this document. The Declaration must be properly signed and notarized. For your convenience, we have a notary available in our office. **Do not record the Declaration at this time.**

4. A copy of the deed(s) for the property transfer being authorized by this Boundary Line Adjustment, shall be submitted to the Planning Division for review. The deed(s) must be properly signed and notarized. For your convenience, we have a notary available in our office.

William M. Zirkle 181433-11409 (w/ 181433-13405) to William B. Douglas 181433-12402

The deed(s) must receive a Treasurer's excise stamp, which will require you to complete a Real Estate Excise Tax Affidavit form and pay the required tax/processing fee to the County Treasurer. **Do not record the deed(s) at this time.** We will send a letter of authorization to record the deeds after all other requirements have been completed.

5. The road approach(es) for Lot(s) **A, B, and C** must be approved by the County Engineer. Please contact the Traffic Division for the necessary application(s). Notify the Planning Division once the road approach permit is approved.
6. Provide an updated Owner's Commitment or Subdivision Guarantee (Title Report) **not older than 60 days.**
7. All property taxes and special assessments levied and assessed against the subject parcel(s) **181433-12401, 181433-12402, and 181433-11409 (w/ 181433-13405)** must be paid through the entire year in which the Boundary Line Adjustment is finalized. *(If there are back taxes and assessments owed, they will need to be paid also.)* **Please provide proof of taxes being paid to the Planning Division.** If all conditions of the Boundary Line Adjustment have not been met by year's end you may be required to pay all of next year's taxes.

If the above items are not completed and submitted to Public Services, Planning Division, within **one (1) year**, the Boundary Line Adjustment application will expire.

Once copies of all of the above items are submitted, the Planning Division will issue a letter authorizing the recording of the Record of Survey, covenants, declarations, and/or deed(s). Upon proof of recording, the County records will be changed to reflect the authorized action. Please note that in the future all documents transferring the lots must reflect the new parcel descriptions.

Additional Information:

While the following item(s) are not conditions of Boundary Line Adjustment approval, they are noted so that the property owner is aware of additional authorizations or activities that may be needed prior to future sale or development of the lot(s).

Unless all properties involved in this Boundary Line Adjustment are owned free and clear, there is likely at least one financial commitment, such as a mortgage or deed of trust, or perhaps an existing real estate contract, that must be amended, fulfilled, or partially released in order to conform to the new property line(s). It is the responsibility of the applicant(s) to notify the lender and/or contract seller of the Boundary Line Adjustment and take any action(s).

- A. The proposed lots have not been evaluated by the Yakima Health District as part of this application. Permits and approvals must be obtained from the Health District for installation of any on-site sewage disposal or domestic water supply systems.

- B. Portions of this property are subject to the Yakima County Critical Areas Ordinance and/or Shoreline Master Program (WAC 173-19-470). A vegetative buffer and building setback from the Type 5 stream may be required. Furthermore, the filling of marshes, bogs, or swamps is prohibited. Other special development standards may apply and permits may be required for certain types of development. Please contact the Planning Division prior to commencing any grading or development activities on these properties.
- C. The properties involved in this Boundary Line Adjustment are within or adjacent to the Agriculture zoning district. New residences and other Especially Sensitive Land Uses are subject to a 150-foot setback from adjoining Agriculture zoned lot(s), unless reduced as provided by the County zoning ordinance. An application to reduce the setback requirement may be necessary if a residence is to be located on one or more of these lots.
- D. The properties involved in this Boundary Line Adjustment are within the Naches-Selah Irrigation District. The applicant must contact the Naches-Selah Irrigation District to determine if certain irrigation provisions must be made for the proposed parcels (e.g. irrigation easements, water distribution facilities, transfer of water shares, etc.). A copy of the final Boundary Line Adjustment letter will be provided to the Naches-Selah Irrigation District.

If you have any questions, please contact Julia Loudon, Planner, at (509) 574-2300. Remember—The Boundary Line Adjustment is not completed until the Planning Division verifies that the applicant has completed and submitted all required items.


DECISION

Based upon the above findings, the Yakima County Administrative Official hereby Conditionally Approves the application of Bill Hordan, on behalf of Bill Douglas, for a second farm dwelling and a resource setback adjustment with a boundary line adjustment, subject to the conditions listed above.

If you have any questions regarding this decision or the appeal process, please contact Julia Loudon, Planner, at (509)574-2300.

Administrative Official: LYNN DEITRICK, AICP

Designee:


Jason Earles
Planning Section Manager / Zoning and Subdivision

Date:

1/31/17

NOTICE OF APPEAL

In accordance with Section 16B.09 of the Yakima County Code, any person of standing may appeal the Administrative Official's decision to the Yakima County Hearing Examiner. A notice of such appeal shall be filed in writing and delivered to the Planning Division on the 4th Floor of the Yakima County Courthouse, Yakima, Washington on or before 4:00 p.m., 2/14/17. The appeal shall be in writing, shall be accompanied by the filing fee, and shall include:

- A. The appellant's name, address, and telephone number.
- B. Appellant's statement establishing standing to initiate the appeal under Section 16B.09.020 of this Chapter;
- C. An identification of the specific proposal and specific actions, omissions, conditions or determinations for which appeal is sought;
- D. Appellant's statement of the particular grounds for the appeal, setting forth the principal points of appeal and addressing why the appellant believes the decision to be wrong; and
- E. The desired outcome or relief sought by the appellant.

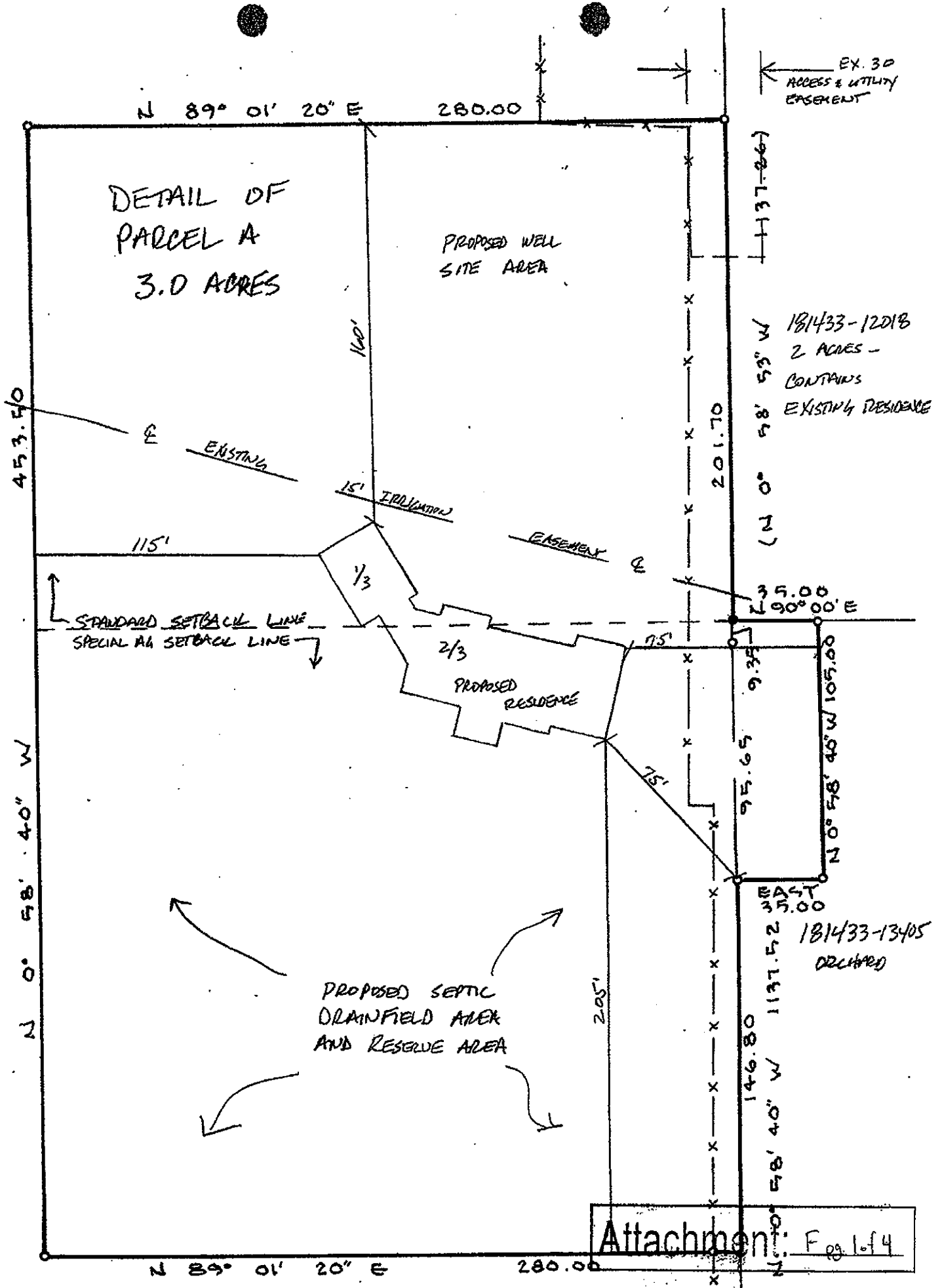
Attachments:

- A. YCC 16B.07.050 – Compliance, Extension, Expiration and Reinstatement
- B. Conditional Use Permit Form/Narrative
- C. Resource Setback Adjustment Form/Narrative
- D. Boundary Line Adjustment Form
- E. General Narrative
- F. Site Plans
- G. Letter from Neighboring Resource Operator
- H. Notice of Application / Completeness dated August 10, 2016
- I. Notice of Application / Completeness dated November 10, 2016
- J. Internal Comments
- K. Neighbor Comment Letter dated August 23, 2016
- L. Neighbor Comment Letter dated November 28, 2016
- M. Second Farm Dwelling Covenant
- N. ESLU Declarative Covenant
- O. Declaration of Reconfiguration of Legal Descriptions
- P. Short Plat recorded under AFN 7227369
- Q. Easement recorded under AFN 2656554

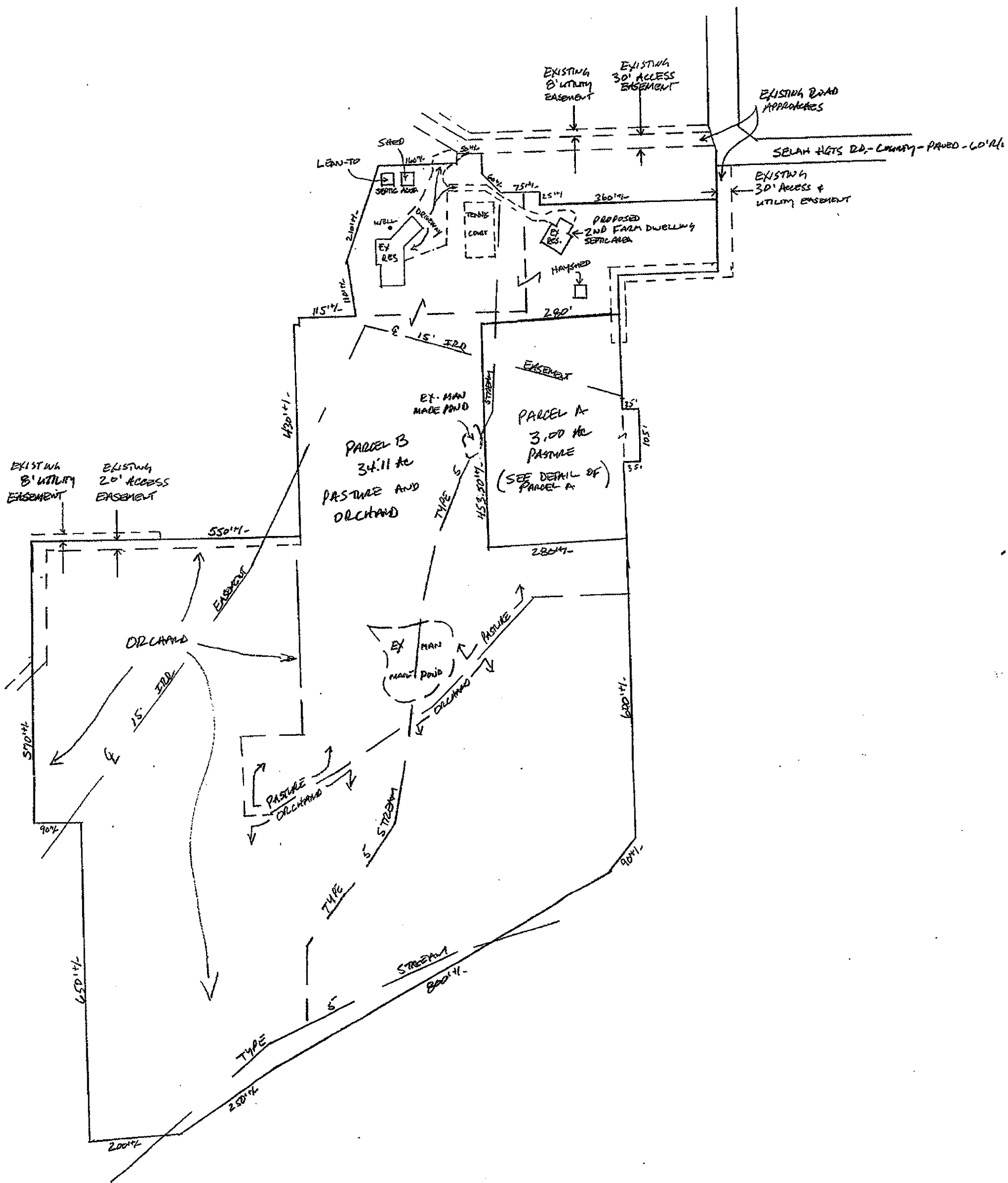
\\NT2\Planning\Development Services\Projects\2016\CUP\Type 1\CUP16-073 Douglas_AG_Accessory farm dwelling\CUP2016-00073 AG_Douglas_Second Farm Dwelling w-BLA and Type 2 res setback_jhw(1)_jwe_FINAL.docx

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.



Attachment: Fig. 1 of 4

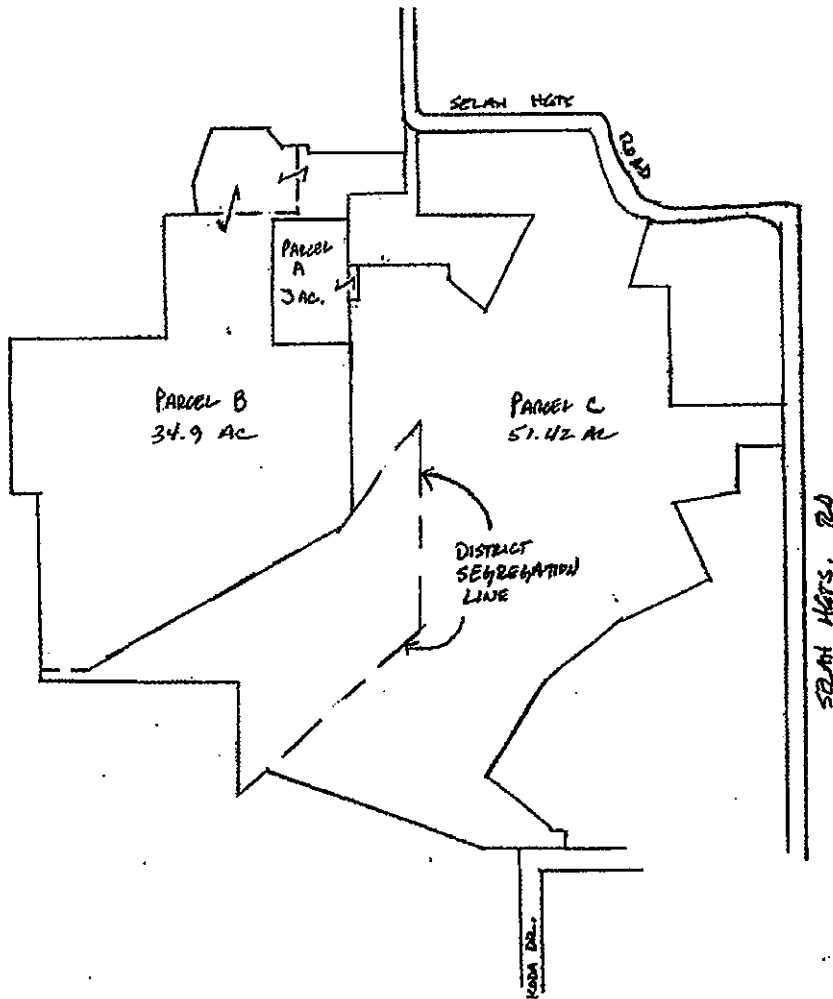


WILLIAM B. DOUGLAS - OWNER
 HORDAN PLANNING SERVICES - REP.
 410 NORTH 2ND ST. YREKA, WA 98901
 509-249-1919
 181433 - 12401 & 12402
 DRAWN 7-14-16
 REVISION 10-6-16

North ↑
 1" = 200'

NOV 01 2016

V _____ Lynn _____
Dave _____ Lisa _____ Carmen _____



NORTH ↑
1" = 600'

Bill Douglas - OWNER
William Zwick - OWNER
HORDAN PLANNING SERVICES - REP.
410 N. 2ND ST. YACOMA, WA 98901
509-249-1919
181433 - 12401, 12402
181433 - 11409 & 13405 - DISTRICT SEG.
10-31-16