

AGENDA REQUEST FORM

**Return completed form and complete agenda item to the Clerk of the Board
Yakima County Commissioners' Office, Room 232**

Prepared by:
Lisa Freund
Department: Public Services
Requested Agenda Date: 05/26/2020
Presenting: N/A
Document Title:

Board of County Commissioners Record Assigned

171-2020

APPROVED FOR AGENDA:
 Consent Regular
Board of County Commissioners Determined

Correction to previously submitted and approved RESO 171-2020.
On the Matter of signing the Resolution for "Bruggeman Estates", a residential Master Planned Development Overlay and 10-Lot Subdivision ZON2019-00002 / SUB2019-00031, and Development Agreement.

Action Requested: *Check Applicable Box*

PASS RESOLUTION EXECUTE or AMEND AGREEMENT CONTRACT or GRANT
 ISSUE PROCLAMATION PASS ORDINANCE OTHER _____

Describe Fiscal Impact:

N/A

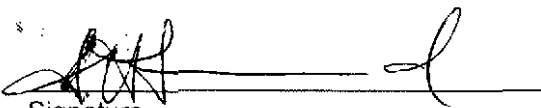
Background Information:

Bruggeman Estates Master Planned Development is proposed to be a premier residential 10-lot subdivision located on two parcels along the north side of Summitview Avenue. The project will subdivide 10.01 acres into 10 single-family lots, varying lot sizes from 0.75 acre to 0.96 acres. Access to the plat will be off Summitview Avenue, with a 30-foot wide private road and a meandering asphalt pathway for sidewalks. The property will feature approximately 900 lineal feet of asphalt walking path, and 520 lineal feet of gravel walking path, and a 2,400 square foot greenspace picnic area. The subdivision will also have 27,900 square feet of recreational area that can be used for various recreational and sporting activities.

Summary & Recommendation:

The Hearing Examiner recommended approval with conditions of ZON2019-00002 / SUB2019-00031 on February 3, 2020.

Motion:

Department Head/ Elected Official

Signature

AGREEMENT Attached Is Approved as to Form
Corporate Counsel Initial _____

Late Agenda Requests Require BOCC Chairman Signature:



**BOARD OF YAKIMA COUNTY COMMISSIONERS
RESOLUTION**

**IN THE MATTER OF APPROVING THE
MASTER PLANNED DEVELOPMENT
OVERLAY (MPDO), DEVELOPMENT
AGREEMENT, AND SUBDIVISION
KNOWN AS "BRUGGEMAN ESTATES"
(FILE NO. ZON2019-00002/SUB2019-00031)**

17 1 - 2 0 2 0

WHEREAS, in accordance with Yakima County Title 19 Unified Land Development Code relating to platting, subdivision, and the dedication of land, adopted pursuant to RCW 58.17, the Board conducted a closed record public hearing on May 19, 2020 for the purpose of considering the Master Planned Development Overlay, Development Agreement, and Preliminary Long Plat known as "Bruggeman Estates" submitted by Mike Heit of HLA Surveying and Engineering, on behalf of Ludwig Bruggeman (File No. ZON2019-00002/SUB2019-00031); **and**,

WHEREAS, testimony was taken from those persons present who wished to be heard; **and**,

WHEREAS, due notice of the hearing was given as required by law, and the necessary inquiry has been made into the public use and interest to be served by such platting; **and**,

WHEREAS, the Board has considered the master planned development overlay, development agreement, and preliminary long subdivision and finds that the project is in compliance with the Hearing Examiner's recommendations; **and**,

WHEREAS, the Board has considered elements of public health, safety and general welfare pertaining to the preliminary long plat; **now, therefore**,

BE IT HEREBY RESOLVED by the Board of Yakima County Commissioners:

Section 1. Decision. The Board of Yakima County Commissioners adopts the Hearing Examiner's findings and recommendations for conditional approval of the master planned development overlay, development agreement, and preliminary long plat known as "Bruggeman Estates", attached hereto.

Section 2. Effective Date. The preliminary approval of the master planned development overlay, development agreement, and preliminary long plat known as "Bruggeman Estates" will be effective upon completion of the appeal period.

DONE (CLERK WILL DATE STAMP LEAVE DATE BLANK)

Attest:

Norm Childress, Chairman

Melissa Paul, Clerk of the Board

Linda Kay O'Hara, Deputy Clerk

Ron Anderson, Commissioner

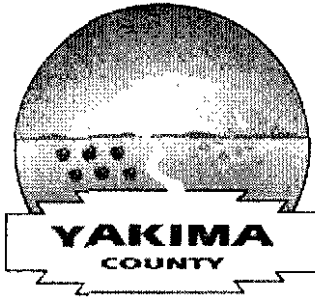
**BOARD OF YAKIMA COUNTY COMMISSIONERS
RESOLUTION**

Vicki Baker, Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*

ATTACHMENTS:

Attachment A – Hearing Examiner’s Recommendation

Attachment B – Site Plan



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

LISA H. FREUND Director

February 4, 2020

TO: Ludwig Bruggeman & Parties of Record
FROM: Karri Espinoza, Office Coordinator *KE*
RE: Hearing Examiner Recommendation -- File Nos. ZON2019-00002

On, February 3, 2020 the Yakima County Hearing Examiner issued his recommendation on a residential master planned development overlay and 10-lot subdivision. The Examiner's recommendation is enclosed.

The Hearing Examiners recommendation will be presented to the Board of County Commissioners for consideration at a closed record public hearing. You will be notified when this date has been set. If you have any questions on the recommendation, please contact Dinah Reed at 574-2300.

Encl.: *Hearing Examiner Recommendation*
Cc: *Parties of Record*

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County of Yakima, Washington
Office of the Hearing Examiner

In the Matter of an Application) File Nos. ZON2019-00002; SUB2019-031
)
)
By Ludwig Bruggeman through HLA)
Engineering and Land Surveying, Inc.)
) Hearing Examiner's Recommendation
)
for "Bruggeman Estates," a Residential)
Master Planned Development Overlay and a)
10-Lot Subdivision.)
_____)

I. INTRODUCTION.

The Master Planned Development Overlay zone may be established with a Master Development Plan that sets forth the parameters for development of the property, including a Site Plan and Development Agreement. An application for a Master Planned Development may be consolidated with site specific proposals (e.g., preliminary plat). ULDC 19.17.040(4). On July 2, 2019, Yakima County Public Services Department Planning Division received a minor rezone application from Mike Heit of HLA Engineering and Land Surveying, Inc. ("HLA") on behalf of Ludwig Bruggeman for Bruggeman Estates, a Residential Master Planned Development Overlay and a 10-Lot Subdivision on 10.01 acres of land within the Single-Family Residential (R-1) zoning district. 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 from Single-family Residential to Master Planned Development Overlay ("MPDO"). The application is associated with a proposed subdivision of the property and a Development Agreement. A Pre-Application Conference, as required by YCC Title 19.17.040(5)(b) took place under EAC2019-00008 on February 19, 2019. The Administrative Official determined that the MDPO application was complete on August 28, 2019.

After the application was submitted, an internal notice of project review was posted in the County database system. Internal comments from Yakima County Public Services were received from the Water Resources Division, Transportation Division, and Fire & Life Safety Division.

An open record hearing was convened on the application on January 16, 2020. Prior to the hearing, the Yakima County Planning Division provided a staff report and exhibits to the Hearing Examiner and the applicant. The staff report recommended approval of the MPDO for the property, the proposed subdivision plat, and the Development Agreement, subject to conditions. The Hearing Examiner viewed the subject property on January 15, 2020. At the

hearing, the staff report was presented by Senior Project Planner Dinah Reed. The applicant was represented by Mike Heit of HLA.

No public comment was offered at the hearing. However, written comments on the application were received from several neighbors. In summary, some neighbors noted that they have been using the northern most portion of the subject parcels to access the northern hills above the property for walking and hiking and asked whether their access will be preserved.

There was also concern expressed about the natural drainages that have been altered by the Mountain Shadows subdivision to the east, and whether the proposed subdivision design will adequately address drainage issues. Opposition was expressed to street lighting because it would diminish the rural character of the neighborhood. Finally, a commenter suggested that the open space proposed at south end of the proposed subdivision be designed and planted in native shrubs and wildflowers. These comments are addressed in the appropriate context in the Findings below.

II. SUMMARY OF RECOMMENDATION.

The Hearing Examiner recommends approval of this MPDO, preliminary long plat and Development Agreement, subject to the conditions as set forth in detail in V. RECOMMENDATION, below.

Based on the staff report and exhibits, the Development Agreement, the viewing of the site, evidence received at the open record hearing, a review of *Horizon 2040* (the Yakima County Comprehensive Growth Management Plan), and pertinent provisions of Title 19 of the Yakima County Code (the Unified Land Development Code or "ULDC"), the Hearing Examiner makes the following

III. FINDINGS.

1. APPLICATION INFORMATION

- a. **Property Owners:** Ludwig and Renate Bruggeman
10303 Summitview Avenue
Yakima, WA 98908
- b. **Applicant/Agent:** Mike Heit, HLA Engineering and Land Surveying, Inc.
2803 River Road
Yakima, WA 98902

c. **Type of Application:** Type 4 review of an MPDO, including a preliminary plat and Development Agreement.

2. **PROJECT PROPOSAL:** Bruggeman Estates is proposed to be a residential 10-Lot subdivision located on two parcels totaling 10.01 acres. The MDPO is proposed because compliance with lot size and configuration requirements generally applicable in the R-1 zoning district in which the property is located would not take advantage of the property's visual amenity values and slope characteristics in an efficient and effective way. Development to higher densities consistent with lot clustering provisions in Title 19 would also be different in character from the density of development on the surrounding properties. The lots are proposed to vary in size from 32,500 square feet to 41,500 square feet with access from Summitview Avenue. The development will have a 30 foot wide private road with rolled curb and gutter, and a meandering asphalt pathway running north/south within the development. The development will have recreation space consisting of 900 lineal feet of asphalt walking path, 520 lineal feet of gravel walking path, and a 2,400 square foot greenspace picnic area. Additionally, the subdivision will have a 27,900 square foot open area that can be used by residents for various recreational activities consistent with protection of the community sewer system drainfield. The community septic system is proposed because of the significant distance of the property from municipal sewer service lines. If in the future public sewer becomes available, an 8' sewer line for the community septic system can be converted to a public sewer line connected to the public main. The lots will also be served by the Nob Hill Water system, and other utilities already available in the area.

The Development Agreement accompanying the application provides that Developer (the Bruggemans) agree to abide by the terms and conditions established by Yakima County for the preliminary plat of Bruggeman Estates, including construction (or bonding) of all infrastructure and improvements described on the preliminary plat plan decisions.

3. **PROJECT LOCATION AND PARCEL NUMBER:** The subject parcels are located at 10303 Summitview Avenue, west of Mountain Shadow Estates, on the north side of West Summitview Avenue, and approximately ½ mile west of the City of Yakima. The Assessor's Parcel Numbers are 171324-13408 and 171324-24418.

4. **COMPREHENSIVE PLAN DESIGNATION:** According to the *Horizon 2040*, the parcels and surrounding area are designated as Urban Residential, with the exception of a small portion of Urban Commercial property across Summitview Avenue.

5. **ZONING AND LAND USE:** The subject properties and most neighboring properties are zoned R-1. The subject properties are not developed, though there was historically a fruit warehouse on the northern end of the property. The balance of the subject properties remain

undeveloped or have historically been in orchard use. The neighboring properties to the east, south, and west are in low density residential use. Property to the north is undeveloped.

6. ENVIRONMENTAL REVIEW: The proposal is subject to review under the State Environmental Policy Act (SEPA). The applicant submitted a SEPA checklist under SEP2019-00021, and was issued a threshold Mitigated Determination of Non-Significance ("MDNS") on November 19, 2019. The issuance was dependent on the implementation of the following mitigation measures:

Mitigation Measure A1: Prior to ground disturbing activities, a cultural resources survey shall be completed. If archaeological resources are discovered, the proponent shall coordinate with DAHP and any affected Indian Tribes to mitigate for potential impacts to those resources.

Mitigation Measure A2: If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the State provides notice to proceed. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

Mitigation Measure B1: Prior to ground disturbing activities, the proponent shall sample and analyze soils for arsenic and lead. If the results of that analysis are confirmed by DOE to be above MTCA cleanup levels, the proponent shall coordinate with that agency to develop a soil remediation plan and enter into a Voluntary Cleanup Program.

Mitigation Measure B2: If contaminated soils are identified on site, the following plat note shall be placed on the face of the plat:

"Portions of this division of land lie within an area identified as having contaminated soils. Extra precaution shall be taken during grading and site construction to avoid escaping dust, soil erosion, and water pollution. Specific soil contamination information may be obtained from the Washington State Department of Ecology."

No appeal of the MDNS was filed. In the Development Agreement, the Bruggemans agree that the subject property will "be used and developed in a manner consistent with the project description in the State Environmental Policy Act (SEPA) Mitigated Determination of Non - Significance issued by the Yakima County on November 19, 2019 (File No. SEPA 2019-00021), and incorporated herein by this reference as if set forth in full (the "MDNS")."

7. **PUBLIC NOTICE:** A Notice of Application, Notice of Completeness, and Notice of Environmental Review and Notice of Future Hearing was mailed to adjoining property owners on August 28, 2019 with the comment period ending on September 11, 2019. Notice of this proceeding was provided in the following manner:

- Mailed and published-- November 19, 2019
- Posted on the property December 26, 2019

8. **JURISDICTION:** A Master Plan Development application is subject to review in an open record public hearing before the Hearing Examiner. ULDC 19.17.040(5)(c). The Master Planned Development Overlay application is reviewed using the minor rezone procedures described in Section 19.36.030 ULDC. Rezone applications consistent with Table 19.36-1 and not dependent upon a comprehensive plan or sub-area plan amendment constitute minor rezones. According to Table 19.36-1 'Zoning District consistency with Comprehensive Plan Future Land Use Designations' of Title 19, the requested MPDO is consistent and may implement the Urban Residential land use designation of the Yakima County Comprehensive Plan. These quasi-judicial actions, when site-specific, may be processed at any time under Type 4 review procedures.

The Hearing Examiner must apply the Master Plan Development review criteria set forth in ULDC 19.17.040(5)(d) and issue a written recommendation to the Board to approve, approve with conditions or deny the proposed Master Planned Development. In addition to the uses specifically provided for in ULDC 19.17.040 (2)(b)(i), the Hearing Examiner may recommend additional uses within a Master Planned Development, provided such uses are an integrated component of the development and not detrimental to surrounding land uses. The recommendation shall include findings, conclusions and conditions based on evidence and testimony in the open record public hearing.

Typically, an 8-lot subdivision is not subject to Type 4 review. Based on the Bruggeman Estates preliminary plat being associated with the MPDO, and the integration objectives applicable to MPDOs, the Hearing Examiner's recommendation may also address the preliminary plat.

9. REVIEW CRITERIA:

a. **MPDO Review Criteria.** The primary recommendation criteria applicable to a Residential MPDO in accordance with ULDC 19.17.040(5)(d) and the analysis of the proposal based on the criteria are set out below in this subsection.

(1) The master plan development application demonstrates the economic and efficient use of land and provides for an integrated and consistent development plan for the site: The Bruggeman Estates MPDO is proposed to be a residential housing development with recreational open space and facilities. The development will be fully built out in one phase with the private road extending off Summitview Avenue. Nob Hill Water will extend through the development, and a community septic system will service the homes. The MPDO employs a community septic system because the City of Yakima Regional Sewer System is approximately 2,700 feet to the east and at a higher elevation than the proposed subdivision. This avoids the need for a regional lift station and force main that would otherwise be required to pump water up-hill to the existing City of Yakima sewer main. Assuming the feasibility of the planned community septic system, it renders the project more efficient than extension of existing municipal lines or lengthy connections to municipal lines to avoid regional lift station expenses. In addition, the MPDO's larger lots and planned natural landscaped cut and fill slopes provide for development the subject properties while preserving the existing slopes and drainages that are present on the property.

(2) The applicant has identified development standards and uses that are consistent with the master plan and designed to be compatible with adjacent land uses after consideration of applicable mitigation and site design. The Hearing Examiner may consider development standards that are different from currently adopted development standards to provide flexibility in site planning; to implement project design and concepts; to respond to market conditions; or to otherwise achieve the public benefits contemplated by the concept plan: Generally, the Development Agreement provides that the standards applicable to subdivisions will apply to the MPDO. However, the proposed development will include large lots with significant potential views across West Yakima toward the Cascade foothills toward Mount Adams and Mount Rainier. The lot size and the proposed private road are similar in layout to the existing Mountain Shadow Estates directly to the east. R-1 property to the west is also developed as large lots and low-density residential use. The consideration of a community septic system together with the large lots under the MPDO requires flexibility rather than direct compliance with development standards. This is consistent with the purposes of the MPDO ordinance.

(3) Consideration shall be given to "low impact development" concepts: Title 19 ULDC refers to "low impact design" which

means stormwater management and land development strategies that emphasizes conservation and use of existing natural site features integrated with disturbed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial and industrial settings. Low impact design addresses stormwater management and land development that is applied at the parcel and subdivisions scale that emphasis conservation and use of on-site natural features.

ULDC 19.01.070(12). Bruggeman Estates MPDO stormwater will be contained on-site in a combination of retention swales, and underground infiltration according to the project narrative. The primary method for stormwater management will be sheet flow of water across the pavement and into catch basins placing the stormwater into underground infiltration trenches. The stormwater will then infiltrate into the soil. All drainage facilities and mitigation measures will be in accordance with the 2004 edition of the WA State Department of Ecology Stormwater Management Manual for Easter Washington and the Yakima County Regional Stormwater Manual. Additionally, the proposed larger lots, with natural landscaped cut and fill slopes and infiltration swales are consistent with low impact development concepts.

(4) There will be adequate infrastructure capacity available by the time each phase of development is completed: The MPDO is proposed to be built out in one phase. A 30-foot wide paved road with rolled curb and meandering asphalt pathway as a sidewalk is proposed. The subdivision will be served by Nob Hill Water and will be serviced by a community Large On-Site Septic System (LOSS) on a community owned tract, meeting WAC 246-272B, and WA State Department of Health requirements. The property will have an 8" sewer main collecting all the sewerage for the subdivision and transporting the sewage to the community LOSS. In the future if public sewer becomes available to service the property, the 8" sewer line could be converted to a public sewer line and connected to the public main.

(5) The Master Planned Development contains design, landscaping, parking/traffic management, and use mixture and location that limit or mitigate conflicts between the Master Planned Development and adjacent uses. Consideration shall be given to site planning that supports land use flexibility through means of appropriate setbacks, landscaping, site screening, buffers and other design features or techniques: The proposed Residential MPDO will result in development of a very similar nature to the development on neighboring properties. The off-site impacts would be the additional residential traffic related to the new housing development. The traffic, noise and impacts from the existing farming operation will be eliminated. As noted in III.8, above, no significant impacts to the build environment are presented by the proposed project, so long as mitigation measures are implemented.

(6) All potential significant off-site impacts including noise, shading, glare and traffic have been identified and mitigation incorporated to the extent reasonable and

practical: Exterior lighting is required to be directed downward per YCC 19.10.040(10). Landscaping is proposed on the individual lots and the exterior property boundary of the residential lots, greenspace, picnic area and the private road will have a 6-foot sitescreeing fence in accordance with YCC 19.21.030 Standard C. No other significant impacts are anticipated based on the MDNS.

(7) The project is designed and includes appropriate consideration of open spaces and transportation corridors, designs of street and public open space amenities, and results in the functional and visual appearance of one integrated project: The site plan shows three separate open spaces that can also be used for recreational purposes. Those spaces include a small sitting area in the southwest corner of the development and a 2.0+ acre open space in the southeast corner of the plat that abut Summitview and can also be used by the public. A pathway that is paved with asphalt meanders north/south to serve the house sites and continues northward via a gravel path to the north of the subject property where neighbors walk. The site design of the pathways and private road is nicely integrated to include all ten lots.

(8) The proposed development is not averse to the public health, safety or welfare: As noted in the Introduction, some neighbors asked whether their access to the undeveloped property to the north will be preserved. Others were concerned whether the proposed subdivision design will adequately address current drainage issues. The street lighting that would come with road develop was argued to diminish the rural character of the neighborhood. One commenter suggested that the open space proposed at south end of the proposed subdivision be designed and planted in native shrubs and wildflowers. On the basis of evidence in the Staff Report, statements at hearing from the applicant, and public records, the facts related to these comments do not indicate that the MPDO would be averse to public health, safety or welfare.

(1) The Bruggeman Estates subdivision is private property owned by Borton and Sons, Inc. There is no evidence offered in the record that indicates the presence of any lawful easement across the subject property for access to the Borton property. This MPDO review does not and cannot resolve the question of whether there is legal access that is not of record. The neighbors and the property owner are free to address access across the property as they see fit so long as they do not compromise the recreational features included in the MPDO.

(2) The drainage patterns on the property have been affected by the development of the neighboring subdivision to the east. The applicant reported at hearing that there is a culvert on the northeast portion of the property, but that its up-drainage opening could not be readily located. In any case, the Yakima County Water Resources Division requires a stormwater site plan before ground disturbance for this proposal which will address all drainage issues. Yakima County code requires that all drainages remain unaltered and the natural stormwater always remain on-site. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250.

(3) The subject property, as well as properties to the east, west, north and south are within the Urban Growth Area and, other than properties abutting the south side of Summitview Avenue are zoned R-1. Properties to the south across Summitview Avenue are zoned commercial. Yakima County code requires that development in urban areas meet urban standards, which includes asphalt paved roads (whether public or private roads) with rolled curb and gutter, and lighting. ULDC 19.23.050(6)(a)(ii). Yakima County code further requires that all 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. ULDC 19.10.040(10).

(4) It is noteworthy that the SEPA review did not identify significant adverse impacts to plant or animal habitat, so there is no evident basis for requiring specific kinds of plantings or recreational uses other than as discussed in ULDC 19.34.060(7). Recreation areas are required for urban area subdivisions exceeding 5 acres. Yakima County would be amenable to designing and planting the open space as a natural space according to the Staff Report, as long as it provides a recreational element required by the MPDO and ULDC 19.34.060(7). The applicant is free to work with neighbors to design the recreation area landscaping, but should not be required to do so.

Provided the applicant meets all the recommended conditions included in the Staff Report recommendation for the proposal, the development will not have an adverse impact to public health, safety or welfare.

(9) The public benefits of approving the Master Planned Development outweigh the effect of modification of standards to the underlying zoning district. A Master Planned Development Overlay is intended to provide flexibility in design and building placement, promote attractive and efficient environments that incorporate a variety of uses, densities and/or dwelling types, and economically utilize the land, resources and amenities, among other purposes. ULDC 19.17.040(1)(a). The underlying zoning district of the MPDO is R-1. Without access to both municipal water and sewer, under R-1 zoning the applicant is required to cluster the development with a maximum density of 4.0-7.0 units per acre. ULDC 19.12.010(2)(d). The purpose of clustering in urban areas is to provide for future infill development, protect open space and other amenities associated with the property, and/or to locate on-site utility (water and sewer) system. See the definition of cluster development in ULDC 19.01.070(3). The clustering standard results in an average maximum lot area of $\frac{1}{4}$ acre. However, the parcel has slopes of approximately 10% to 25%. The larger lots proposed in the MPDO would allow adaptation of building sites to the existing topography and natural drainages and minimize the need for grading and filling. The road designed to serve only 10 lots also avoids the need for cutting and filling to achieve road slope standards. In addition, the larger lots and minimal roads support the low impact development purposes of MPDOs. It appears that the principal

negative effect of the MPDO would be to limit the opportunity for further in-fill development to higher density than what results from development of 10 lots on 10 acres. However, the proposed development is similar to the neighboring development and itself provides for infill development, consistent with infill provisions of *Horizon 2040* encouraging infill development in an urbanizing environment. The benefits of the MPDO with its larger lot areas that enable an environmentally feasible development outweighs the negative impacts.

(10) The proposed development is designed to be consistent with the Shoreline Master Program and Critical Areas Ordinance. There are no known critical areas located on the site and it is not located within designated shorelines of the state. Historic upland flow channels have been altered by the adjacent subdivision to the east, preventing surface water from continuing across the adjacent property onto the Bruggeman property.

b. **Compliance with Standards.** The Development Agreement provides that the MPDO will comply with generally applicable development standards other than the specific requirements of cluster development. Title 19 development standards and regulations and their applicability to the proposed plat amendment are set out and analyzed below in this section. Title 19 also requires that subdivisions comply with the standards identified in ULDC 19.02.010, which includes pertinent state laws and other Titles within the Yakima County Code. Omission from this analysis of any provisions of these laws and regulations does not excuse compliance with such provisions.

(1) Conformity with All Regulations Required (ULDC19.10.040(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." The proposed Vineyards Project, Phase 1A will comply with the standards of the Development Agreement associated with the Master Planned Development submitted with the Major Modification to the Planned Development (ZON2018-00007) and the development standards of ULDC 19.10.040, provided the conditions are met.

(2) Yards, Lots, Open Space and Off-Street Parking and Loading Spaces: (YCC 19.10.040(2)(b)) "No part of a yard, other open space, off-street parking or loading space required in connection with any development for the purpose of complying with this Title, shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other development..." The applicant is not proposing to share yard, other open space, or parking and will therefore meet this standard.

(3) Access Required (YCC 19.10.040(3)): When a proposed use requires access to a County roadway, the approach location must be reviewed by the County Engineer. The Yakima

County Transportation Division commented that there is adequate roadway infrastructure at this location to support this proposal. Per ULDC 19.23.050(6), Table 19.23.050 1, the applicant is required to comply with the Private Roadway requirements as stated below:

- a) Minimum Construction Standards.
 - i. A professional engineer shall design the road, provide the specifications, engineering judgment and assumptions supporting the road design, test its construction, and certify it meets the following standards:
 - A. All private roads shall be designed using the highest practical design speed with a minimum of 25 miles per hour.
 - B. The private road shall accommodate two-way traffic based unless a design modification for one-way traffic is proposed and approved.
 - C. All private roads must meet the minimum fire apparatus access road requirements of YCC Title 13.
 - ii. The road shall meet AASHTO recommended 20 year design guidelines for development density, use and intensity that could be served by the road based on plan designation, zoning, public safety and natural hazards. In lieu of the applicant's engineer submitting a detailed analysis, the following minimums are required. The applicant's engineer will be required to certify that the project meets the minimum requirements contained in Table 19.23.050-1

Table 19.23.050-1 Private Road Standards

<i>Design Speed (min.)</i>	<i>25 miles per hour</i>
<i>Roadway Width</i>	<i>20 feet or current Fire Code (whichever is greater)</i>
<i>Horizontal Curve (min.)</i>	<i>154' radius (at 4% max. super-elevation)</i>
<i>Vertical Curve (crest min.)</i>	<i>$L \geq 12 \times (A)$, where L is the length of vertical curve, A = the algebraic difference in intersecting grades.</i>
<i>Vertical</i>	<i>$L \geq 26 \times (A)$, where L is the length of vertical curve, A = the algebraic difference in intersecting</i>

<i>Curve (sag min.)</i>	<i>grades</i>
<i>Maximum Grades</i>	<i>10% or current Fire Code (whichever is least)</i>
<i>Stopping Sight Distance</i>	<i>155 feet (on level ground)</i>
<i>Roadway must accommodate two-way traffic</i>	
<i>Pavement section must be designed for a 20 year lifecycle</i>	
<i>Roadways in Urban Areas shall have pedestrian facilities, street and pedestrian lighting and drainage facilities</i>	

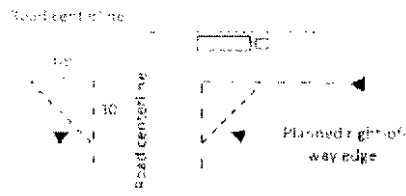
Per YCC19.23.050(6)(b)(vi), because the MPDO uses a private road, the face of the plat and all subsequent documents transferring ownership of lots within the plat is required to bear the following language:

Yakima County has no responsibility to build, improve, maintain or otherwise service any private road for this plat/short plat. Any right-of-way dedicated to the public by this plat/short plat shall not be opened as a County road until it is improved to County road standards and accepted as part of the County road system.

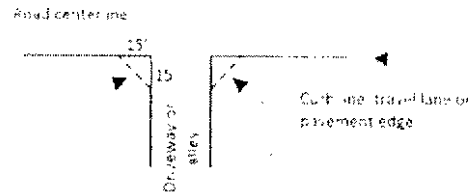
(4) Building Permits Required (ULDC 19.10.040(5)): "No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Building Official under RCW 19.27 and YCC Title 13. No building permit shall be issued except in conformity with this Title." The applicant must apply for all building and fire permits for the proposed structures. All permits for the proposed structures must be issued, inspected, and finalized prior to occupancy.

(5) Setbacks, Easements and Right-of-Way (ULDC 19.10.040(6)): Chapter 19.12 lists the standard minimum setbacks of buildings or other structures and uses of the underlying zoning district of Single-family Residential (R-1) in Table 19.12.010-2. Residences constructed in the MPDO must meet a front setback of 45 feet from planned centerline of the private road, and side setback of 40 feet from planned centerline of the private road, interior side setback of 5 feet from property lines, and 15 foot rear setback from adjoining lot.

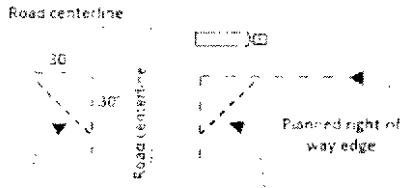
(6) Vision Clearance Triangles at Intersections and Driveways (YCC 19.10.040(7)): The functional classification of Summitview Avenue is a Minor Arterial with a total right-of-way of 75 feet. The applicant shall meet the vision clearance triangle as shown below.



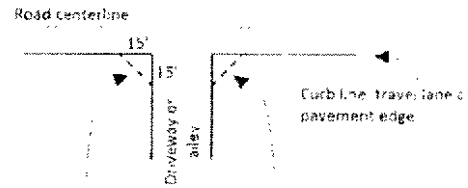
Vision clearance triangles at an intersection or railroad crossing
Subsection 19.10.040(7)(a)



Vision clearance triangles at a driveway, curb cut or alley
Subsection 19.10.040(7)(b)



Vision clearance triangles at an intersection or railroad crossing
Subsection 19.10.040(7)(a)



Vision clearance triangles at a driveway, curb cut or alley
Subsection 19.10.040(7)(b)

(7) Maximum Lot Coverage and Building Height (YCC 19.10.040(8)): The lot coverage in the single-family zoning district is 60% when an open space is reserved, and the building height is 35 feet.

(8) Fences, Walls and Recreational Screens (ULDC 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." Any fences constructed in the MPDO must meet the height and setback requirements of YCC 19.10.040(9).

(9) Exterior Lighting (ULDC 19.10.040(10)): At such time as exterior lighting is proposed for project facilities, exterior lighting for all uses and signs must comply with ULDC 19.10.040(10).

(10) Stormwater Requirements: (YCC 19.10.040(12)) "is intended to ensure public and private development projects comply with the National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act (CWA) where applicable." The Yakima County Water Resources Division had the following comment:

"This project is located within the Yakima County Stormwater Management Utility. Approval of the Stormwater Plan is expected to include a drainageway easement. The stormwater plan review includes the Washington State Department of Ecology Construction Stormwater Permit, drainageway easement(s), covenants and an operations and maintenance plan. A Stormwater plan Checklist and Regional Stormwater and Low Impact Development Manuals are posted at, <http://www.co.yakima.wa.us/1732/Stormwater-Management>.

Soils on these parcels are mapped as "Very limited" for Surface Water Management Systems by the NRCS Web Soil Survey due to various mixes of the following characteristics: water erosion; slope; depth to bedrock or hardpan; and large rock fragments. Local conditions could vary at the parcel level so investigation to confirm soil types will assist design and construction.

Condition before construction.

* Approval of a Stormwater Plan by Yakima County Public Services is required prior to issuance of the building permit or land disturbance, which includes: vegetation removal, grading, grubbing and utility installation.

On-going conditions.

* Stormwater must be retained on site.
* Any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250

Plat notes.

* General drainage. The owners shown hereon, their grantees and assignees in interest hereby covenant and agree to retain all surface water generated within the plat on-site. Any natural drainageways must not be altered or impeded.

* Water Resources plat note A - Natural Resources Conservation Service soils data, as depicted by the Yakima County GIS Department, indicate the parcel has shallow depth to groundwater, shallow depth to hardpan, and/or poorly draining soils that may make compliance with requirements to retain runoff on site difficult or limiting, depending on the amount and

type of current and future site development and available engineering solutions.

* Water Resources plat note B - Yakima County GIS contour information indicates the presence of drainageways on the parcel that may limit the amount and location of future development.

All stormwater generated on the subject parcels must be retained on site. Approval by Yakima County Public Services of an engineered stormwater plan along with supporting documentation is required prior to issuance of the building permit or land disturbance, which includes: vegetation removal, grading, grubbing and utility installation pursuant to YCC 12.10.240 and YCC 12.10.250. The applicant can contact the Water Resources Division, at (509) 574-2300 for questions regarding soils and stormwater.

(11) Potable Water Supplies: Nob Hill Water Association is proposed to serve the development. All lots must be served with public water from Nob Hill Water Association prior to final plat approval. All applicable fees must be paid, easements provided, and lines installed to each of the lots prior to final plat approval. Construction must be according to the requirements of the water provider. The applicant shall provide written verification by the Nob Hill Water Association that this condition is met.

(12) Sanitary Disposal: The MPDO includes the use of a community septic system for the proposed 10 lots. The Yakima Health District commented that the community on-site sewage system must be installed and approved before the plat is recorded. The applicant must install the community septic system in accordance with Yakima Health District requirements and provide verification to the Yakima County Planning Division that the community septic system has been approved.

(13) Schools & Schoolgrounds/Safe Walking Conditions: The subject property is located in the West Valley School District. The applicant plans walking paths within the MPDO that may be used by students wanting to walk to school. This area is also served by the school bus route system. No comments were received from the School District.

(14) Fire Prevention Services: The Yakima County Fire Marshal's Office commented that the MPDO private road system "[must] meet fire apparatus access requirements including but not limited to width, turnouts, turnarounds and grade of no greater than 10%. ([Ordinance] 503.1, Appendix D of the International Fire Code)." Fire Flow is required (Ordinance and International Fire Code 507.3, Appendix B of the International Fire Code) and all buildings will need to obtain proper building and fire safety permits. Accordingly, the applicant must meet the fire flow and Fire Apparatus Access Road (FAAR) requirements of the Yakima County Building, Fire & Life Safety Division. The applicant can contact Chris Pederson, Fire Marshall at (509) 574-2300 for questions regarding fire safety requirements.

(15) **Irrigation Water Supplies:** Based on Yakima County Public Services GIS maps, the MPDO parcels are within Yakima-Tieton Irrigation District. Irrigation easements and distribution facilities shall be provided as required under RCW 58.17.310 and YCC 19.34.070(2)(d). A statement shall be placed on the face of the plat evidencing that the subdivision lies within the boundaries of an irrigation district and that irrigation water rights-of-way may be imposed by said irrigation district under RCW 58.17.310. If the irrigation district serves as its own treasurer, a certificate in accordance with YCC 19.34.070(2)(d)(iv) is required. The following irrigation district acknowledgement is to be placed on the face of the plat in accordance with ULDC 19.34.070(2)(d)(iii):

The property described hereon is wholly or in part within the boundaries of the Yakima-Tieton Irrigation District. The irrigation easements and rights-of-way on this plat as required by Yakima County Code Title 19 (either currently existing irrigation easements or rights-of-way or newly created ones) are adequate to serve all lots located within this plat which are otherwise entitled to irrigation water under the operating rules and regulations of the district. The irrigation easements and rights-of-way are adequate to transmit irrigation water under the operating rules and regulations of the district. Lots _____, in whole or in part, are not entitled to irrigation water under the operating rules and regulations of the district.

Irrigation easements and distribution facilities must be provided as specified by the Yakima-Tieton Irrigation District. Confirmation of the irrigation district's approval shall be in the form of a signature on the face of the final plat with the required irrigation district statement (YCC 19.34.070(2)(d) and RCW 58.17.310).

c. **Consistency Review:** The County is required to incorporate the elements of RCW 36.70B.040 in its project review. That section requires the County to evaluate the consistency of a proposed project with its development regulations, or in absence of development regulations, with its comprehensive plan. The Counties Unified Land Development Code addresses allowable land uses, density of uses, infrastructure needed to serve a development, and appropriate standards for the development. See ULDC 19.10.010. When a project presents issues governed by regulatory provisions of *Horizon 2040* rather than the ULDC, then it must be reviewed for consistency with those *Horizon 2040* provisions. No *Horizon 2040* regulatory provisions have been identified in the record although the Staff Report analyzed consistency of the MPDO with comprehensive plan elements, goals and policies. That analysis is as follows:

"Elements, Goals and Policies of Horizon 2040, Yakima County Comprehensive Plan, that support the MPDO and Subdivision are as follows:

Element 7.4.1 of Horizon 2040—Additional Housing Units Needed based on population increase, states "As discussed in detail in Section 7.3.4 of the Housing Element, Yakima County will need roughly 25,341 additional housing units by the year 2040. The Housing section works on the assumption that of the 25,341 total housing units, 11,525 units will be needed just for the unincorporated areas and 13,816 for the incorporated areas."

Element 7.4.7 of Horizon 2040, Infill – "In order to achieve the 20-year Plan, Yakima County and its cities should encourage the use of infill parcels for new homes which are compatible with the surrounding neighborhood. Infill is a term used to describe development of parcels that were "passed over" in the first phase of development. Some lots in the urban area were not built on because they continued in rural use (horse lots, orchards, etc.). In some cases, there was insufficient demand for the land. The physical development constraints of parcels, such as drainage ways, steep slopes, etc. may also lead to its being "passed over." These infill parcels are now surrounded by development, which may be residential, commercial or industrial in nature...Infill development is key to achieving target densities."

Element 7.4.11 of Horizon 2040, Neighborhood Character and Vitality – "Yakima County's residential neighborhoods vary in size, density, housing type, and amenities. The character of a neighborhood, both its livability and identity, is closely associated with its design, the characteristics of the residents and the services provided. Regardless of the character of the neighborhood, residents generally want a feeling of comfort and security, privacy and a sense of belonging. Neighborhood character is an important element of the Housing Element and is a central component of an approach that encourages a hierarchy of well-defined places. Over the next 20 years, preservation of existing neighborhoods will require a conscious acknowledgment of the existing nature of the people, visual character, and services found in each neighborhood."

- GOAL H1: Sufficient housing should be available to meet the needs of the existing and projected population, including a diversity in the type, density and location of housing within the County.
 - POLICY H1.4: Encourage the public and private sectors to develop and maintain an adequate supply of housing for all segments of the population.
- GOAL H6: Encourage the preservation and protection of existing neighborhoods and design and/or plan future development in a manner which promotes neighborhood settings and environments.

- c) POLICY H6.3: Design subdivisions, planned residential developments, multi-family units or other residential projects in a manner which encourages neighborhood environments and open space.

...

The proposed MPDO is supported by the Yakima County Comprehensive Plan, Horizon 2040, as follows:

- a) According to Element 7.4.1 – Additional Housing Units Needed and Element 7.4.11 – Neighborhood Character and Vitality – the proposal will add ten new residential lots for building custom homes in a neighborhood with similar character, density, and housing type.
- b) The Element 7.4.7 – Infill – of Horizon 2040 also supports the proposed MPDO. The existing orchard is surrounded by residential sites to the east and west, and to the south abuts commercial zoned land. As described in Element 7.4.7 the existing parcel is a classic example of being “passed over” for development for the past 30 years. The proposed infill development is compatible with surrounding developments and therefore supports achieving target densities and meeting Element 7.4.7 of Horizon 2040.”

The applicant concurred with the Staff Report analysis, and no public comment was received to the contrary.

From the foregoing Findings, the Hearing Examiner makes the following

IV. CONCLUSIONS

1. Based on the analysis of the Master Planned Development Overlay, preliminary plat, and Development Agreement in the Findings, the preliminary plat amendment is consistent with the review criteria set out in Title 19 YCC for MPDOs for residential developments in urban areas so long as the applicant meets the conditions prescribed in V. RECOMMENDATION, below.
2. The MPDO application and accompanying documents are consistent with and not contrary to provisions of *Horizon 2040*.
3. On the basis of the application’s consistency with the County’s development regulations and *Horizon 2040*, the MPDO and preliminary plat for Bruggeman Estates should be approved (as conditioned).
4. Any Finding in the preceding section that is more properly characterized as a conclusion is deemed to be so.

V. RECOMMENDATION

Based on the Introductory information, and the Findings and Conclusions above, the Master Planned Development Overlay and preliminary plat identified as file number ZON2019-00002 / SUB2019-00031 and entitled "Bruggeman Estates" should be APPROVED, SUBJECT TO THE FOLLOWING:

Prior to the finalization of the subject Master Planned Development Overlay, Development Agreement and Subdivision the following conditions must be completed within five years of the date of the final Yakima County Board Decision.

1. The developer must arrange a pre-construction conference prior to any road or utility construction within the public road right-of-way(s). An inspector from Yakima County will be required to inspect the actual road and utility construction within all public road rights-of-way.

2. The plans for all the internal private roadways shall be prepared by the applicant's Licensed Professional Engineer and submitted and approved by Yakima County. These plans must incorporate provisions for on-site stormwater retention facilities for all surface runoff water generated within the development. Once constructed, the Licensed Professional Engineer must certify to the Planning Department that the improvements were constructed as designed.

3. Utility easements required in accordance with YCC 19.25.050 must be reserved for and granted to all utilities (and to their respective successors and assigns) and shall be shown on the face of the final plat.

4. Covenants providing for the perpetual maintenance of the private roadways must be provided by the developer, reviewed by Yakima County, and recorded as a supplement to the final plat. These covenants must establish a sufficient road maintenance fund to assure continued performance consistent with private road plans approved by the Department of Public Services.

5. The applicant shall work with the Yakima Health District for the installation of the community septic system for ten (10) lots in accordance with applicable federal, state, and local laws and regulations. The developer shall provide verification to the Yakima County Planning Division that the community septic system has been approved prior to plat approval.

6. All lots must be served with public water from Nob Hill Water Association prior to final plat approval. All applicable fees must be paid, easements provided, and lines installed to each of the lots prior to final plat approval. Construction must be according to the requirements of the water provider and written verification proved by Nob Hill Water Association that this condition is met.

7. Irrigation easements and distribution facilities shall be provided as required under RCW 58.17.310 and YCC 19.34.070(2)(d). A statement shall be placed on the face of the plat evidencing that the subdivision lies within the boundaries of an irrigation district and that

