Applicant: Gilbert Orchards, Inc. (Cragg Gilbert)
Representative: Thomas Hale
Request: Type of Amendment: Comprehensive Plan Map Amendment

<table>
<thead>
<tr>
<th>Land Use Designation</th>
<th>From:</th>
<th>To:</th>
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<tbody>
<tr>
<td>From:</td>
<td>Urban Residential and Urban Commercial</td>
<td></td>
</tr>
<tr>
<td>To:</td>
<td>Urban Industrial</td>
<td></td>
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<thead>
<tr>
<th>Zoning</th>
<th>From:</th>
<th>To:</th>
</tr>
</thead>
<tbody>
<tr>
<td>From:</td>
<td>SR, R-1, and B-2</td>
<td></td>
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<tr>
<td>To:</td>
<td>M-1</td>
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</tbody>
</table>

Parcel No(s): 171211-12005, -12003, -12002, -12007, -12405, -11031, -11014, -11035, -11405, -11404, -11403, -11417 and 171202-44416, -44449, -44448, -44450, -43010

Parcel Size: Approximately 71 acres
Location: The subject property is located on the south side of Gilbert Road, about 1,000 feet west of the intersection of Wiley Road and Gilbert Road, within the Urban Growth Area of the City of Yakima.

A. SUMMARY OF RECOMMENDATIONS

Staff recommends Approval of the requested comprehensive plan amendment from Urban Residential and Urban Commercial to Urban Industrial and Approval of the concurrent rezone from SR, R-1, and B-2 to M-1, subject to consideration of testimony from neighbors and interested parties.

B. SUMMARY OF REQUEST

The applicant requests: (1) a change in Horizon 2040’s Future Land Use Map from Urban Residential and Urban Commercial to Urban Industrial; and (2) a concurrent rezone from R-1 SR and, B-2 to M-1. (See Appendix B for maps.)

C. SUBJECT PROPERTY HISTORY

Prior to being added into the Urban Growth Area (UGA) of the City of Yakima, a portion of the property was in the General Rural (GR) zoning district. The remainder of the property was within the Rural Settlement (RS) zoning district. The property was added into the Urban Growth Area in 1997, with the adoption of Plan 2015. In 2000 when zoning was changed to the area added into the Yakima UGA (under Title 15), the portion of the property that was originally zoned Rural Settlement remained zoned RS while the GR zoned portion of the subject property was zoned Single-Family Residential (R-1). In 2011, when the West Valley Neighborhood Plan (WVNP) was adopted, the subject property that was zoned RS was zoned either Suburban Residential (SR), Single-Family Residential (R-1), or Local Business (B-2). Additional property was included into the SR zoning district in 2014, as a result of a minor rezone (file number ZON2013-00003, R-1 to SR). The R-1 to SR rezones occurred to allow for
permitted expansion of the existing agricultural related industrial use. A majority of the subject property is currently developed in agricultural related industry (fruit warehouse/processing facility).

D. CURRENT COMP PLAN DESIGNATIONS, ZONING AND LAND USE

The current Yakima County Comprehensive Plan - Horizon 2040 designations, zoning, and land uses for the subject property and adjoining parcels are indicated in table below:

<table>
<thead>
<tr>
<th>Location</th>
<th>Zoning</th>
<th>Comp Plan</th>
<th>Acres</th>
<th># of Parcels</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Property</td>
<td>SR, R-1, B-2</td>
<td>Ur and UC</td>
<td>71</td>
<td>17</td>
<td>Agricultural related industry, residential, vacant</td>
</tr>
<tr>
<td>North of the subject property</td>
<td>R-1</td>
<td>UR</td>
<td>N/A</td>
<td>Multi</td>
<td>Public Roads and Residential</td>
</tr>
<tr>
<td>South of subject property</td>
<td>AG</td>
<td>AR</td>
<td>40</td>
<td>1</td>
<td>Agriculture/Undeveloped</td>
</tr>
<tr>
<td>East of subject property</td>
<td>R-1 and B-2</td>
<td>UR, UC, and UP</td>
<td>N/A</td>
<td>Multi</td>
<td>Commercial, Residential, Public School</td>
</tr>
<tr>
<td>West of subject property</td>
<td>R-1</td>
<td>UR</td>
<td>N/A</td>
<td>Multi</td>
<td>Residential</td>
</tr>
<tr>
<td>Northeast of subject property</td>
<td>R-1</td>
<td>UR</td>
<td>N/A</td>
<td>Multi</td>
<td>Residential and Commercial</td>
</tr>
<tr>
<td>Northwest of subject property</td>
<td>R-1</td>
<td>UR</td>
<td>N/A</td>
<td>Multi</td>
<td>Vacant and Public Roads</td>
</tr>
<tr>
<td>Southeast of subject property</td>
<td>AG</td>
<td>AR</td>
<td>40</td>
<td>1</td>
<td>Agriculture/Undeveloped</td>
</tr>
<tr>
<td>Southwest of subject property</td>
<td>AG</td>
<td>AR</td>
<td>40</td>
<td>1</td>
<td>Agriculture/Undeveloped</td>
</tr>
</tbody>
</table>

E. INTENT OF PLAN DESIGNATIONS AND ZONES (CURRENT AND PROPOSED)

- **Current Land Use Designation – Urban Residential - UR, Urban Commercial - UC:**
  
  Urban Residential: The intent of the Urban Residential land use category, adopted as part of the future land use map, is to provide for a full range of urban housing types, from single and multi-family development to high density family housing. The Urban Residential land use designation is a general designation intended to accommodate all the urban residential land use designations listed in each of the fourteen cities’ and towns’ future land use maps.

  Urban Commercial: The intent of the Urban Commercial land use category, adopted as part of the future land use map, is to provide for commercial areas where a wide range of retail activities and services are permitted. The Urban Commercial land use designation is a general designation
intended to accommodate all the urban commercial land use designations listed in each of the fourteen cities’ and towns’ future land use maps.

- **Current Zoning – Suburban Residential – SR, Single-Family - R-1, Local Business - B-2:**
  The Suburban Residential (SR) and Single-Family Residential (R-1) districts are intended to facilitate development at targeted urban densities under the Comprehensive Plans, and provide for low-density, single-family residential development in areas designated by the Comprehensive Plan, depending on availability of infrastructure. Lower densities facilitate future subdivision at urban densities as infrastructure availability increases. The purpose of the SR district is further intended to provide areas of transitional uses as urban development expands, with a mixture of land uses and residential densities including small farms, scattered low-density residential development and clusters of higher-density residential development.

  The purpose of the R-1 district is further intended to protect single-family neighborhoods from encroachment by potentially incompatible non-residential land uses or impacts. Establish new residential neighborhoods and preserve existing residential neighborhoods for detached single-family dwellings free from other uses, except whose which are compatible with and serve the residents of this district.

- **Proposed Land Use Designation – Urban Industrial - UI:**
  The intent of the Urban Industrial land use category, adopted as part of the future land use map, is to provide for adequate and appropriate lands for the location of industrial land uses taking into consideration compatibility with adjacent land uses, availability of required infrastructure, accessibility of adequate transportation corridors and minimization of impacts to natural resources and critical areas. The Urban Industrial land use designation is a general designation intended to accommodate all the urban industrial land use designations listed in each of the fourteen cities’ and towns’ future land use maps.

- **Proposed Zoning – Light Industrial - M-1:**
  The purpose of the Light Industrial (M-1) zoning district is to:

  - Establish and preserve areas near designated truck routes, freeways and the railroad for light industrial uses, which should not generate noise levels, light, odor or fumes that would constitute a hazard. Such uses are light manufacturing, processing, research and wholesale trade, storage and distribution facilities;
Direct truck traffic onto designated truck routes and away from residential streets; and,

Minimize conflicts between uses in the light industrial district and surrounding land uses.

F. PLAN MAP AMENDMENT AND MAJOR REZONE APPROVAL CRITERIA

The approval criteria set forth in YCC 16B.10.095 shall be considered in any review and approval of amendments to Yakima County Comprehensive Plan Future Land Use Map. YCC 16B.10.090 (Major Rezones) are legislative rezones necessary to maintain consistency between the comprehensive plan policy plan map and the official zoning map and shall be completed concurrently with the plan amendment process wherever appropriate. Rezones completed as part of the plan amendment process shall be reviewed against the criteria as for plan amendments in Section 16B.10.095 of this code, and YCC Section 19.36.040 and must be consistent with the requested plan designation as indicated in Table 19.36-1.

Consistency with 16B.10.095 Approval Criteria:

(1) The following criteria shall be considered in any review and approval of amendments to Yakima County Comprehensive Plan Future Land Use Map:

(a) The proposed amendment is consistent with the Growth Management Act and requirements, the Yakima County Comprehensive Plan and applicable sub-area plans, applicable city comprehensive plans, applicable capital facilities plans and official population growth forecasts and allocations;

○ GMA Consistency - This major rezone is consistent with four of the thirteen GMA Planning goals, RCW 36.70A.020, without any order of priority.

RCW 36.70A.020(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

Staff Finding: The proposal for an Industrial land use designation and zoning district is within the Urban Growth Area of the City of Yakima. UGAs are the preferred location for the Light Industrial zone, which the Comprehensive Plan – Horizon 2040 and Yakima County Code Title 19 requiring specific siting criteria if located outside the UGA. This proposal meets the requirement of encouraging development in urban areas.

RCW 36.70A.020 (5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state’s natural resources, public services, and public facilities.
**Staff Finding:** This proposal will rezone the subject property to an Industrial land use designation and zoning district. Currently, the subject property is developed with an agricultural related industry. The rezone will allow for flexibility in processing permits for future expansion/development of the operation, enhancing economic development in the agricultural industry.

RCW 36.70A.020 (7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

**Staff Finding:** The proposal to re-designate/rezone this property will allow for permits for expansion of the existing agricultural related industry to be processed more timely.

RCW 36.70A.020 (8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

**Staff Finding:** Although not an agricultural resource land, this property does process agricultural products. This designation will encourage growth of the agricultural related industry.

RCW 36.70A.020 (12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

**Staff Finding:** The subject property is already located within the UGA and most of the property is currently operating as an industrial use. This re-designation/rezone will not decrease the current service levels below locally established minimum standards.

- **Horizon 2040 Consistency** - This major rezone is consistent with the Land Use Element of the Yakima County Comprehensive Plan – **Horizon 2040** goals or policies, without any order of priority.

  Land Use Element Urban Policy LU-U 1.1. Encourage urban growth within designated urban growth areas. Areas designated for urban growth (including commercial, industrial, residential, public facilities, etc.) should be determined by preferred development patterns, residential densities and the financial and technical capacity of the community to provide urban governmental services.

  **Staff Finding:** The proposed re-designation/rezone is located within the UGA, which is consistent with this policy.

Land Use Element (Yakima UGA Land Use Goal) YKLU-U 14: Provide sufficient and suitable land for industrial uses to help create job opportunities and to promote economic growth.
Policy YKLU-U 14.3 – Encourage infill and promote efficient utilization of vacant land within areas that are designated for industrial uses.

Policy YKLU-U 14.5 – New storage, warehousing, and light industrial development should be located in clusters with existing development.

Policy YKLU-U 14.6 Industrial uses which locate adjacent to residential areas should use effective landscaping of living plant vegetation such as evergreen trees and bushes, open space or other design controls to mitigate noise, glare, and other impacts associated with the uses to ensure that their location will no adversely affect the residential areas.

**Staff Finding:** This proposal would be consistent with these policies because the it would allow for any new development to cluster with the existing agricultural industrial use located on the subject property.

Also, industrial uses that are located adjacent to residential uses have development standards in the code that would require increased setbacks and or sitescreening standards that will add an additional buffer to residential areas. These additional setbacks/buffers don’t apply in their current land use designation/zoning.

- Sub-Area Plan Consistency – There is no applicable sub-area plan that affects this proposal.

- City of Yakima Comp Plan Consistency - This major rezone is consistent with Land Use Goals and Policies of the City of Yakima’s Comprehensive Plan goals or policies, without any order of priority.

Yakima Comprehensive Plan 2040 Land Use Chapter 2

2.2 Conditions and Trends

Yakima is agriculturally driven

Agricultural processing, packing and storage is a key industry in the City of Yakima. Since 2010, the city issued permits for over 4.8 million square-feet of new/renovated structures for the AG industry. Farmers from all over the Yakima Valley depend on the facilities in the City for their processing, packing and storage needs. The availability of appropriately zoned land for agricultural uses is paramount to the future growth of this important industry.

2.2.7 Industrial:

A. Purpose: This designation provides for manufacturing, agricultural processing/storage, and closely related issues.

B. Locational criteria: Existing industrial designated areas with active industrial uses or areas featuring adequate public utilities and land physically suited to industrial activities that are buffered from residential or other potentially incompatible uses. New industrial development should be located in areas that take advantage of access to I-82, Highway 12, SR-24, and existing rail and airport facilities. Additional areas may be designated, provided they are surrounded by and characterized by industrial uses.
C. Principal uses & density: Industrial, agricultural, research and development, repair, construction business, warehouse, and distribution terminals that minimize external impacts to adjacent district, and accessory uses.

D. Implementing zoning districts: M1, M2, AS

2.3.2. Preserve and enhance established residential neighborhoods. Specifically:
E. Carefully review proposed land use designation changes to more intensive residential designations, mixed-use, or industrial. Specifically:
   - Proposals should conform to locational criteria set forth for the desired designation in the applicable policies under Goal 2.2.
   - Is the site physically suited for the proposed designation?
   - Is the desired zone one of the implementing zones of the land use designation (per applicable policies under Goal 2.2)?
   - Avoid spot zones or similar changes that may create instability with the surrounding neighborhood.

Goal 2.9. Industrial & Manufacturing Areas. Maintain and promote active use of industrial lands to promote economic growth.

Policies:
2.9.1. Develop industrial and manufacturing lands that minimize impacts on surrounding land uses, especially residential land uses. Utilize landscape buffers (evergreen trees and shrubs) along with open space or other design controls to mitigate noise, glare, and other impacts associated with the uses to ensure that their location will not adversely affect the residential areas.
2.9.2. Encourage infill and promote efficient utilization of vacant land within areas that are designated for industrial uses.
2.9.3. Encourage development of compact, small-scale high quality industrial parks through industrial Planned Development (Industrial PD).
2.9.4. Consider high quality industrial park or Industrial PD for light industrial uses to be located adjacent to residential neighborhoods, with adequate buffers.
2.9.5. Encourage multiple business manufacturing development, providing a more stable economic base through diversity, as opposed to a single large manufacturing business.
2.9.6. Limit non-industrial uses for those that are complementary to industrial activities in terms of access and circulation, public safety, hours of operation, and other land use activities.
2.9.7. Protect industrial and manufacturing lands from encroachment by other land uses, which would reduce the economic viability of industrial lands.

Staff Finding: This proposal is consistent with the City of Yakima’s Comprehensive Plan for industrial zoning because the property is located within the UGA and the development standards in the M-1 zoning district will allow for buffering of the industrial use of the property and the adjacent residentially zoned lots more than an expansion in the SR zoning district would due to increased setbacks when adjacent to the residentially zoned parcels.
o Capital Facilities Plan Consistency - This major rezone is consistent with City of Yakima’s of the Capital Facilities Plan, without any order of priority.

**Staff Finding:** The county’s 2014-2019 Capital Improvement Plan (CIP) presents the funding plan for investments in transportation, utilities, surface water, parks, facilities (buildings) solid waste, equipment, and major technology systems. It includes acquisition, new construction, modernization, and rehabilitation strategies of the county. A review of the CIP, particularly the 6-year Transportation Improvement Program, finds no inconsistencies with the request. The subject property is already located within the City of Yakima’s UGA and is operating as an agricultural related industry.

o Yakima County Population Projections and Allocation Consistency - This major rezone is consistent with the Yakima County Population Projections for the urban area of the City of Yakima.

**Staff Finding:** In 2014 Yakima County developed a 20-year (through 2040) population forecast and allocation for each of the 14 cities and for the unincorporated areas of the county. Between 2014 and 2040 the forecast is for the county’s unincorporated population to rise from 85,410 to 117,983. However, this rise represents a slight reduction in the percentage of the county’s total population living in the unincorporated areas, from 0.42% to 0.34% in 2014. This reduction is in keeping with the GMA’s goal to encourage growth in urban areas. Considering the demonstrated sufficiency of vacant/developable parcels currently zoned M-1 in the county, the request is consistent with the official population growth forecasts and allocations because it would encourage industrial growth within the Urban Growth Area of the City of Yakima. Additionally, the amount of residentially zoned land within the city and UGA is sufficient, with over 5,000 acres of vacant residentially zoned land. Therefore, converting residential land that is already developed in an industrial land use will have no impact on available residential land in the Urban Growth Area of the City of Yakima.

(b) The site is more consistent with the criteria for the proposed map designation than it is with the criteria for the existing map designation;

**Staff Findings:** There is no specific mapping criteria for Urban Industrial land use designation (there is only mapping criteria for industrial located outside the UGA). However, the site is more consistent with the criteria for the proposed UI designation in large part because it is already operating in that capacity. A majority of the property has been used as an agricultural related industry prior to its zoning/inclusion in the UGA. The Assessor’s data shows that an office on the property was built in 1956. Yakima County records show building permits on the subject property from 1977 that are for an addition to a packing shed and for a Controlled Atmosphere (CA) building (BLD1977-08901 and BLD1977-09981, respectively). This shows that a portion of the property was established as an Agricultural Related Industrial use at the time of the implementation of
the Yakima County Zoning Ordinance, Title 15 (February 8, 2000). This site is also consistent with the re-designation because it is located within the UGA of the City of Yakima.

(c) The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity;

Staff Findings: As discussed above, the map amendment and site are suitable for the proposed designation, in large part because it is already developed in an industrial use. Although there are other industrial zoned parcels within the UGA of Yakima and within the city that are vacant and available for development, a majority of this property already is developed in the industrial use, and have active land use approvals. Therefore, the re-designation/rezone of this property wouldn’t have an effect on the vacant industrial parcels regardless because the use already exists and because agricultural related industry is permitted in the SR zoning district (as a Type 3 land use approval). Industrial designation will also provide more of a buffer for future development because of increased development standards to surrounding residentially zoned land.

(d) For a map amendment, substantial evidence or a special study has been furnished that compels a finding that the proposed designation is more consistent with comprehensive plan policies than the current designation;

Staff Findings: The information that shows that this property is more consistent with the proposed land use designation comprehensive plan designation than the current is the continued land use and expansion of the agricultural related industry. The Urban Industrial land use designation is better suited to the existing industrial use than the Urban Residential and Urban Commercial land use designation. The agricultural related industrial use was present on the property at the time of adoption of the zoning ordinance.

When the West Valley Neighborhood Plan (WVNP) was adopted and zoning changes were applied to the property, there was discussion as to how the agricultural warehouses/processing facilities would be handled. During the development of the WVNP a large portion of the subject property remained zoned Rural Settlement (RS), which is a rural zone even though the property was within the UGA, and needed to be replaced with urban zoning. While the WVNP was still being developed, there were still expansion to the existing warehouse/processing facilities. The WVNP decided to zone a portion of the subject property with the agricultural related industry Suburban Residential to allow for expansion of the existing land use, but at a higher level of review (Type 3). Yakima County has approved a number of expansion to the property under a Type 3 review and has approved rezones to put more property into the SR zoning district to allow for expansions of the operation. During the Comprehensive Plan Update – Horizon 2040, all of the subarea plans were incorporated into Horizon 2040; therefore, the WVNP no longer applies to the subject property. This re-designation would align the zoning to the long-term use that has been on the property, but at a lower level of review.

(e) To change a resource designation, the map amendment must be found to do one of the following:

(i) Respond to a substantial change in conditions beyond the property owner’s control applicable to the area within which the subject property lies; or
(ii) Better implement applicable comprehensive plan policies than the current map designation; or

(iii) Correct an obvious mapping error; or

(iv) Address an identified deficiency in the plan. In the case of Resource Lands, the applicable de-designation criteria in the mapping criteria portion of the Land Use Element of the Yakima County Comprehensive Plan – Horizon 2040 shall be followed. If the result of the analysis shows that the applicable de-designation criteria has been met, then it will be considered conclusive evidence that one of the four criteria in paragraph (e) has been met. The de-designation criteria are not intended for and shall not be applicable when resource lands are proposed for re-designation to another Economic Resource land use designation;

**Staff Findings:** This proposed change does not involve a resource designation.

(f) A full range of necessary public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation. Such services may include water, sewage, storm drainage, transportation, fire protection and schools;

**Staff Findings:** The subject property is within the Nob Hill service area and is currently being served. The City of Yakima sewer lines are within the UGA; however, the lines are roughly 1.5 away from the subject property. The property owners have developed a storm water plan for management of storm water runoff, which was approved by the Yakima County Water Resources Division during their last project expansion. This plan was submitted and approved during previous land use applications on the site. Any expansions of the property would include updates to this plan. The subject property is located within Fire District #12’s boundary area.

(g) The proposed policy plan map amendment will not prematurely cause the need for nor increase the pressure for additional policy plan map amendments in the surrounding area.

**Staff Findings:** Yakima County does not believe the proposed policy map amendment will prematurely cause the need/increase pressure for additional policy plan map amendments in the surround area. The property owners have included all their existing operation and additional parcels in their proposal for the re-designation/rezone.

(2) The following criteria shall be considered in any review and approval of changes to Urban Growth Area (UGA) boundaries:

(a) Land Supply:

(i) The amount of buildable land suitable for residential and local commercial development within the incorporated and the unincorporated portions of the Urban Growth Areas will accommodate the adopted population allocation and density targets;
(ii) The amount of buildable land suitable for purposes other than residential and local commercial development within the incorporated and the unincorporated portions of the Urban Growth Areas will accommodate the adopted forecasted urban development density targets within the succeeding twenty-year period;

Staff Findings: N/A – The subject property is already located within the Urban Growth Area.

(iii) The Planning Division will use the definition of buildable land in YCC 16B.02.045, the criteria established in RCW 36.70A.110 and .130 and applicable criteria in the Comprehensive Plan and development regulations;

Staff Findings: N/A – The subject property is already located within the Urban Growth Area.

(iv) The Urban Growth Area boundary incorporates the amount of land determined to be appropriate by the County to support the population density targets;

Staff Findings: N/A – The subject property is already located within the Urban Growth Area.

(b) Utilities and services:

(i) The provision of urban services for the Urban Growth Area is prescribed, and funding responsibilities delineated, in conformity with the comprehensive plan, including applicable capital facilities, utilities, and transportation elements, of the municipality;

Staff Findings: N/A – The subject property is already located within the Urban Growth Area.

(ii) Designated Ag. resource lands, except for mineral resource lands that will be reclaimed for urban uses, may not be included within the UGA unless it is shown that there are no practicable alternatives and the lands meet the de-designation criteria set forth in the comprehensive plan.

Staff Findings: N/A – The subject property is already located within the Urban Growth Area.

(3) Land added to or removed from Urban Growth Areas shall be given appropriate policy plan map designation and zoning by Yakima County, consistent with adopted comprehensive plan(s).

Staff Findings: N/A – The subject property is already located within the Urban Growth Area.
(4) Cumulative impacts of all plan amendments, including those approved since the original adoption of the plan, shall be considered in the evaluation of proposed plan amendments.

**Staff Findings:** Cumulative impacts are evaluated as part of the State Environmental Policy Act (SEPA) review process. SEPA findings are addressed below.

(5) Plan policy and other text amendments including capital facilities plans must be consistent with the GMA, SMA, CWPP, other comprehensive plan goals and policies, and, where applicable, city comprehensive plans and adopted inter-local agreements.

**Staff Findings:** N/A – The proposal is for a Comprehensive Plan Map Amendment.

(6) Prior to forwarding a proposed development regulation text amendment to the Planning Commission for its docketing consideration, the Administrative Official must make a determination that the proposed amendment is consistent with the GMA, CWPP, other comprehensive plan goals and policies, and, where applicable, city comprehensive plans and adopted inter-local agreements.

**Staff Findings:** N/A – The proposal is for a Comprehensive Plan Map Amendment.

**Staff Conclusion:** The subject property meets the above approval criteria and is more consistent with the proposed land use designation than the current land use designation. The goals and policies outlined in both the Growth Management Act and Horizon 2040 encourage high intensity development to be located within the Urban Growth Area, which is where the proposal is located. Capital facilities are available to this property, as discussed above. Most this property is already an industrial use and the zoning will impose stricter development standards. This proposal meets these criteria and therefore should be approved.

### G. Allowable Uses

The applicant requests a change in the Future Land Use Map on the subject property from Urban Residential and Urban Commercial to Urban Industrial. If the comp plan amendment is approved, a concurrent rezone from Suburban Residential (SR), Single-Family Residential (R-1), and Local Business (B-2) to Light Industrial (M-1) is also requested. Examples of uses that would be allowed if the property were rezoned to M-1 include:

- **As Type 1 (permitted) uses:** Agricultural building, Agricultural stand, Agriculturally related industry, Agriculture, Domestic brewery, Microbrewery, Craft distillery, Irrigation distribution, Winery, Adult entertainment facilities, Police/Fire station/Ambulance, Hazardous waste treatment and storage facilities, Recycling center, Stockpiling of earthen materials, Caretaker dwelling, Communications tower, Building/Trade contractors, call center, Espresso/Coffee stand, Heavy construction equip storage, Laundromats, Lumber yard, Parking lots/Garages, Printer services (Commercial), Railroad switchyards/Maintenance facilities, Transportation terminals, Bust storage, Bus terminal, Contract truck hauling, Taxicab terminals, Transportation brokerage offices, Truck service stations, Impoundment of water, Utility services, Agricultural chemical sales/storage, Mini-storage, Bulk storage facilities, Waterhouse, and Wholesale trade.
Manufacturing: Agricultural product support, Aircraft/Aircraft parts, Commercial and Industrial Aircraft uses, Apparel, Bakery products, Beverage industry, Canning etc., Concrete/Lime/Gypsum/Plaster, Confectionery, Drugs and Pharmaceutical products, Electrical transmission and distribution equipment, Electronic components, Engineering/Medical/Optical/Dental/Scientific Instruments, Fabricated structural metal products, Food Processing, Furniture/Custom Cabinets shops, General Hardware, Glass pottery, Grain mills, Wood stoves, Leather products, Machinery, Meat/Poultry/Dairy products, Plastic products, Prefab products, Printer/Publishing/Binding, Printing Trade, Sheet Metal/Welding, Sign Manufacturing, Signs, Stone products, Transportation equipment, and Woodworking.

- As Type 2 (usually permitted) uses: Agricultural market, Aquaculture, Concentrated animal feeding operation, Forest industries, Aquatic center, Drive-in theater, Exercise facilities, Miniature golf courses, Historic landmark allowable use permit, Parks, Indoor shooting range, Community center, Child day care center, Lodges and clubs, Funeral home (without cemetery or crematorium), Health care facility, Public buildings and uses, School bus storage/maintenance facility, Schools (K-12), Business incubator facilities, Business school, Commercial education services, Community college/university, vocational school, Temporary mineral batching, Temporary mineral processing/mining Site, Recycled asphalt/concrete, Hazardous waste treatment and storage facility (RCW 70.105), Refuse landfills, Solid waste drop box site, Solid waste transfer station, Mailing services, Administrative offices not otherwise listed, Agricultural implements, Auction house, Automobile sales, Bakery/Butcher/Delicatessen, Beauty/Barber shop, Boat accessories, Car wash, Commercial services, Convenience store, Mobile food vendor, Fuel oil/Coal distributors, Hardware store, Heavy construction equipment sales/Rentals, Kennels, Maintenance/Repair shops, Medical/Dental laboratories, Motorcycle repair/maintenance, Retail nursery, Billboards, Paint/Body repair shops, Auto parts, Pet grooming, Pet store, Printing (photocopy services), Professional/Scientific/Technical services, Radio/TV studio, Rental agency, Misc. repairs, Restaurant, Second hand store, Auto service station, Shoe repair, Taverns, Technical equipment sales, Towing services, Veterinarian/Animal clinic/Hospital, Waste material handling, Airports/Landing fields (personal and public), Linear transmission facilities, Utility services, Vehicle storage,

Manufacturing: Metal/Plastic/Glass containers, Paperboard containers, and Rubber products.

- As Type 3 (usually not permitted) uses: Livestock auction/sales yard, Amusement park, Indoor sports facility, Correctional facility, Opiate substitution treatment facility (RCW 36.70A.200), Drug/Alcohol treatment center, Chemical washing/blending/extraction of precious or semi-precious minerals, Manufacture/Fabrication/Sale of concrete/asphalt/mineral products, Long-term mineral batching, Long-term mineral processing/mining site operation, Recycled asphalt/concrete, Drive through food/espresso,

Manufacturing: Cement/Concrete plants, Chemicals (industrial, agricultural, wood, etc.), Drop forge products, Explosives and ammunition, Chemical fertilizer, Leather tanning and finishing, Major industrial development, Paints/Varnishes/Lacquers/Enamels, Petroleum products (refining and manufacturing), Rendering plants/slaughterhouses, Rubber reclaiming, Sawmills and planing mills, and Vehicle assembly.

- As Type 4 (Quasi-judicial applications) uses: None
Staff Conclusion: A majority of the property is already developed in an Agricultural Related Industry, which would be a Type 1 on the M-1 land use table. The purpose of the re-designation/rezone is to allow for simplified land use permit review process for new structures/expansions to the existing operation. If vacant lands aren’t built as agricultural related industrial uses, the SEPA review process and development regulations will address these land uses. A majority of the Type 1 and Type 2 land uses, which are considered to be allowable land uses and generally appropriate in the zoning district if conditioned properly, would be compatible in this location, assuming the land use and SEPA would mitigate any associated impacts with the land use. The Type 3 land uses are considered generally inappropriate throughout the zoning district and would therefore have a higher level of review of review and/or condition to be permitted.

H. Unified Land Development Code Title 19 – Light Industrial Standards

Yakima County Title 19 has a few development regulations specific to the Light Industrial (M-1) zoning district which need addressing in regards to the associated major rezone to M-1. If the property is re-designated/rezoned to M-1, it will create some nonconformity to uses, structures, and lots within the subject property. YCC 19.33.010 states that lots, uses, and structures exist which were lawful when established but whose establishment would be restricted or prohibited under current zoning regulations. See the attached development regulations of the M-1 zoning district YCC 19.13 (Appendix C) as well as Chapter 19.33 Nonconforming Lots, Structure, and Uses (Appendix D) for additional information.

Staff Finding:
Nonconforming uses – Residential uses are not allowed in the M-1 zoning district; however, according to the Yakima County Assessor there are three parcels within the project that have residences on them (171211-12007, 171211-11404, and 171211-11417). These residential uses can continue, but any expansion, modification, etc. will need to processed through the nonconforming use expansion requirements of YCC 19.33. The residential uses on these three parcels will be considered legally nonconforming.

Nonconforming Structures - Table 19.13.030-1 requires a minimum side and rear yard setback of one-half the building height or fifty feet, whichever is greater, when abutting a residentially zoned lot. There are a few existing buildings that will not meet this setback (for example the building on parcel number 171211-11035). These buildings will be considered legally nonconforming. New structures would have to meet the new setback. Any expansion to an existing building that doesn’t meet the setback and/or the replacement of a building would need to be reviewed under the nonconforming structure expansion (YCC 19.33) and/or apply for an administrative adjust to request a reduction to the required setback.

Nonconforming Lots – The minimum lot size in the M-1 zoning district is ½ acre. Four lots within this proposal do not meet that lot size requirement and will be considered nonconforming lots (parcel numbers 171211-11405 (0.49 acres), 171211-11404 (0.13 acres), 171211-11403 (0.13 acres), and 171211-11417 (0.12 acres). Merging lots to meet the lot size requirement would be an option; however, two of these lots have homes on them. The code only allows one home per parcel meaning
merging lots is not an option. The issue with a nonconforming lot would be that the setbacks would not be met, so administrative adjustments to structural setbacks would likely be required in the future. If there is no intent to place a structure other than the existing residences, setbacks may not be an issue.

I. Discussion of Environmental Analysis (SEPA)

Staff has completed an assessment of the potential environmental impacts associated with the proposed plan and zoning amendment and proposes mitigation, where appropriate.

- **LRN2018-00002/SEP2018-00004: Gilbert Orchards, Inc.** The applicant requests to amend the Yakima County Comprehensive Plan – Horizon 2040 Future Land Use Map, and to rezone the properties (17 parcels, approximately 70.12 acres). The request is to change the land use designation on the properties from Urban Residential (UR) and Urban Commercial (UC) to Urban Industrial (UI) and rezone the property from Suburban Residential (SR), Single-Family Residential (R-1), and Local Business (B-2) to Light Industrial (M-1).

The Environmental Checklist submitted by the applicant discloses no direct adverse environmental impacts associated with the proposal. However, if approved, the increased number of possible uses and greater development potential allowed on the property may potentially create significant adverse environmental impacts. The cumulative impacts analysis of the SEPA will determine if there are any potential impacts associated with this Comprehensive Plan Map Amendment. When future development applications are submitted, further environmental review will likely be required of most projects. At that time the mitigation measures outlined below are likely to be required to avoid probable significant adverse environmental impacts.

One comment letter was received during the comment period from a neighbor expressing concern regarding the overall impact Gilbert Orchards has had on the property (Appendix E). The comments will be address through the SEPA process.

I. CONCLUSIONS

1. The comprehensive plan amendment request meets the approval criteria of YCC 16B.10.050(1) for a plan map amendment. It is consistent with the Growth Management Act (RCW36.70A) and with the goals and policies of the Yakima County Comprehensive Plan (Plan 2015).

2. The rezone request meets the approval criteria in YCC Chapter 16B.10 for a rezone.

3. No probable significant environmental impacts have been identified to result from approval of the applicant’s request. However, environmental impacts resulting from future applications for project development on the site have been identified, together with mitigation measures that would likely be necessary to avoid the need for an environmental impact statement.

J. RECOMMENDATIONS

The Yakima County Planning Division recommends APPROVAL of the Horizon 2040 map amendment and rezone request, subject to consideration of testimony from neighbors and interested parties.
ATTACHMENTS:

Appendix A – Revised application material
Appendix B – Maps
Appendix C – Light Industrial and Heavy Industrial Districts (M-1, M-2) YCC 19.13.030
Appendix D – Nonconforming Use Development Regulations YCC 19.33
Appendix E – Comment Letter
6. WRITTEN NARRATIVE (Site Specific) To include the following:

a. Existing and historic land use
Gilbert Orchards, has been located in Wiley City for 100+ years, where they have stored, packed and shipped their fruit grown all over central Washington. The Gilbert plant has grown over the last 30 years with respect to the market. The facility has plans to continue to grow and has offered a ten year facility plan to Yakima County showing the implications of growth to meet the markets demand. Gilbert Orchards will need to acquire an amendment and concurrent rezone from SR to Light Industrial on the facilities parcels so that the parcels in which Gilbert Orchards conducts its business on will be properly labeled for current and future projects/business.

b. Soil types (General description)
Gilbert Orchards packing, storing and shipping facilities of 60+ acres sits on silt loam soil of several varieties, such as, gorst, Kittitas and Umapine. Please see attachment “Soil Map” for further description.

c. Current sewage disposal and water supply
Current sewage: onsite drain field-See Drain Field attachment
Current Water Supply is Nob Hill water

d. Suitability of the site as resource lands (if currently Designated as such)
N/A

e. Any known cultural, archaeological or historic resources
None located

f. Any previous land use permit activity (Under current ownership)
CUP 15-019, COA 15-003, VAR 15-014, and SEPA 15-006

g. The availability of public facilities, such as roads, sewer, water and other required public services:
Gilbert Orchards has signed an agreement in 2015, under SEPA 15-006 to connect to the public sewer system if brought out to facility, within 10 years. Also, Gilbert Orchards will look into alternative means/ways of private road access to Gilbert Orchards vehicles to reduce traffic off of public road ways
7. WRITTEN NARRATIVE indicating the reason for the proposed plan amendment and addressing the plan amendment (16B.10.095) approval criteria indicated below:

Amendments to Comprehensive Future Land Use Map may only be approved after all of the following criteria are considered:

a. The proposed amendment is consistent with the Growth Management Act and requirements, The Yakima County Comprehensive Plan-Horizon 2040, applicable city comprehensive plans, applicable capital facilities plans and official population growth forecasts and Allocations;

Proposed amendment is consistent with the planning goals of transportation, which will be coordinated with county and city comprehensive plans. Our goal is the look into alternative means/ways of private road access to Gilbert Orchards vehicles to reduce traffic off of public road ways.

Economic development, which is applicable, promotes the retention and expansion of Gilbert Orchards on its property. This all within the capacities of the state’s natural resources, public services, and public facilities.

Being that Gilbert Orchards is a part of the natural resource industry, it is crucial for our business be allowed to expand with economic development so that we can maintain our agricultural properties.

b. The site is more consistent with the criteria for the proposed map designation than it is with the criteria for the existing map designation;

Previous homes located on the parcels that are currently identified as SR have been purchased and removed for future development of Gilbert Orchards industrial use, trying to help with expansion with the area. Current land use is not relevant to current zoning as SR.

c. The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity;

The site is suitable for the proposed designation because the facilities, structures and current land use on the parcels is light industrial and is not intended for the current zoning as SR.

d. For map amendment, substantial evidence or a special study has been furnished that compels a finding that the proposed designation is more consistent with comprehensive plan policies than the current designation;

Studies have not been performed, but we feel that the zoning of the land to its current use as industrial is suitable for our company’s economic development.
e. To change a resource designation, the plan map amendment must be found to do one of the following:

(i) Respond to a substantial change in conditions beyond the property owner’s control applicable to the area within which the subject property lies; or

(ii) Better implement applicable comprehensive plan policies than the current map designation; or
   - Current land use is not relevant to current zoning as SR.

(iii) Correct an obvious mapping error; or

(iv). Address an identified deficiency in the plan. In the case of resource lands, the applicable de-designation criteria in the mapping criteria portion of the Chapter 5-Land Use Element of Horizon 2040, shall be followed. If the result of the analysis shows that the applicable de-designation criteria have been met, then it will be considered conclusive evidence that one of the four criteria in paragraph (e) has been met. The de-designation criteria are not intended for and shall not be applicable when resource lands are proposed for re-designation to another Economic Resource land use designation;

f. A full range of necessary public facilities and services can be adequately provided in an Efficient and timely manner to serve the proposed designation. Such services may include Water, sewage, storm drainage, transportation, fire protection and schools;

Water, sewage, storm drainage, transportation, fire protection and schools is currently sufficient for proposed designation.

Gilbert Orchards has put in place a qualified (via Yakima County and Washington State Department of Ecology) storm water drainage system that encompasses current and future development.

Current transportation is adequate, but Gilbert Orchards will look into alternative means/ways of private road access to Gilbert Orchards vehicles to reduce traffic off of public road ways.

Our current systems will be adequate for our foreseeable future.

g. The proposed future land use map amendment will not prematurely cause the need for nor increase the pressure for additional plan map amendments in the surrounding area.

Will not propose future will not prematurely cause the need for nor increase the pressure for additional plan map amendments in surrounding areas. The land that is on the application is currently being used for Gilbert Orchards needs as a business and would not put pressure on other parcels to change their designation.
MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils
- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points

Special Point Features
- Blowout
- Barrow Pit
- Clay Soil
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh or swamp
- Mine or Quarry
- Mianneh Mine Water
- Perennial Water
- Rock Outcrop
- Solstice Spot
- Sundry Spot
- Suryvry Fencer Spot
- Sinkhole
- Sink or Gip
- Soils Spot

Boulder Area
Stony Spot
Very Silvery Spot
Wet Spot
Other

Special Land Features

Water Features
- Streams and Canals

Transportation
- Roads
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mappet at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil lines placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)
Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Yakima County Area, Washington Survey Area Data: Version 17, Sep 12, 2017

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jun 3, 2014—Sep 21, 2016

The orthophoto or other base map on which the soil lines were completed and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.
## Map Unit Legend

<table>
<thead>
<tr>
<th>Map Unit Symbol</th>
<th>Map Unit Name</th>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
</tr>
</thead>
<tbody>
<tr>
<td>43</td>
<td>Gorst loam, 2 to 15 percent slopes</td>
<td>1.4</td>
<td>0.7%</td>
</tr>
<tr>
<td>44</td>
<td>Gorst loam, 15 to 30 percent slopes</td>
<td>12.6</td>
<td>6.0%</td>
</tr>
<tr>
<td>45</td>
<td>Gorst cobbly loam, 0 to 25 percent slopes</td>
<td>3.5</td>
<td>1.7%</td>
</tr>
<tr>
<td>46</td>
<td>Hanwood loam, 2 to 5 percent slopes</td>
<td>12.4</td>
<td>5.9%</td>
</tr>
<tr>
<td>66</td>
<td>Kittitas silt loam</td>
<td>36.1</td>
<td>17.2%</td>
</tr>
<tr>
<td>69</td>
<td>Lopy silt loam, 0 to 2 percent slopes</td>
<td>26.0</td>
<td>12.3%</td>
</tr>
<tr>
<td>163</td>
<td>Typperish silt loam</td>
<td>9.6</td>
<td>4.6%</td>
</tr>
<tr>
<td>165</td>
<td>Tack loam</td>
<td>90.6</td>
<td>44.0%</td>
</tr>
<tr>
<td>160</td>
<td>Ursupine silt loam, drained, 0 to 2 percent slopes</td>
<td>79.3</td>
<td>37.7%</td>
</tr>
</tbody>
</table>

Total for Area of Interest

<table>
<thead>
<tr>
<th>Acres in AOI</th>
<th>Percent of AOI</th>
</tr>
</thead>
<tbody>
<tr>
<td>210.4</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
Gilbert Orchards, Inc.
Rezone-Parcels
Attachment-Additional Parcels

17120244450
17120244449
17121112003
17121112005
17121111031
17120244448
17120243010
WAC 197-11-960 Environmental checklist.

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

For nonproject proposals complete this checklist and the supplemental sheet for nonproject actions (Part D). The lead agency may exclude any question for the environmental elements (Part B) which they determine do not contribute meaningfully to the analysis of the proposal.

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.
A. BACKGROUND

1. Name of proposed project, if applicable:
   Rezoning to light Industrial

2. Name of applicant:
   Thomas Hale with Gilbert Orchards

3. Address and phone number of applicant and contact person:
   10604 Gilbert Road Paluma, WA 98903
   509-930-0817

4. Date checklist prepared:
   1/18/2018

5. Agency requesting checklist:

6. Proposed timing or schedule (including phasing, if applicable):
   2018

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
   NO, not at this time, but when page 171202-43010 has expansion, we will apply for appropriate permits.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
   Environmental documents will be provided during building applications.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
   NO

10. List any government approvals or permits that will be needed for your proposal, if known.
    N/A Unknown
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

Gilbert Orchards would like to demote its farmlands that are used directly for business of Gilbert Orchards to light Industrial, 65 acres

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

10801 Gilbert Road Yelm, WA 98597, 65 acres that surrounds the company's main office

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other......

b. What is the steepest slope on the site (approximate percent slope)?

19%

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. See soil attachment.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

NO

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Will be determined at time of building application

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

NO
g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

will be determined at time of building applications

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Planting grass

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Unknown at this time

b. Are there any offsite sources of emissions or odor that may affect your proposal? If so, generally describe.

No

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

None at this time

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Seasonal Streams

Brehelov creek

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

No

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

None

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No

5) Does the proposal lie within a 100-year flood plain? If so, note location on the site plan.

Yes see site map
6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

    NO

b. Ground:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well? Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

    Well is existing on property

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

    Existing septic system in place. All buildings on site.

    Any new septic will be applied for all buildings on site.

c. Water runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

    Stormwater site plan is installed and fits requirements of entire facility. "See attached."

2) Could waste materials enter ground or surface waters? If so, generally describe.

    NO

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

    NO

d. Proposed measures to reduce or control surface, ground, runoff water, and drainage pattern impacts, if any:

    NO

4. Plants

a. Check the types of vegetation found on the site:

   - Deciduous tree: Alder, maple, aspen, other
— Evergreen tree: Fir, cedar, pine, other

☑ Shrubs
☒ Grass
☒ Pasture

— Crop or grain

— Orchards, vineyards or other permanent crops.

— Wet soil plants: Cattail, buttercup, bullrush, skunk cabbage, other

— Water plants: Water lily, eelgrass, milfoil, other

☒ Other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

None

c. List threatened and endangered species known to be on or near the site.

NONE

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Native plants planted annually to existing vegetated areas

e. List all noxious weeds and invasive species known to be on or near the site.

Thistle

5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include:

Birds: Hawk, heron, eagle, songbirds, other: Starling, Robbin

Mammals: Deer, bear, elk, beaver, other: None

Fish: Bass, salmon, trout, herring, shellfish, other: None

b. List any threatened and endangered species known to be on or near the site.

NONE

c. Is the site part of a migration route? If so, explain.

NO
d. Proposed measures to preserve or enhance wildlife, if any:

*None at this time*

e. List any invasive animal species known to be on or near the site.

*None*

6. Energy and natural resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

*Electrical, Manufacturing*

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

*No*

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

*None*

7. Environmental health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

*No*

1) Describe any known or possible contamination at the site from present or past uses.

*None*

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

*None*

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

*None*

4) Describe special emergency services that might be required.

*None*

5) Proposed measures to reduce or control environmental health hazards, if any:

*None*
b. Noise
1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
   
   **None**

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
   
   **Proposed truck, forklift and operation noise with current facility. Future projects may have more noise/night.**

3) Proposed measures to reduce or control noise impacts, if any:
   
   **Fencing/buffer as required by fallout.**

8. Land and shoreline use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.
   
   **No**

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?
   
   **No**

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how: **No**

c. Describe any structures on the site.
   
   **Packaging facility and storage**

d. Will any structures be demolished? If so, what? **No**

e. What is the current zoning classification of the site?
   
   **SR, R1, BD**

f. What is the current comprehensive plan designation of the site?
   
   **Urban Residential, Urban Commercial**
g. If applicable, what is the current shoreline master program designation of the site?

N/A

h. Has any part of the site been classified critical area by the city or county? If so, specify.

Wetlands, See Site Map, Floodway

i. Approximately how many people would reside or work in the completed project?

350-400

j. Approximately how many people would the completed project displace?

0

k. Proposed measures to avoid or reduce displacement impacts, if any:

N/A

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Plans are accepted, rezoning for future plans done at project applicants

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

Work with Yakima County

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

None

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

None

c. Proposed measures to reduce or control housing impacts, if any:

None

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

35 feet - 80 feet

b. What views in the immediate vicinity would be altered or obstructed?

Minimal
c. Proposed measures to reduce or control aesthetic impacts, if any:

   Plant trees

11. Light and glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

   Existing lighting

b. Could light or glare from the finished project be a safety hazard or interfere with views?

   Light on property faces property and faces downward away from homes

   Light from property faces house

   Landscaping

   Safety hazard

   Interferes with views

c. What existing offsite sources of light or glare may affect your proposal?

   None

d. Proposed measures to reduce or control light and glare impacts, if any:

   None

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

   None

b. Would the proposed project displace any existing recreational uses? If so, describe.

   No

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

   None being impacted

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.

   No

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation. This may include human burials or old cemeteries. Is there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

   No

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the

   Work with Yakima County
department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

none will be lost

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area, and describe proposed access to the existing street system. Show on site plans, if any.

Gilbert road, future development

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

NO

c. How many additional parking spaces would the completed project or nonproject proposal have? How many would the project or proposal eliminate?

30 increase

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

Private road to tie in stress, off of public roads, not at this time no development

e. Will the project or proposal use (or occur in the proximity of) existing or proposed air transportation? If so, generally describe.

NO

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

Increase unknown at this time

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

Gilbert Orchards currently moves ag products

h. Proposed measures to reduce or control transportation impacts, if any.

build private road if needed for future development
15. Public services

a. Would the project result in an increased need for public services (for example: Fire protection, police protection, public transit health care, schools, other)? If so, generally describe.

\[ \text{No} \]

b. Proposed measures to reduce or control direct impacts on public services, if any.

\[ \text{Build private roads if needed for future development. No other impacts} \]

16. Utilities

a. Circle utilities currently available at the site. Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

\[ \text{Electricity, water, refuse service} \]

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

\[ \text{None} \]

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:

Date Submitted:
D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

   it would not increase any of the items above

   Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

   no affects

   Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

   no depletion

   Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, flood plains, or prime farmlands?

   none affected

   Proposed measures to protect such resources or to avoid or reduce impacts are:
5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

N/A

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

It would help for us to reduce or decrease demand on public services. No new need to public services, until further development is approved for.

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment. N/D
APPENDIX C

19.13.030 Light Industrial and Heavy Industrial Districts (M-1, M-2).

(1) Legislative Intent.
   (a) Light Industrial District. The purpose of the Light Industrial (M-1) district is to:
      (i) Establish and preserve areas near designated truck routes, freeways and the railroad for light industrial uses, which should not generate noise levels, light, odor or fumes that would constitute a hazard. Such uses are light manufacturing, processing, research and wholesale trade, storage and distribution facilities;
      (ii) Direct truck traffic onto designated truck routes and away from residential streets; and
      (iii) Minimize conflicts between uses in the light industrial district and surrounding land uses.
   (b) Heavy Industrial District. The purpose of the Heavy Industrial (M-2) district is to:
      (i) Establish and preserve areas near designated truck routes, freeways and the railroad for heavy industrial uses, such as manufacturing, assembling, fabrication, processing and distribution and storage facilities;
      (ii) Protect uses with the potential to generate high levels of noise, light, odor, fumes or smoke from encroachment by incompatible land uses;
      (iii) Direct heavy truck traffic onto designated truck routes and away from residential streets; and
      (iv) Assure that permitted uses do not generate gases, fumes, heat, glare or vibrations in a manner inconsistent with the intent of the district and/or incompatible with surrounding uses; and
      (v) Minimize conflicts between heavy industrial uses and surrounding land uses.

(2) Special Location Requirements. The M-1 and M-2 districts are located principally, but not exclusively, within Urban Growth Areas. Establishment of M-1 and M-2 zoning districts outside Urban Growth Areas is allowed if the criteria including, but not limited to, Comprehensive Plan policy ED 3.14 and the following, are met:
   (a) New infrastructure is provided for and/or applicable impact fees are paid; and
   (b) Transit-oriented site planning and traffic demand management programs are implemented; and
(c) Buffers are provided between the major industrial development and adjacent nonurban areas to appropriately mitigate and screen impacts of structures and activities including, but not limited to, bulk, light, glare, noise, and parking; and
(d) Environmental protection including air and water quality has been addressed and provided for; and
(e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas; and
(f) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands and mineral resource lands; and
(g) The plan for the major industrial development is consistent with the policies and development regulations established for protection of critical areas; and
(h) An inventory of developable land has been conducted and findings made that land suitable to site the major industrial development is unavailable within the Urban Growth Area. Priority shall be given to applications for sites that are adjacent to or in close proximity to the Urban Growth Area.

(3) Development Standards.
   (a) New lots and structures and additions to structures subject to this Section shall comply with the applicable standards for lots and building height, and setbacks in Tables 19.13.030-1, subject to Chapter 19.10 and Section 19.35.020.
   (b) Industrial uses and land divisions shall facilitate future urban development and extension of utilities.
   (c) Proposed industrial development shall ensure adequate setbacks, buffering of adjoining uses and sensitivity to physical features.

(4) Performance Standards. No land or structure shall be used or occupied within M-1 and M-2 districts unless there is continuing compliance with the following minimum performance standards:
   (a) Noise. Maximum permissible noise levels shall be as determined by Chapter 173-60 WAC, as amended and applicable provisions of Subtitle 19.3 (Procedures).
   (b) Emissions and Venting.
      (i) The emission of any gases, fumes or vapors dangerous to human health, animal life, vegetation or property are prohibited.
      (ii) The venting of odors, vapors, smoke, cinders, dust, gas, and fumes shall be directed away from residential uses within 50 feet of the vent.
   (c) Heat. No use shall produce heat significantly perceptible beyond its lot lines.
(d) Glare.
   (i) No use shall produce a reflection of a strong light, beyond its lot lines.
   (ii) Except for exterior lighting, operations producing glare shall be conducted entirely within an enclosed building.
(e) Electromagnetic Interference. Electric fields and magnetic fields shall not be created that adversely affect the normal operation of equipment or instruments or normal radio, telephone, or television reception from off the premises where the activity is conducted. This section does not apply to telecommunication facilities regulated by the Federal Communications Commission under the Federal Telecommunication Act of 1996 or its successor.

Table 19.13.030-1. Lot Standards, Setbacks, Lot Coverage and Building Height Requirements

<table>
<thead>
<tr>
<th>Subject</th>
<th>Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum lot area</strong></td>
<td>M-1</td>
</tr>
<tr>
<td>New parcels smaller than one-half acre are not permitted</td>
<td>One-half acre</td>
</tr>
<tr>
<td>unless consistent with a binding site plan approval for the use</td>
<td>One-half acre</td>
</tr>
<tr>
<td><strong>Minimum lot width</strong></td>
<td>M-1</td>
</tr>
<tr>
<td></td>
<td>60 feet</td>
</tr>
<tr>
<td></td>
<td>60 feet</td>
</tr>
<tr>
<td><strong>Maximum lot coverage</strong></td>
<td>M-1</td>
</tr>
<tr>
<td></td>
<td>100 percent</td>
</tr>
<tr>
<td>or less as required by Section 19.21.030 for sitescreening/landscaping</td>
<td></td>
</tr>
<tr>
<td><strong>Maximum building height</strong></td>
<td>M-1</td>
</tr>
<tr>
<td>Additional restrictions may apply within the Airport Safety Overlay.</td>
<td>60 feet</td>
</tr>
<tr>
<td>See Section 19.17.030.</td>
<td>None</td>
</tr>
<tr>
<td>**Minimum vision clearance triangle at intersections, railroads,</td>
<td>M-1</td>
</tr>
<tr>
<td>curbcuts and driveways</td>
<td>See Subsection 19.10.040(7)</td>
</tr>
<tr>
<td><strong>Minimum building setback</strong></td>
<td>M-1</td>
</tr>
<tr>
<td>Front/street side*</td>
<td>Classified road (arterial or collector)</td>
</tr>
<tr>
<td></td>
<td>50 feet from planned centerline</td>
</tr>
<tr>
<td>Subject</td>
<td>Zone</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Roads with a right-of-way or vehicular access easement greater than 60 feet in width</td>
<td>25 feet from planned right-of-way edge</td>
</tr>
<tr>
<td>Turnaround or cul-de-sac</td>
<td></td>
</tr>
<tr>
<td>Local access or private roads(^{(4)})</td>
<td>50 feet from planned centerline</td>
</tr>
<tr>
<td>Private, shared driveway or alley(^{(4)}) (see Chapter 19.23)</td>
<td>10 feet from edge of easement</td>
</tr>
<tr>
<td>Side (interior)(^{*})</td>
<td></td>
</tr>
<tr>
<td>Not adjoining an RT, SR, R-1, R-2 or R-3 district</td>
<td>0 feet</td>
</tr>
<tr>
<td>Adjoining an RT, SR, R-1, R-2 or R-3 district</td>
<td>One-half building height or fifty feet, whichever is greater</td>
</tr>
<tr>
<td>Rear(^{*})</td>
<td></td>
</tr>
<tr>
<td>Right-of-way or vehicular access easement</td>
<td></td>
</tr>
<tr>
<td>Not adjoining an RT, SR, R-1, R-2 or R-3 district</td>
<td>0 feet</td>
</tr>
<tr>
<td>Adjoining an RT, SR, R-1, R-2 or R-3 district</td>
<td>One-half building height or fifty feet, whichever is greater</td>
</tr>
</tbody>
</table>

\(^{*}\)Dwellings and other especially sensitive land uses (ESLU) adjacent to designated resource lands and/or activities are subject to additional setbacks

See Section 19.18.205

Additional setback to conform to sitescreening requirements

See Section 19.21.030

Notes:

(1) Minimum lot area is subject to the following:

(a) The minimum lot size herein specified is based on public water and sewer service availability. Lot size may need to be increased to comply with Yakima Health District,
Department of Health, Department of Ecology requirements, and/or other adopted regulations.

(b) Lot sizes shall be increased to accommodate specific uses, lot coverage, setbacks, access, landscaping (see Chapter 19.21) and other requirements as provided in this Title.

(c) The minimum lot size in the Greenway Overlay is one acre.

The following uses may be permitted on newly approved lots of less than the minimum parcel size: Utilities, structures and uses including but not limited to utility substations, pump stations, wells, watershed intake facilities, gas and water transmission lines and telecommunication facilities. Lots less than the minimum parcel size shall be reviewed for compatibility and must be designated as “non-buildable lot for utility purposes” by plat note, or by the equivalent deed or title restriction, if there is no plat. Standard lot width and setbacks shall apply.

(2) See Subsection 19.10.040(6)(b) for setback exceptions for temporary turnarounds and through lots.

(3) When there is no right-of-way, the front setback shall be 20 feet from the front property line.

(4) Gates restricting vehicular access and garage and carport entrances shall be set back 20 feet from the edge of the right-of-way.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 7-2013 § 1 (Exh. A) (part), 2015).
Chapter 19.33  
NONCONFORMING LOTS, STRUCTURES AND USES

Sections:

19.33.010 Legislative Intent.
19.33.020 Applicability.
19.33.030 Nonconforming Status.
19.33.040 Legal Nonconforming Lots.
19.33.050 Legal Nonconforming Buildings or Structures.
19.33.060 Legal Nonconforming Uses.

19.33.010 Legislative Intent.
Lots, uses, and structures exist which were lawful when established but whose establishment would be restricted or prohibited under current zoning regulations. This Chapter is intended to protect only those uses, structures and lots that were legally established prior to a change in regulation, and have not been abandoned or discontinued. However, a range of regulatory strategies provided herein allows nonconforming uses to continue so long as they are benign or compatible with neighboring properties. Nonconforming uses with incompatible attributes, as defined, may be injurious to neighboring properties or cause nuisances to the detriment of the community and therefore should not be reestablished when substantially damaged or destroyed.

The intent of this Chapter, under certain circumstances and controls, is to allow modifications to nonconforming lots, uses and structures consistent with the objectives of maintaining the economic viability of such lots, uses and structures, while protecting the rights of surrounding property owners to use and enjoy their properties. This Chapter is intended to provide a compatibility determination for evaluating the proposals for modification, expansion, and/or the restoration of damaged or destroyed nonconforming uses of structures because the effect of approving such applications could result in continuation of the nonconforming use for decades.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.33.020 Applicability.
All nonconforming lots, uses and structures shall be subject to provisions of this Chapter.

(1) If a lot, use or structure deemed legally nonconforming under past zoning regulations is brought into compliance with current standards, it shall be considered conforming.

(2) The provisions in this Chapter do not supersede or relieve a property owner from compliance with building, fire, health or other life safety requirements of Yakima County Code.

(3) Additional review requirements are provided within the jurisdictions of the Shoreline Master Program and the Critical Areas Ordinances for nonconforming uses or structures as defined in YCC Titles 16A, 16C or 16D.
19.33.030 Nonconforming Status.

(1) Any lot, use, or structure which, in whole or part, is not in conformance with current zoning requirements shall be considered as follows:

(a) Legal Nonconforming. Lots, uses and structures legally created or lawfully established prior to subdivision or zoning requirements, under prior zoning codes and/or County subdivision regulations are legally nonconforming and may be maintained or altered subject to provisions of this Chapter.

(b) Illegal Lots, Structures and Uses. Structures, lots, required site improvements, uses and/or developments not legally established or existing as of the effective date of this Title retain their illegal status and must be abated or comply with this Title under actions directed as a result of enforcement proceedings and/or the necessary permit applications.

(2) It shall be the burden of a property owner or proponent to demonstrate the legal nonconformity of a lot, use, and structure. The legal nonconformity of a lot may be demonstrated by a deed or development permit executed prior to the change in code. Structural nonconformities may be demonstrated through development permits, historical photos, and affidavits from persons knowledgeable of the historic configuration of the structure. A list of items to establish the nonconforming status of a land use is provided below in Subsection 19.33.060(1).

(3) If the Administrative Official cannot conclusively determine that the nonconformity was lawfully established and in continuous use or operation based on Subsection (2) above, then the matter may be referred to the Hearing Examiner for Type 2 hearing review. The Hearing Examiner shall be authorized to render a decision as to whether the nonconforming use or structure was lawfully established and in continuous operation, and review it for compliance with this Chapter.

19.33.040 Legal Nonconforming Lots.

A nonconforming lot, as defined in Section 19.01.070 and created as a building site, which does not conform to minimum lot area, width or depth requirements of the zoning district in which it is situated may be developed, subject to the following:

(1) Establishment of Land Uses and Structures on Nonconforming Lots.

(a) A permitted use or structure shall meet all existing development standards of the zoning district within which it is located including, but not limited to, required yards/setbacks, lot coverage, density (units per parcel), parking, landscaping, storm drainage, signage, and road standards, subject to Subsections (1)(b) and (c) below. Adjustments to these standards shall be subject to Chapter 19.35.
(b) The following uses established on a nonconforming lot shall additionally require at least 20 feet of frontage on, or a minimum 20 foot wide access easement to, a public or private road:

   (i) Detached, single-family dwellings;

   (ii) Zero lot line, common wall or duplex development in the R-2, R-3 and B-1 districts;

   (iii) Multifamily development in the R-2, R-3, B-1 and GC districts; and

   (iv) Any permitted use or structure in the industrial (M-1, M-2) and commercial (SCC, LCC, GC) districts.

(c) The 20 foot-wide access standard shall not be adjustable below minimum fire safety standards established under YCC Title 13.

(2) Boundary Changes to Nonconforming Lots.

   (a) A legal nonconforming lot may be increased in size to bring it into closer conformance with area, yard or depth requirements of the zone in which it is located. Reduction to a nonconforming lot’s size is permitted only under Subsection 19.34.020(5)(d).

   (b) A legal nonconforming lot combined with other land to eliminate the nonconformity with any or all lot requirements of its zoning district shall thereafter remain in compliance.

   (c) A separate unit of “land” containing a building site reduced through governmental action or adverse possession below, or further below the required minimum size of the zoning district that it is located, shall be deemed a legal nonconforming lot. Any such action shall be reviewed under Chapter 19.34.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 8-2015 § 2 (Exh. 4) (part), 2015; Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.33.050 Legal Nonconforming Buildings or Structures.

A legally established building or structure may continue to be used or occupied by a use permitted in the zoning district in which it is located even though it does not comply with present development standards (e.g., setbacks, lot coverage, density, height, etc.) of said zone. The legal nonconforming building or structure may be maintained as follows:

(1) Maintenance, Repair, Expansion or Structural Alteration. A legal nonconforming building or structure may be maintained, remodeled, repaired, expanded, enlarged, or structurally altered upon approval by the Building Official, as provided in this Subsection.

   (a) Building Permit Required. When any enlargement meets applicable development standards for the zoning district and this Title, such as building height, lot coverage, or setbacks, a building permit will be required for the structural enlargement.
(b) Administrative Adjustment or Variance. When the enlargement does not meet the development standards of this Title, such as building height, lot coverage, or setbacks, relief may be requested in an administrative adjustment or variance under Chapter 19.35 and a demonstration of compliance with this Subsection prior to issuance of a building permit.

(i) The Reviewing Official must find the following factors present. Any proposed change or arrangement:

(A) Will not change or modify any permit condition previously imposed under Type 2, 3 or 4 reviews;

(B) Will not reduce the amount of required landscaping or the amount or location of required sitescreening;

(C) Will not create or materially increase any adverse impacts or undesirable effects of the project, in the Reviewing Official’s determination; and

(D) Will comply with the applicable criteria of Chapter 19.35.

(ii) Any such request that does not meet all the requirements of this Subsection shall be denied.

Figure 19.33.050-1. Additions to a nonconforming structure.

(2) Restoration of Damaged Building or Structure.
(a) Damaged or Destroyed Structure. A legal nonconforming building or structure damaged or destroyed by fire, flood, explosion, wind, earthquake, war, riot, calamity or other catastrophic event may be restored or repaired under this Subsection.

(b) Documentation. The property owner shall provide the information necessary under Subsection 19.33.030(2) to reasonably assure the Reviewing Official that a requested restoration or repair complies with this Section. Acceptable documentation may include:

   (i) A basic site plan containing the information defined in Section 19.01.070 showing the actual dimensions of the nonconforming structure, its height, and its exact placement on the lot prior to being damaged; and

   (ii) A written narrative describing the use or uses that existed immediately prior to damage; and

   (iii) An affidavit or certificate from an insurance company or other entity with knowledge of the situation that the narrative and site plan accurately represents the nonconforming structure and its use or uses as they were immediately prior to damage or destruction.

(c) Natural Hazards – Additional Requirements. Nonconforming structures damaged or destroyed by flooding or other natural hazards shall additionally be subject to the requirements of YCC Titles 16A, 16C or 16D.

(d) Reconstruction Not Involving Expansion or Nonconforming Use. The Administrative Official may, through a Type 1 review process, approve reconstruction in conformance with the site plan or to be more conforming with the provisions and standards of the zoning district in which it is located. If it is determined that the requested reconstruction amounts to any expansion of the nonconforming structure’s original bulk or dimension, the proposal shall be reviewed under Subsection (1) above. If it is determined the requested reconstruction involves a nonconforming use, the proposal shall also be reviewed under Section 19.33.060 Legal Nonconforming Uses.

(e) Reconstruction of Structures. The building or structure, not expanding and not containing a nonconforming use, may be reconstructed to the footprint existing immediately before damage or destruction, provided:

   (i) A building permit for said restoration shall be applied for within 18 months of the date of damage or disaster.

   (ii) Restoration/reconstruction shall be completed within two years of the date of damage or disaster.

   (iii) Upon receiving a written request, the Reviewing Official may, through a Type 1 review process, extend the above time limitations, provided the property owner
submits documentation demonstrating there was no intent to discontinue the structure and building permits are obtained prior to the expiration of the extension. Documentation may include, but is not limited to, the following:

(A) Requests for approvals necessary to re-establish the structure submitted to appropriate county, state and federal agencies within 18 months after the structure was damaged or destroyed;

(B) The property or structure has been involved in litigation; and

(C) Disputes in insurance settlements in the case of fire or casualty.

(iv) A statement from the property owner merely stating there is no intent to abandon is not sufficient documentation without showing additional actions taken by the property owner to re-establish the structure.

(3) Relocation. A legal nonconforming building or structure shall not be relocated on the same lot unless said move results in bringing the building or structure into closer compliance with requirements of the zoning district in which it is situated.

(4) Signs. Any sign lawfully existing under all codes and ordinances in effect when this Title is enacted or amended may continue to be maintained and operated as a legal nonconforming sign, subject to Subsection (4)(b) below, so long as it remains otherwise lawful; provided that:

(a) No sign shall be changed in any manner that increases its noncompliance with this Title;

(b) If the sign is structurally altered or moved, its legal nonconforming status shall be voided, and the sign and any replacement will be required to conform to Chapter 19.20. Nothing in this Section shall be construed to restrict normal structural repair and maintenance; and

(c) The sign is not a hazardous sign or abandoned sign.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017: Ord. 7-2013 § 1 (Exh. A) (part), 2015).

19.33.060 Legal Nonconforming Uses.

Any lawfully established nonconforming use or development may be continued at the same gross floor area or land coverage occupied on the effective date of the ordinance codified in this Title, or any amendment thereto, that made the use no longer permissible. Use of these buildings and land is subject to the following:

(1) Establishment of Legal Nonconforming Status.

(a) Any person may request a determination by the Administrative Official through a Type 1 process regarding legal status of a nonconforming use.
Evidence submitted by the applicant shall demonstrate the specific use was lawfully created or established under the zoning regulations in existence at the time and that said use has been maintained and operated continuously, without alteration to the use outside of approval under applicable code, since the time zoning regulations governing the land changed. Acceptable documentation may consist of, but is not limited to, such items as:

(i) Dated business receipts showing types of service or goods provided;
(ii) Statements or records from utilities, such as power, water or gas, that indicate the date and type of use and demonstrate that the use was conducted over time;
(iii) Operating licenses issued by government agencies;
(iv) Property rental invoices or receipts;
(v) Income tax records;
(vi) Dated listings in telephone, business or Polk directories;
(vii) Records of the County Assessor;
(viii) Building, land-use or development permits;
(ix) Dated photographs, newspaper clippings and other relevant documentation; or
(x) Notarized affidavits from neighbors or persons who have observed the nonconforming use over required period of time may assist in substantiating its presence.

If the Administrative Official cannot conclusively determine that the nonconformity was lawfully established and in continuous use or operation based on Subsection (b) above, then the matter may be referred to the Hearing Examiner for Type 2 hearing review. The Hearing Examiner shall be authorized to render a decision as to whether the nonconforming use or structure was lawfully established and in continuous operation, and review it for compliance with this Chapter.

(2) Change of Ownership, Tenancy, or Management. The legal nonconforming status of a use runs with the land, and is not dependent upon ownership, tenancy, or management, provided the nature, character, intensity or occupancy classification of the use does not change.

(3) Maintenance and Repair. Ordinary repairs and incidental alterations to correct deterioration or wear may be made to buildings containing a legal nonconforming use, provided:

(a) The required maintenance and repair activities are for the purpose of continuing the nonconforming use at or below the lawful nonconforming use level, except as permitted through the nonconforming use alteration review process under Subsection (4) below; and
The value of work and materials in any 12 month period does not exceed 25% of the assessed valuation of such building or structure as established by the most current County Assessor’s tax roll. Minor maintenance and repair includes such activities as painting, roof repair and replacement, plumbing, wiring, mechanical equipment replacement, and weatherization. Incidental alterations may include construction of nonbearing walls or partitions. Repair and alteration exceeding the 25% valuation shall require approval under the nonconforming use alteration review process of Subsection 19.33.060(4) below.

(4) Expansions or Alterations of Uses.

(a) When Authorized. No existing nonconforming use of a structure or land shall be altered, enlarged, expanded, extended or replaced except as authorized under this Section. Replacement or restoration of nonconforming uses due to damage or destruction shall be reviewed under Subsection (6) below, with criteria that may also apply in this Subsection.

(b) Definition. For this Section, the terms “alter, enlarge, expand, or extend” shall include, but not be limited to:

(i) Increased hours of operation;

(ii) Increased services or programs;

(iii) Increased number of dwellings;

(iv) Interior renovations or structural additions that increase the occupant load of the structure dedicated to the nonconforming use;

(v) Any new structures accessory to the nonconforming use;

(vi) Expansion of the structure, portions thereof, or portions of the site dedicated to the nonconforming use; or

(vii) Anything beyond regular maintenance and minor repairs described under Subsection (3) above.

(c) Nonconforming Dwellings. Any alteration or expansion of a nonconforming dwelling shall not exceed an increase of 50% of the gross floor area (including attached structures) when the dwelling became nonconforming. New detached, private garages and other structures accessory to the dwelling may be established, but new accessory housing units shall not be established on a lot containing a nonconforming dwelling. Expansions to nonconforming dwellings, not exceeding 50% of the gross floor area, and new detached structures accessory to the dwelling, other than accessory housing units, may be allowed under Type 1 review by the Administrative Official, who may attach conditions and limit the size and number of proposed accessory structures, provided the proposal:

(i) Will not change or modify any permit condition previously imposed;
(ii) Will not reduce the amount of required landscaping or the amount or location of required sitescreening; and

(iii) Will not create or materially increase any adverse impacts or undesirable effects of the project, in the Administrative Official’s determination.

(d) Process to Alter, Enlarge, Expand or Extending Nonconforming Uses or Structures. The Hearing Examiner may consider applications under Type 3 review to alter, enlarge, expand, extend or reconstruct a legal nonconforming use, other than residential structures and mining sites described in Subsections (4)(c) above and (e) below, in the same location or to include a portion of a structure, site or adjoining lot it did not previously occupy on the date said use became nonconforming. The alteration, enlargement, expansion, extension or reconstruction requested shall be denied if the Hearing Examiner finds that one or more provisions in Subsection (i) below of this Subsection are not met.

(i) Approval Criteria. The Hearing Examiner may grant the relief requested if he finds all of the following:

(A) That the alteration or expansion requested would not be contrary to the public health, safety or welfare;

(B) That the alteration or expansion is compatible with the character of the neighborhood; and does not significantly jeopardize future development of the area in compliance with the provisions and the intent of the zoning district;

(C) That the use or structure was lawful at the time of its inception;

(D) That the value of nearby properties will not be significantly depressed by approving the requested alteration or expansion;

(E) That the nonconforming structure shall comply with all development standards and codes to the extent feasible;

(F) That the use or structure will not cause, increase or expand detrimental attributes for the area in which it is located due to: use of hazardous materials; generation of noise, odors or electronic interference; introduction of incompatible uses; or generation of large numbers of vehicle trips; change in hours of operation; and emissions of light or glare; and

(G) That the proposed alteration or expansion requested will not create negative health or safety impacts and need not be excluded to protect the public from harm.

(ii) Findings and Conclusions. The Hearing Examiner shall prepare written findings and conclusions stating the specific reasons for his decision to approve, approve with conditions or deny the application. The findings shall include the Hearing Examiner’s
determination regarding compliance of the proposed alteration or expansion with the criteria established in Subsection (4)(d)(i) above.

(iii) Conditional Approval. When approving alteration or expansion of a nonconforming use, the Hearing Examiner may attach conditions to the proposed alteration or expansion or any other part of the development to assure the development is improved, arranged and screened to be compatible with the objectives of the Comprehensive Plans, this Title, and neighboring land uses.

(e) Nonconforming Mining Site/Operation. Enlargement or expansion of a nonconforming mining site/operation that does not have a current permit from the Department of Natural Resources (DNR) may be allowed when the site is within an area plan designated mineral resource overlay, subject to the respective listed required level of review (1, 2, 3 or 4), rather than the nonconforming use expansion procedure of this Section. Those without current DNR permits shall be required to comply with this Title by applying for and receiving approvals for designation and operation of the site.

(5) Change of Use. The legal nonconforming use of a building, structure, or land may be changed, subject to the following:

(a) Change to an Allowed Use in the Zone. Applications to convert from a nonconforming use to a use allowed in the zone shall be made under Type 1, 2, 3 or 4 review, depending on the designated level of review for the new use as a Type 1 Permitted, Type 2 Administrative or Type 3 or 4 Conditional Use. Once converted to a permitted use, the nonconforming use shall not be re-established.

(b) Change to Another Non-Allowed Use. A legal nonconforming use may be changed to another non-allowed use, subject to a Type 2 review, only if all of the following conditions are met:

   (i) The proposed new use must have equal or lesser overall adverse impacts to the surrounding area considering such factors as traffic, required on-site parking, hours of operation, noise, glare, dust, odor, and vibration.

   (ii) The proposed use will not introduce hazardous materials, compromise wells, otherwise cause detrimental health hazards, or interfere with development potential of nearby properties under current zoning regulations.

   (iii) The change in use will not result in an increase in the amount or area devoted to outdoor storage of goods and/or materials, nor will it cause a reduction in existing or required landscaping and sitescreening.

   (iv) The proposed new use will not enlarge the structure or building space.

   (v) The proposed change in use will involve minimal structural alteration.
(vi) The Reviewing Official may impose conditions to ensure compliance with Subsections (5)(b)(i) and (ii) of this Section.

(c) Required site improvements, parking and signage shall be subject to the specific provisions of this Title.

(6) Restoration of Damaged Building or Structure. A building or structure containing a legal nonconforming use damaged by fire, flood, explosion, wind, earthquake, war, riot, calamity or other catastrophic event may be restored or repaired, and its nonconforming use may be resumed or continued, as follows:

(a) Substantial or Partial Destruction of a Residential Structure. When a lot contains one or more legal, nonconforming, habitable dwellings, as defined in YCC Title 13, a dwelling with gross square footage not to exceed an increase of 50% of the building at the point it became nonconforming may be reconstructed through Type 1 review. Nonconforming mobile homes may only be replaced with a site-built dwelling, modular home or a manufactured home conforming to siting requirements of Section 19.18.290. The replaced or restored dwelling must be constructed according to building, health, and life safety codes within the time frame of Subsections (6)(d) and (e) below. New detached, private garages, carports and other residential accessory structures may be established without regard to a time frame under Subsection (4)(c) above.

(b) Partial Destruction of a Non-Residential Structure. If the extent of either damage or repair cost does not exceed 50% of either the square footage or assessed value, as established by the most current County Assessor’s tax roll, of a building or structure containing a nonconforming use, other than a dwelling or accessory residential structure, the building or structure may be reconstructed to the footprint existing immediately before partial destruction, subject to the time frames of Subsections (6)(d) and (e) below. Any expansion is subject to the review process of Subsection (4) above.

(c) Substantial Destruction of a Non-Residential Structure. If the extent of either damage or repair cost exceeds 50% of either the square footage or assessed value of such building or structure as established by the most current County Assessor’s tax roll, the building or structure shall only be reestablished when approved as an alteration under Subsection (4) above.

(d) A building permit application for said restoration shall be filed for within 18 months of the date of the damage, disaster or destruction.

(e) Restoration/reconstruction shall be completed within two years from the date of the issuance of the permit.

(f) Upon receiving a written request submitted prior to the expiration of 18 months following destruction, the Administrative Official may through a Type 1 review process extend the above time limitations for special circumstances beyond the control of the
(7) Discontinuation of Legal Nonconforming Use. If a legal nonconforming use of land is discontinued or terminated, it shall not be re-established. Any subsequent use of the building or land shall conform to requirements of the zoning district in which it is located.

(a) A use is discontinued when:

(i) It is succeeded by an allowed land use listed for the zoning district;

(ii) It is succeeded by another non-allowed use under Subsection (5) above;

(iii) The structure in which the use was located was damaged or destroyed and an application for rebuilding or replacement is not made within 18 months of the damage or destruction, or the application for the replacement of the nonconforming structure is denied through the Type 3 review process under Subsection (4) above; or

(iv) The use has ceased for a period of 18 months or more, or the terms of the permit allows for a longer period of time. Barring an express provision in the terms of the permit, use cessation by abandonment for such a period shall create a presumption of intent to abandon.

(b) The Administrative Official may, through a Type 1 process, grant an extension to the timeframe identified above, provided the property owner submits documentation demonstrating there was no intent to abandon the use and other applicable permits are obtained prior to the expiration of the extension. Documentation may include, but is not limited to, the following:

(i) Requests for approvals necessary to re-establish the use or structure submitted to appropriate county, state and federal agencies within 18 months after the use was discontinued;

(ii) The property or structure has been involved in litigation;

(iii) Disputes in insurance settlements in the case of fire or casualty;

(iv) Delay in transferring title due to probate proceedings; or

(v) Attempts to sell or lease the site are ongoing due to:

   (A) The time involved for marketing the premises; or

   (B) The structure is a specialized type of building requiring a specialized type of use due to equipment, processes or configuration.
(c) A statement from the property owner merely stating there is no intent to abandon is not sufficient documentation without showing additional actions taken by the property owner to re-establish the use or structure.

(Ord. 6-2017 § 2(C) (Exh. 1) (part), 2017; Ord. 8-2015 § 2 (Exh. 4) (part), 2015; Ord. 7-2013 § 1 (Exh. A) (part), 2015).
My name is Linda Wells @ 91205 Gilbert Rd. As a homeowner and tax payer, I ask that you please consider our concerns and issues we deal with on a daily basis regarding Gilbert Orchards and surrounding properties. When we had our house in 2007 it was the quiet and little traffic on Gilbert Rd that attracted us. Enjoy time doing outdoor projects. In recent years since they have been allowed to expand, the traffic has become way too congested. The roads and shoulders are taking a huge beating, large potholes and grooves along Gilbert and South Wiley roads, a huge safety factor for drivers and pedestrians. Semi's will bully you off the road, the posted speed limits are ignored by truckers and employees. On one occasion my truck side mirror was hit by a semi.
I have counted twenty semi's entering shipping & receiving lot in one hour time—this is directly across from my home. We have to listen to their loud exhaust and compression brakes, plus the odor of diesel. Many times I have been awoken to idling semi's trying to sleep overnight, across from us, they become rude when I wake them to move so I can actually sleep.

Gilbert warehouse fork lift drivers with constant beeping darting in and out of the lane of travel, while semi's block the road waiting to be loaded.

Our mailboxes have been ran over twice and you take your life in your own hands, checking your mail or walking to your neighbors.

These roads and being residential area with a school that's close becomes a big safety factor.

The larger Gilbert orchards is allowed to expand the worst these
Problems will become, to the point of lawsuits, civil litigation.
I haven't written before because I thought and feel that fruit companies own Yakima.
Now I am frustrated and feel my voice, my right to be safe and enjoy being out in my yard should be heard. These concerns and issues need to be addressed. It comes down to safety. These roads are not designed for the size and amount of traffic and congestion.
I really doubt the fruit comp. owners would accept the traffic noise, safety issues anytime they wished to leave their driveway or sit out in the yard to enjoy a little quiet!
So enough is enough for Gilbert Orchards expanding. That will only bring more traffic and problems!
I'm using the shipping and receiving lot across from 11205 Gilbert Rd, my home as an example of "give them an inch, they take a mile" metaphor. When this lot was built (myself, husband, and neighbors fought I will add) it was told to us that a maximum number of 3 semi's per hour will come through there, as I wrote earlier I've counted up to twenty just in one hour and using the lot at night like the local Gearjammer.

I would love to come to one of the meetings, but I work those hours and try to keep my blood pressure down.

Someone needs to take an actual look at the narrow curved roads, the deep grooves and holes made by continuous semi tires that people have to hit to avoid being hit or walk on. Wish I had the perfect answer but more leeway to the Gilbert Orchards and more semi traffic is not it.

I sincerely appreciate your consideration to our daily concerns.
I do want to include that one night while driving home from work, up Gilbert Rd from South Wiley Road, I encountered a semi with trailer, blocking both lanes of travel. He could not maneuver the cold storage exit from north side of Gilbert Rd. This was at night. Driver nowhere to be found, there were no road flares, safety signals of any kind warning unsuspecting drivers. And last—the dust that rolls off the lots and sides of the roadway has intensified.

If Yakima decides to grant the re-zoning, they might as well close Gilbert Rd to the public for safety reasons.

Living and dealing with this has caused me stress and sleeplessness nights, but I am here for the fight and our rights!

Thank you for your time & consideration.

Signed: [Signature]

4/18/18