




# Public Services

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VERN M. REDIFER, P.E. - Director

## FINDINGS AND RECOMMENDATION OF THE ADMINISTRATIVE OFFICIAL

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| <b>Project Name:</b>                           | Long Ranch, LLC - Minor Rezone   |
| <b>File Numbers:</b>                           | PRJ2017-00905 / ZON2017-00006 / SEP2017-00038  |
| <b>Parcel Number:</b>                          | 171415-22002   |
| <b>Property Owners:</b>                        | Gary Long<br>Long Ranch, LLC<br>8730 S. Naches Road<br>Naches, WA 98937  |
| <b>Representative:</b>                         | Brad Englund<br>Englund Law P.S.<br>105 S. 3 <sup>rd</sup> Street, #105<br>Yakima, WA 98901                            |
| <b>Current Zoning<br/>And Land Use:</b>        | Split-zoned Rural/Extremely Limited Development Potential (R/ELDP)<br>and Agriculture (AG)                             |
| <b>Proposed Zoning:</b>                        | Agricultural (AG)  |
| <b>Comprehensive<br/>Plan Designation:</b>     | Split between Rural Remote/Extremely Limited Development and<br>Agricultural Resource                                  |
| <b>Adjacent<br/>Surrounding<br/>Land Uses:</b> | Agriculture, Residences, and vacant land   |
| <b>Staff Contact:</b>                          |  Dinah Reed, Senior Project Planner |
| <b>Recommendation:</b>                         | <b>APPROVAL</b>  |

## **INTRODUCTION**

On September 7, 2017 Yakima County Public Services Department: Planning Division received a minor rezone application from Brad Englund of Englund Law P.S. on behalf of Gary Long, Long Ranch, LLC.

The application requests an amendment to the official zoning map established by Yakima County Unified Land Development Code Title 19 (Title 19) to change the zoning of a 63-acre split-zoned parcel within the Agriculture (north half) and Rural/Extremely Limited Development Potential (south half) to rezone the entire parcel to Agriculture.

The process for considering minor rezones includes the Hearing Examiner conducting an open record public hearing prior to rendering a recommendation to the Board of Yakima County Commissioners (Board), which makes the decision after conducting a closed record hearing.

Based on the information contained in the application file, technical evaluation by members of the Multi-Disciplinary Team (MDT), a review of Title 19 requirements, and a review of applicable goals and policies of the Yakima County Comprehensive Plan (*Horizon 2040*) the following findings are entered in support of the recommendation of approval with conditions.

## **FINDINGS AND ANALYSIS**

### **Jurisdiction**

1. Title 19.36.030 Minor Rezone – Map Amendment states that “Rezone applications consistent with Table 19.36-1 and not dependent upon a comprehensive plan or sub-area plan amendment shall be considered minor rezones. These quasi-judicial actions, when site-specific, may be processed at any time under Type 4 review pursuant to YCC Section 16B.30.030. According to Table 19.36-1 ‘Zoning District consistency with Comprehensive Plan Future Land Use Designations’ of Title 19, the requested AG zoning district is consistent and may implement the Rural Remote/Extremely Limited Development Potential land use designation of the Yakima County Comprehensive Plan. The review process will consider those sections of Title 19 that control the direction and requirements for considering approval of this application. The Yakima County Hearing Examiner will conduct an open record public hearing, consider the written evidence and testimony presented, prepare a written recommendation, and forward the recommendation to the Board of Yakima County Commissioners (Board). The Board will then consider the recommendation of the Hearing Examiner at a closed record public hearing, deliberate in public, and conclude with the decision. The records of both public hearings shall be open to public inspection (YCC 16B).

### **Project Proposal**

2. This minor rezone application requests an amendment to the official zoning map established by Title 19. It would change the split-zoning of the subject property from Agriculture and Rural/Extremely Limited Development Potential to Agriculture, making the whole parcel within the AG zoning district. No new structures are proposed with this application.

The subject parcel totals 63.30 acres in size with approximately 32 acres on the north half within the Agriculture (AG) zoning district and 31.5 acres on the south half within the Rural/Extremely Limited Development Potential (R/ELDP) zoning district.

An apple orchard has been located on the R/ELDP portion of the property for many decades, since at least 1992 according to aerial photos. In addition to the apple orchard, there is a pasture land for grazing goats on the R/ELDP portion of the parcel. Much of the remainder of the R/ELDP zoned land is, according to WSU Extension Representative Professor Hendrix, “range land having native range plant species of the region that are rare, and suitable for ranging cattle, for native seed collection for reclamation projects, and other agricultural uses.”

### **Project Location**

3. The subject parcel is located at 8736 S. Naches Road, on the south side of the road, approximately 1,660 feet from the intersection of S. Naches Road and Lewis Road, and approximately one mile south of the City of Naches. Parcel no. 171415-22002

### **Property Description**

4. The subject parcel is 63.30 acres. Surrounding parcels in all directions are within the AG zoning district, except for a large ridgeline of Oversteepened Slope with rockier terrain that runs from northwest to southeast for over 6 miles that is zoned Rural/Extremely Limited Development Potential creating about nine (9) split-zoned parcels. This R/ELDP zoned strip is located on the southern half of the subject parcel. According to Professor Hendrix, WSU Yakima County Extension, Animal Sciences/Irrigated Pasture/Range/Riparian Management Department, “All 63.3 acres have excellent soil types and conditions. Long Ranch has planted and managed irrigated pasture on most of the property currently R/ELDP so this is being managed as agricultural property.” Parcels to the east and west are either split-zoned lots or within the AG zoning district, and either in agriculture production or are smaller house sites to the south along the ridgeline. Surrounding parcels range in size from 2+ acres to approximately 20 acres.

### **Comprehensive Plan Designations**

5. According to Yakima County Comprehensive Plan *Horizon 2040*, the subject site is split-zoned and surrounded by both Agricultural Resource land and Rural Remote/ELDP. Agricultural Resource Lands are those lands primarily devoted to or important for the long-term commercial production of horticulture, viticulture, floriculture, dairy, apiary, vegetable, or animal products, not subject to the excise tax imposed by state law, or livestock. Rural Remote/ELDP is designated as having 1 dwelling unit per 40 acres. *Horizon 2040* recognizes and maintains remote rural and extremely limited development potential area development at a level consistent with environmental constraints, carrying capacity of the land and service availability.

### **Zoning**

6. The subject property is currently split-zoned between Agriculture and Remote/Extremely Limited Development Potential. The applicant requests that the entire subject property be rezoned to Agriculture (AG) removing the split-zoned designation. Title 19.11.010(1)(b) states that “The purpose of the 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. The AG district implements the Comprehensive Plan that calls for the preservation of agricultural lands.”

According to Title 19 Table 19.36-1 ‘Zoning District Consistency with Comprehensive Plan Future Land Use Designations’ of Title 19, the requested AG zoning district is consistent and may implement the Rural Remote/Extremely Limited Development Potential land use designation of the Yakima County Comprehensive Plan.

### **Environmental Review**

7. The proposal is not exempt under the State Environmental Policy Act (SEPA) through WAC 197-11-800. A SEPA review was submitted in conjunction with this proposal under SEP2017-00038 and was issued a threshold Determination of Non-Significance on December 7, 2017.

### **Notice of Application**

8. The application was submitted on September 7, 2017, and was deemed complete for processing on September 21, 2017. A Notice of Application, Notice of Completeness, and Notice of Future Public Hearings was mailed to the applicant, agencies with jurisdiction, and adjoining property owners on September 26, 2017, with the comment period ending October 10, 2017.

Notice of the January 18, 2018 public hearing was provided in the following manner:

- Notice of Public Hearing was mailed to adjoining property owners on December 7, 2017.
- Publishing of a legal notice of the open record public hearing notice in the Yakima Herald-Republic: December 7, 2017
- Posting of hearing notice on the property: January 3, 2018

### **Comments**

9. One comment letter was received from State of WA Department of Ecology during the comment period. There were no internal comments from Yakima County Divisions.

“Based upon the historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. Ecology recommends that the soils be sampled and analyzed for lead and arsenic, and for organochlorine pesticides. If these contaminants are found at concentrations above the Model Toxics Control Act cleanup levels Ecology recommends that potential buyers be notified of their occurrence.

*Staff finding: Questions regarding these comments should be directed to Valerie Bound at (509) 454-7886. See attached comment letter.*

### **Rezone Considerations**

10. There are eight decision criteria for minor rezone required by Title 19.36.030(5). The decision criteria, summary/excerpts of the applicant's response, and staff findings are addressed below.

**a. The testimony at the public hearing;**

*Staff Finding: The open record public hearing is scheduled for January 18, 2018.*

**b. The suitability of the property in question for uses permitted under the proposed zoning;**

*Staff Finding: If approved, the applicant's request will change the Yakima County Zoning Official Zoning Map from being split zoned between AG and R/ELDP zoning districts to the entire property being zoned AG, which is the same zoning district of the contiguous parcels to the north and south. The parcel is resourceful in agricultural production and has senior water rights for irrigation purposes. Presently, the subject parcel has a variety of agricultural entities existing, such as; orchards, pasture/grazing land for goats, native grasses production, irrigation pond, and cattle ranch.*

**c. The recommendation from interested agencies and departments;**

*Staff Finding: No recommendations have been received from agencies outside of Yakima County Public Services, or from neighboring property owners.*

**d. The extent to which the proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Comprehensive Plans, adopted neighborhood plans and the intent of this Title;**

*Staff Finding: Pertinent Goals and Policies from **Horizon 2040** that support this proposed minor rezone are listed below:*

*Purpose Statement LU-R 2 – Agricultural lands within rural areas promote rural character and contribute to the County's overall economic base. As such, commercial agricultural operations within rural areas should be protected until farmers are ready to convert agricultural lands to other uses. This goal and related policies recognize agriculture's importance in the rural areas, and seek to prevent conflicts between agricultural activities and other land uses.*

- *GOAL LU-R 2: Recognize agriculture as an important economic activity within designated rural areas.*

*The subject parcel resourcefully implements a variety of agricultural production techniques. Although the R/ELDP portion is rocky, it has supported an orchard since the early 90s (based on aerial photography). The subject parcel is irrigated and supports pasture land for raising of farm animals. Other portions of the parcel to the north, in the flatter areas, have crops in production where the land owner is testing different means of "protection against sunburn of fruit". Additionally, the property owner raises and clones'*

*bulls. The entire Long Ranch parcel is enrolled as Current Use-Agriculture. Overall the entire parcel has several different commercial AG-related techniques in operation which meet the intent of the AG zoning district "to preserve and maintain areas for the continued practice of agriculture...and protection of agricultural lands of long-term commercial significance..." per YCC 19.1..010(1)(b).*

- e. The adequacy and availability of public facilities, such as roads, sewer, water and other required public services;**

*Staff Finding: The site is easily accessed by a private driveway from South Naches Road. Sanitary disposal is provided via septic system and the property has an individual well for domestic water. The parcel is within the Naches-Selah Irrigation District. The R/ELDP zoning district is described in YCC 19.11.030(1) as a district that does not have adequate services available. Based on public facilities that are served to the subject parcel (roads, water, septic and irrigation), there is a supporting reason that the parcel is in a location that is suitable for viable agriculture production and could be rezoned to AG.*

- f. The compatibility of the proposed zone change and associated uses with neighboring land uses;**

*Staff Finding: The parcel to the west of the subject parcel is also owned by Mr. Long and portions of that parcel have been and are in agriculture production with orchards and pasture grazing. To the northeast, parcels are small (< 1 acre to 3.35 acres) that are house sites and are not in agriculture production. Parcels to the east and southeast are larger in size, have houses on them and have portions of their parcels in agricultural production. The adjacent parcel to the east that is within the R/ELDP zoning district has viable agriculture land planted in orchards. Adjacent parcels and portions of the subject parcel to the north are in agriculture production. Parcels to the south are within the AG zoning district, are smaller in area and are primarily house sites at the top of a ridgeline, and are not in agriculture production. Based on the use of the adjacent parcels, changing the R/ELDP portion of the subject parcel to AG would likely be compatible with surrounding parcels and land uses.*

- g. The public need for the proposed change; and**

*Staff Finding: **Horizon 2040 5.10.3 Agricultural Resource Areas Land Use Category, Agricultural Resource Areas, states under General Description "Agricultural Resource lands are those lands primarily devoted to or important for the long-term commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products, not subject to the excise tax imposed by state law, or livestock. Generally, lands in Yakima County zoned Agriculture can be considered resource lands of long-term commercial significance... The location of agriculture has been strongly influenced by the construction of irrigation facilities. Cultivated agriculture in Yakima County is heavily concentrated in and around the valley floors, while grazing lands and most orchards are located along many of the hillsides...Yakima County's economic well-being depends upon a healthy agricultural environment."***

*According to the applicant's narrative, "the property was homesteaded in 1884 by shepherders. The entire parcel has senior water rights that come from the Scott Ditch, which are among the earliest water rights established in the Valley." The subject parcel has been historically in agriculture use for generations, and is provided with senior water rights. Most R/ELDP zoning districts are zoned as such because they lack irrigation water and are basically economically unsuitable as a resource which is the best interest of the public. The subject parcel is more suited for the whole parcel to be within the AG zoning district because the entire parcel is capable of being an economically productive resource entity.*

*According to Professor Hendrix of the WSU Yakima County Extension, Animal Sciences/Irrigated Pasture/Range/Riparian Management Department, "Mr. Long has protected upland range area that currently is the best example of native range species of the region that I have seen. The range area is agricultural, but a rare condition of native range as it appeared when the pioneers first entered the region."*

*Additionally, the native range grasses that grow on the subject parcel are capable of being utilized in other areas of the county within agricultural areas for the purpose of re-seeding and/or reclamation projects. Returning the land to agricultural production supports **Horizon 2040**.*

**h. Consistency with the criteria set forth in Chapter 16B.10.**

*Staff Finding: The criterion listed in Chapter 16B.10 applies to Major Rezones (Comprehensive Plan and Regulatory Amendments). The subject proposal is allowed as a Minor Rezone, therefore is not applicable to 16B.10.*

**Consistency Analysis (YCC 16B.06.020)**

**11.** 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. 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:

**a. The type of land use;**

*Staff Finding: The purpose of the 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.*

*As a Type I land use, the AG zoning district allows uses, such as: a Winery, Brewery, Distillery, farm labor shelter, dwellings, bed & breakfast inn, and any agricultural use to include silviculture, and animal feeding operations (except for CAFO's). These uses are*

*not notified to neighboring property owners, however according to Yakima County Title 19, these types of uses are compatible with AG zoned lots and would not have any adverse impact on the land or to neighboring property owners.*

*Type 2 land uses in the AG zoning district include, for example: Retail level AG Tourist Operations, agricultural service establishments (crop dusting and spraying, harvesting and plowing services, specialized farm equipment service and repair, large animal veterinary, agricultural fertilizer and chemical product application service), farm labor centers, churches, police/fire stations, etc. (all of which would be subject to a public comment period by neighboring property owners) which can influence the final land use decision.*

*Type 3 uses (typically not compatible with the surrounding land uses) include, for example: fertilizer/chemical manufacturing, solid waste transfer station, retail nursery, power generating facilities, sewage treatment plants, etc. (all of which require a public comment period and the opportunity to make comment at an open record public hearing) before being approved by the Hearing Examiner.*

*The applicant is not proposing any new uses with this minor rezone, however, most of the Type 1 and 2 uses allowed in the AG zoning district would be compatible with the location of the subject parcel and its' availability of services.*

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

*Staff Finding: This is a non-project rezone; therefore, no development is being permitted with this rezone. However, it should be noted that rezoning the portion of the subject parcel allows for a change in density via a future subdivision in the AG zoning district using the small lot provision. Whereas, the R/ELDP zoning district has a minimum lot size of 40 acres or 1/16 of a section and the parcel presently is not eligible for a short subdivision.*

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

*Staff Finding: No new uses are proposed with this application, however, if additional development was proposed in the future, the parcel is easily accessed from a County Road, is supported by domestic water, septic and irrigation water.*

- d. The characteristics of the development, such as development standards.

*Staff Finding: This is a non-project rezone, no land uses will be approved by this application. Future uses will be required to meet the standards of the county's development regulations. Therefore, the rezone is consistent with this factor.*

## **CONCLUSIONS**

1. The minor rezone proposal meets the approval criteria of Title 19.36.030(5) and complies with the goals and policies of the Yakima County Comprehensive Plan **Horizon 2040** subject to input by the public at the upcoming public hearings.
2. This is a non-project rezone request.



## **RECOMMENDATION**

The Yakima County Planning Division recommends *APPROVAL* of the proposal to rezone the subject area from Rural Remote/Extremely Limited Development Potential to Agriculture, as identified on the attached map, subject to consideration of testimony from interested parties at the public hearings.

Attachments:

Current zoning map

Proposed zoning map

Current Zoning Map



Proposed Zoning Map

