



Public Services

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LISA H. FREUND – Director

FINDINGS AND RECOMMENDATION OF THE ADMINISTRATIVE OFFICIAL

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| Project Name: | Foster/Curtice - Minor Rezone |
| File Numbers: | ZON2019-00001 / SEP2019-00001 |
| Parcel Number: | 181432-13441 |
| Property Owners: | Kristi Foster and Jim Curtice 1963 Old Naches Highway Yakima, WA 98908 |
| Current Zoning And Land Use: | Rural 10/5 (R-10/5) |
| Proposed Zoning: | Agriculture (AG) |
| Comprehensive Plan Designation: | Rural Self Sufficient |
| Adjacent Surrounding Land Uses: | Residential and Agricultural Resource |
| Staff Contact: | Dinah Reed, Senior Project Planner |
| Recommendation: | APPROVAL |

INTRODUCTION

On January 7, 2019 Yakima County Public Services Department: Planning Division received a minor rezone application from Kristi Foster and Jim Curtice.

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 6.15-acre parcel within the R-10/5 zoning district to AG.

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.

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 (BOCC), 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.

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 Rural Self-Sufficient plan designation is consistent and may implement the Agriculture 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 BOCC. The BOCC 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 zoning of the 6.15-acre parcel from R-10/5 to AG. No new structures are proposed with this application.

Project Location

3. The subject parcel is located on the east side of Old Naches Highway, approximately ¼ mile northeast of the intersection of Old Naches Highway and East Glead Road, and approximately 2 miles southwest of the City of Selah. Parcel no. 1814320-13441

Property Description

4. The subject parcel is 6.15 acres. Parcels to the south and east are within the R-10/5 zoning district. The parcel directly to the south is 6.11 acres and is developed with a house. The 40+ parcels to the east are part of a subdivision called Del Mar Acres (1970s) with residential lots approximately ½ acre in size. Parcels to the north and west are within the AG zoning district and range in size from approximately 1.0 acre to a 13.80 acre parcel in agriculture production. All have house sites on the them. The subject parcel abuts six parcels developed with residences.

Comprehensive Plan Designations

5. According to Yakima County Comprehensive Plan *Horizon 2040*, the subject site is designated Rural Self-Sufficient. "The intent of the Rural Self-Sufficient land use category is to implement Growth Management Act Planning Goals related to reducing sprawl, protecting the environment and providing adequate facilities and services commensurate with the density of development. The Rural Self-Sufficient category provides a broad choice of areas within rural Yakima County where an independent and private lifestyle can be sustained on acreage homesites..."

Zoning

6. The subject property is currently zoned R-10/5. The applicant requests that the subject property be rezoned to AG. Title 19.11.010(1)(b) states,

"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 Self-Sufficient 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 SEP2019-00001 and was issued a threshold Determination of Non-Significance on February 28, 2019.

Notice of Application

8. The application was submitted on January 7, 2019 and was deemed complete for processing on January 31, 2019. A Notice of Application, Notice of Completeness, Notice of Environmental Review, and Notice of Future Public Hearing was mailed to the applicant, agencies with jurisdiction, and adjoining property owners on February 12, 2019, with the comment period ending February 26, 2019.

Notice of the April 4, 2019 public hearing was provided in the following manner:

- Notice of Public Hearing was mailed to adjoining property owners on February 12, 2019.
- Publishing of a legal notice of the open record public hearing notice in the Yakima Herald-Republic: February 12, 2019
- Final Action DNS-SEPA was mailed to adjoining property owners on February 28, 2019.

- Posting of hearing notice on the property: March 20, 2019

Comments

9. No comments were received from agencies outside of the Yakima County Public Services. Specific comments were received internally from the Transportation Division and Long Range Division.
- a) Transportation Division – “This parcel is fronted by Old Naches Highway. The reduction in density by converting from R10/5 to AG would be beneficial to the protection and lifespan of the roadway. There is adequate roadway infrastructure for this proposal. Yakima County Roads does not see a negative impact for this proposed change.”
- b) Long Range Division – “The subject property is designated Rural Self-Sufficient by *Horizon 2040's* Future Land Use Map. Several policies apply to Rural Self-Sufficient areas, including:
- a. Policy LU-R-10.4: "Where County maintained hard surfaced roadways are used for access, allow a maximum density of one unit per 5 acres, provided that the new development is within a fire district and not more than 5 road miles from a year-round responding fire station."

When considering the Decision Criteria provided by YCC 19.36.030(5), it should be noted that the proposed AG zone does not comply with the following criterion:

- b. YCC 19.36.030(5)(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;"

Rezone Considerations

10. There are eight decision criteria for minor rezones required by Title 19.36.030(5). The decision criteria, summary 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 April 4, 2019.

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

Applicant response, in summary: The subject parcel has historically been used for agricultural purposes, primarily as an orchard, with senior water rights via the Glead Canal. The applicant expresses that since the subject property has good agricultural soils, has irrigation rights, and has historically been in agricultural production that it is logical to rezone the property to AG.

Staff Finding: If approved, the applicant's request will change the Yakima County Zoning Official Zoning Map from R-10/5 to AG. The subject parcel has prime agriculture soils, and according to aerial photos was in agricultural production as an orchard until before it was developed with a house site in 2005.

According to Table 19.14-1 Allowable Land Use Table, most uses that are allowed in the R-10/5 zoning district are also allowed in the AG zoning district. However, there are a few uses that are a Type 1 (Administrative use not subject to public comment) in the AG zoning district that are a higher level of review (Type 2, subject to public comment) in the R-10/5 zoning district. For example, uses that would become a Type 1 review and not subject to public comment if the subject parcel were to be rezoned to AG are:

- *AG Related Industry*
- *Micro-Brewery*
- *Craft Distillery*
- *Farm Labor Shelter*
- *Winery*

Although these uses are allowed in the R-10/5, they would be a Type 2 review in the R-10/5 and subject to a public comment period. If neighboring property owners felt that an adverse impact to these uses would be significant they would be able to provide comment, which would be taken into consideration and possibly require mitigation of the property owner.

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;

Applicant response, in summary: The applicant argues that rezoning the subject parcel to AG would be adding to the agricultural land base, which supports the economic well-being of Yakima County's healthy agricultural environment.

Staff Finding: According to Table 19.36-1 "Zoning District Consistency with Comprehensive Plan Future Land Use Designation", the Rural Self-Sufficient Plan Designation is consistent with the AG zoning district.

Goals and Policies that support the agricultural base include:

- *GOAL LU-ER-AG 1: Maintain and enhance productive agricultural lands and discourage uses that are incompatible with farming activities.*

- *Policy LU-ER-AG 1.1: Encourage conservation of the County's high-quality agricultural lands for productive agricultural use and protect the opportunity for these lands to support the widest variety of agricultural crops.*

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

Applicant response, in summary: *The property is served by Old Naches Highway and Glead Fire District #6, which are sufficient to serve the current use of the property and any additional AG uses.*

Staff Finding: *If the subject parcel were rezoned to AG, the AG zoning district allows individual wells and septic systems. It is adequately served by a paved County Road and fire district. Therefore, public facilities are adequate and available for the rezone.*

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

Applicant response, in summary: *Most of the neighboring parcels are in agriculture, therefore rezoning to agriculture should not have an impact on neighboring residences.*

Staff Finding: *The 13.80 acre parcel abutting to the north, which is the largest parcel adjacent to the subject parcel, is in agriculture production with orchards. Six other abutting parcels that are smaller, ranging in size from 1.28-0.42 acres, have residences developed on them, considered Especially Sensitive Land Uses (ESLU). According to Title 19.18.205(2)(a) "where any existing or proposed lot borders on agriculture...a building setback for especially sensitive land uses is required from the adjoining resource land..."*

If the subject parcel were to be approved for the minor rezone to AG, the six adjacent parcels with house sites would be subject to a 150-foot setback from the subject parcel if they were to construct an enclosed addition to their home, i.e. any living space, attached garage, or deck/porch that had a roof. (Attached garages and decks/porches with roofs are included because theoretically they could be converted to living space in the future.) Presently zoned as R 10/5, those six adjacent parcels are subject to an agricultural resource setback of 60 feet if the subject parcel were in commercial agricultural production (19.18.205(2)(a)(i)).

Using the measurement tool in the County's GIS system on the aerial photography, it appears that all six parcels have house sites that are closer than 150 feet from the subject parcel. If the subject parcel were rezoned to AG, it would render those six adjacent parcels as having legal non-conforming structures as a result of not meeting the 150-foot setback. However, those property owners would be able to apply for a Type 1 administrative adjustment if they were to construct additions to their homes that abutted the property lines zoned AG. Type 1 administrative adjustments do not create a substantial adverse impact.

- g. **The public need for the proposed change. Public need shall mean that a valid public purpose, for which the Comprehensive Plan 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 may 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; and**

Applicant response, in summary: AG zoned land is resource land and increasing the acreage supports the Comprehensive Plan's goal to maintain and enhance productive agricultural lands.

Staff finding: The applicant has stated no facts that demonstrate the need for the proposed change or that a valid public purpose would be served by the proposed rezone. The subject parcel is adjacent to approximately 19,000 acres of land that is within the AG zoning district, demonstrating there is no substantive need for 6.15 additional acres to be rezoned AG. Farming would not be impeded in the current R-10/5 zone, in which it is a Type 1 use.

- h. **Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone.**

Staff Finding: The applicants' narrative has stated no substantial change in circumstances to warrant the rezone. Staff knows of no such change in circumstances.

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: If approved, the applicant's request will change the Yakima County Zoning Official Zoning Map from R-10/5 to AG. In accordance with the Table of Allowable Land Uses – 19.14, the AG zoning district allows the following as a Type 1 use that are a higher level of review in the R-10/5 zoning district -- uses that would not require noticing of property owners within 300 feet, therefore would not provide neighboring property owners an opportunity to provide comment:

- *AG Related Industry*
- *Micro Brewery*
- *Craft Distillery*
- *Farm Labor Shelter*
- *Winery*

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

Staff Finding: The subject parcel is presently within the R-10/5 zoning district that allows a 5-acre density "where County maintained hard surfaced roadways are used for access, a new development is within a fire district and not more than 5 road miles from a year-round responding fire station." Presently, the applicant would need at least 10 acres of land to subdivide. If the subject parcel were rezoned to AG, the small lot provision of the AG zoning district would allow the existing house to be subdivided from the subject parcel (1-3 acres), leaving a vacant lot that can be developed, therefore increasing the density of the area.

The subject parcel is located in an area that is already developed as a high-density area even though it is within a rural zoning district. Directly to the north is a 1.10 acre parcel, to the west is a 1.28 acre parcel, and to the east is a large, high-density subdivision with 80 plus lots that are smaller than 1/2 acre. If the subject parcel were subdivided, the impact of smaller lots would be unremarkable compared to the existing adjacent density.

- 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 accessed from Old Naches Highway, and can apply for a domestic well and septic system. YCC Title 19 would require any future development of the property to comply with current adopted regulations for infrastructure which would include a determination for water availability and other related development standards.

- 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

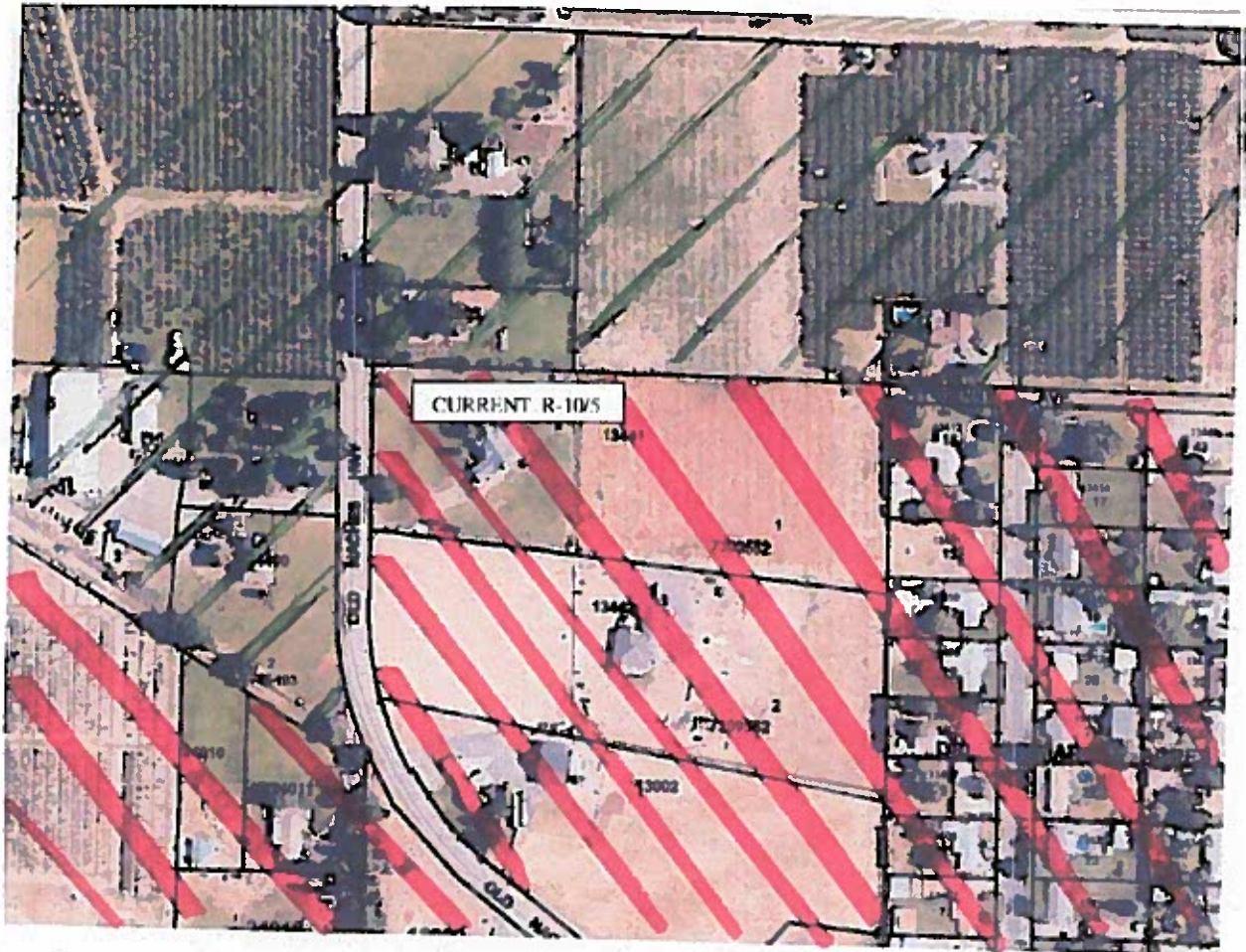
1. The prime agriculture soils and existing irrigation rights of the subject parcel supports the rezone to AG.
2. Yakima County Unified Land Development Code Title 19, Table 19.36-1 states that the Rural Self-Sufficient Plan Designation is consistent with the AG zoning district.
3. This is a non-project rezone request.

RECOMMENDATION

The Yakima County Planning Division recommends *Approval* of the proposal to rezone the subject 6.15 acre parcel from Rural 10/5 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
Green = AG
Red = R-10/



Proposed Zoning Map
Green = AG
Red = R-10/

