

**FINDINGS AND RECOMMENDATION
OF THE
ADMINISTRATIVE OFFICIAL**

Project Name:	Heffron Minor Rezone
File Numbers:	PRJ2017-00658 / ZON2017-00005 / SEP2017-00026
Parcel Number:	221034-31402, 221034-32403, 221034-32404
Property Owners:	Alan L. Heffron (c/o Kellen J. Holgate and Halverson Northwest Law Group, P.C.) P.O. Box 22550 Yakima, WA 98907
Representative:	same as owner
Current Zoning And Land Use:	Mining (MIN)
Proposed Zoning:	Agricultural (AG)
Comprehensive Plan Designation:	Agricultural Resource
Adjacent Surrounding Land Uses:	Mining and Agriculture
Staff Contact:	Dinah Reed, Senior Project Planner – Zoning and Subdivision
Recommendation:	<i>APPROVAL</i>

INTRODUCTION

On July 14, 2017 Yakima County Public Services Department: Planning Division received a minor rezone application from Alan L. Heffron (c/o Kellen J. Holgate and Halverson Northwest Law Group, P.C.).

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 the subject parcels from Mining (MIN) with a Mineral Resource Overlay to Agriculture (AG).

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 (*Plan 2015*) 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 Agricultural Resource 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 zoning of the subject property from Mining (MIN) to Agriculture (AG). No new structures are proposed with this application.

The subject properties consist of three parcels totaling approximately 15 acres in size and have been an active mining and rock crushing operation that has existed since 1946. This activity was previously permitted under file numbers SPU80-148, SPU80-149, SPU15-1982, and

CUP20013-092/SEP20013-045. In 2016, after mining operations terminated, the applicant sought and received a cancellation of its NPDES permit (Permit No. WAG 505132) as well as its' Surface Mine Reclamation Permit (Permit No. 70-012907).

According to the applicant, the subject parcels are no longer economically viable for use as a mining operation, and their highest and best use would be for agricultural purposes. The applicant plans to level the site and evenly distribute topsoil. After these improvements, the site will be suitable for orchard or vineyard development, consistent with the Agricultural zoning district.

Project Location

3. The subject parcels are located off of Snipes Mountain Lateral less than one mile west of Emerald Granger Road and ½ mile west of I-82 and approximately one mile southwest of the City of Sunnyside. Parcel nos. 221034-31402, 221034-32403, 221034-32404

Property Description

4. The three subject parcels total 14.94 acres. All surrounding parcels are within the AG zoning district. There is a 66 acre parcel to the south, which has the Mineral Resource Overlay, and several parcels to the west which have the Mineral Resource Overlay totaling approximately 365 acres. There are three house sites directly adjacent to the Mineral Resource Overlay zoned land which are within the AG zoning district.

Comprehensive Plan Designations

5. According to *Plan 2015*, the subject site and all surrounding lands have the plan designation of Agricultural Resource land use. 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.

Zoning

6. The subject property is currently zoned Mining (MIN). The Yakima County Unified Land Development Code Title 19 (19.11.020(1)) states that the MIN zoning district is established to provide long-term sites for heavy industrial uses in conjunction with a mining site/operation. Uses within this zoning district are likely to cause smoke, noise, odors, dust, fumes, visual impacts, and heavy equipment traffic.

The applicant requests that the subject property be rezoned to Agriculture (AG). 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 Agricultural Resource 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 SEP2017-00026 and was issued a threshold Determination of Non-Significance on September 1, 2017.

Notice of Application

8. The application was submitted on July 14, 2017, and was deemed complete for processing on July 26, 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 August 1, 2017, with the comment period ending August 15, 2017.

Notice of the September 21, 2017 public hearing was provided in the following manner:

- Notice of Public Hearing was mailed to adjoining property owners on August 1, 2017.
- Publishing of a legal notice of the open record public hearing notice in the Yakima Herald-Republic: August 1, 2017
- Posting of hearing notice on the property: September 6, 2017

Comments

9. One comment letter was received from Sunnyside Valley Irrigation District during the comment period.

Sunnyside Valley Irrigation District – “SVID does not have any facilities with the above referenced parcels.”

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 September 21, 2017.

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 MIN zoning district to the AG zoning district, which is the same zoning district of all contiguous parcels.

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 **Plan 2015** 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.*
- *GOAL LU-ER-MR 3: Ensure that mineral resource site utilization is consistent with other **Plan 2015** goals and recognize that mining is an interim land use.*
 - *POLICY LU-ER-MR 3.5: Encourage that all mineral sites be reclaimed for future use in accordance with **Plan 2015** goals. Promote innovative, adaptive re-use or reclamation planning.*

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

Staff Finding: According to the case file CUP2003-092, “access to the site is via private roads from two directions that connect to public roads, which are Emerald Road to the south and Concord Drive to the north. The two private roads are improved with asphalt surfacing 10-16 feet in width”.

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

Staff Finding: The subject parcels are surrounded in all directions to several parcels within the Agriculture (AG) zoning district. In addition to the subject parcels, the applicant also owns the properties directly to the north and east. The subject parcels and the surrounding contiguous parcels are all outside of the Urban Growth Area of Sunnyside. Some of the surrounding parcels contain productive orchards and vineyards, some of which are located on grounds formerly mined. Dispersed around the agricultural lands with ½ mile of the subject properties are approximately 11 residences, most of which are along the county roads.

g. The public need for the proposed change; and

Staff Finding: The request would serve public need by retaining more AG zoned land. The applicant proposes that the parcels would be leveled out and have the topsoil evenly distributed to make them suitable to be planted in orchards or vineyards. According to the Yakima County GIS data, the parcels are categorized as being prime farmland if irrigated, similar to the AG zoned parcels to the north and east which are planted in orchards/vineyards. The parcels are also within the Sunnyside Valley Irrigation District boundary and capable of being irrigated.

Plan 2015 Economic Resource Lands Section, Agricultural Resource Areas, states “Yakima County’s economic well-being depends upon a healthy agriculture environment. The County has been ranked first statewide in terms of the value of all agricultural products sold; other reports have listed the County in the top five and number one nationally in production of certain commodities.” Returning the land to agricultural production supports Plan 2015.

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

Staff Finding: The criterion listed in Chapter 16B.10 is not applicable to minor rezone requests.

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 1 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.

- 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.

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

Staff Finding: No new uses are permitted with this application.

- 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 (**Plan 2015**) subject to input by the public at the upcoming public hearings.
2. This is a non-project rezone request.
3. The minor rezone to Agriculture will allow the property owner to convert the use of land back to a productive agricultural use such as orchards or vineyards, similar to adjacent parcels to the north and east of the subject parcels.

RECOMMENDATION

The Yakima County Planning Division recommends **APPROVAL** of the proposal to rezone the subject area from Mining 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

