**COMPREHENSIVE PLAN MAP AMENDMENT**

**CASE NUMBER(S): LRN2018-00002/SEP2018-00004**

**STAFF REPORT**

DRAFTED BY: Noelle Madera

July 11, 2018

**Planning Commission Hearing**

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Gilbert Orchards, Inc. (Cragg Gilbert)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Representative:</td>
<td>Thomas Hale</td>
</tr>
<tr>
<td>Request:</td>
<td>Type of Amendment: Comprehensive Plan Map Amendment</td>
</tr>
<tr>
<td>Land Use Designation</td>
<td>From: Urban Residential and Urban Commercial To: Urban Industrial</td>
</tr>
<tr>
<td>Zoning</td>
<td>From: SR, R-1, and B-2 To: M-1</td>
</tr>
<tr>
<td>Parcel No(s):</td>
<td>171211-12005, -12003, -12002, -12007, -12405, -11031, -11014, -11035, -11405, -11404, -11403, -11417 and 171202-44416, -44449, -44448, -44450, -43010</td>
</tr>
<tr>
<td>Parcel Size:</td>
<td>Approximately 71 acres</td>
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<tr>
<td>Location:</td>
<td>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.</td>
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### 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 A 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, zoning was changed to the area when 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 rezone 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>
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<tbody>
<tr>
<td>Subject Property</td>
<td>SR, R-1,</td>
<td>UR and</td>
<td>71</td>
<td>17</td>
<td>Agricultural related industry, residential, vacant</td>
</tr>
<tr>
<td></td>
<td>B-2</td>
<td>UC</td>
<td></td>
<td></td>
<td></td>
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<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>
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<tr>
<td>South of subject property</td>
<td>AG</td>
<td>AR</td>
<td>40</td>
<td>1</td>
<td>Agriculture/Undeveloped</td>
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<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>
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<td>West of subject property</td>
<td>R-1</td>
<td>UR</td>
<td>N/A</td>
<td>Multi</td>
<td>Residential</td>
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<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>
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<tr>
<td>Southwest of subject property</td>
<td>AG</td>
<td>AR</td>
<td>40</td>
<td>1</td>
<td>Agriculture/Undeveloped</td>
</tr>
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</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.

  The purpose of the Local Business (B-2) district is to:

  - Provide areas for commercial activities such as small retail sales and service establishments that meet the day-to-day convenience shopping and service needs of persons residing nearby residential areas;
  - Accommodate small scale commercial uses that need a higher level of visibility and easy access to major arterials, and those uses where all goods produced on the premises are sold at retail; and,
  - Require the County’s minimum urban development standards for commercial developments, or the respective city’s standards, whichever are higher.

- **Proposed Land Use Designation – Urban Industrial - UI:**

  **Urban Industrial:** 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;

  o GMA Consistency - Consistency with the thirteen GMA Planning goals, RCW 36.70A.020, without any order of priority, are listed below.

  - **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 Findings:** 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. This proposal meets the requirement of encouraging development in urban areas.

  - **RCW 36.70A.020 (2) Reduce sprawl.** Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
**Staff Findings:** This proposal is located within the Urban Growth and would not be considered low density, sprawling development.

RCW 36.70A.020 (3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

**Staff Findings:** The proposal for this Comprehensive Plan Map Amendment is not proposing any multimodal transportation systems.

RCW 36.70A.020 (4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

**Staff Findings:** The requested land use and zoning is industrial which is not intended for future residential development. However, there are a few parcels within this proposal that have a residential dwelling located on them. There is no mention in the application material whether the intent is to keep these residences or if they will be removed.

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 Findings:** 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 (6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

**Staff Findings:** N/A – Private property is not being taken for public use with this Comprehensive Plan Amendment.

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

RCW 36.70A.020 (9) Open space and recreation. Retain open space, enhance 
recreational opportunities, conserve fish and wildlife habitat, increase access to 
natural resource lands and water, and develop parks and recreation facilities.

Staff Findings: This proposal does not propose any new or remove any existing 
open/recreation space.

RCW 36.70A.020 (10) Environment. Protect the environment and enhance the state’s 
high quality of life, including air and water quality, and the availability of water.

Staff Findings: The applicant has submitted the required SEPA environmental checklist 
(SEP2018-00004) with this Comprehensive Plan Map Amendment. This is a non-
project map amendment and rezone; therefore, the applicant has proposed limited 
protection measures in the SEPA checklist. Future development proposed by the 
applicant will be required to address any potential environmental impacts.

RCW 36.70A.020 (11) Citizen participation and coordination. Encourage the 
involvement of citizen in the planning process and ensure coordination between 
communities and jurisdictions to reconcile conflicts.

Staff Findings: This Comprehensive Plan Map Amendment will follow the noticing 
requirements of YCC 16B to encourage citizen participation and coordination.

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 Findings: 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.

RCW 36.70A.020 (13) Historic preservation. Identify and encourage the preservation 
of land, sites, and structures, that have historical or archaeological significance.

Staff Findings: N/A – There are no known lands/sites/structures of historical and/or 
archeological significance at this site.
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 Findings: 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 Findings: This proposal would be consistent with these policies because 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 Yakima County Code 19.13.030 that would require increased setbacks and or site-screening 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. The West Valley Neighborhood Plan was repealed and incorporated into the Yakima County Comprehensive Plan – Horizon 2040 - during the 2017 Comprehensive Plan Update.

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 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 Findings:** This proposal is consistent with the City of Yakima’s Comprehensive Plan – Horizon 2040 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.

- 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 Findings:** 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 (TIP), 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.

- 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 Findings:** 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 is already developed in an industrial use, agricultural related industry, which is considered an industrial use. Portions of the subject property have been used as an agricultural related industry prior to its Urban 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, most this property already is developed in the industrial use, and have active land use approvals. Therefore, the re-designation/rezone of most this property wouldn’t have an impact on the surplus of vacant industrial parcels, because the use already exists and because agricultural related industry is permitted in the SR zoning district (as a Type 3 land use approval). Only the large vacant parcel (Parcel number 171202-43010, 4.75 acres) would be adding vacant industrial land to the City of Yakima’s Urban Growth Area inventory. 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 existing 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 (February 2011) 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

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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 several expansions 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.

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 miles away from the subject property. The property owners have developed a storm water plan for management of storm water runoff. This plan was submitted and approved during previous land use applications on the site. Any further expansions (structures or uses) of the property would require updates to this plan. The site is accessed off Yakima County roadways [Gilbert Road (Urban Major Collector) and Ahtanum Road (Urban Minor Arterial)]. 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;

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

(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 and
not proposed to be removed.

(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.

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,

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-

Manufacturing: Metal/Plastic/Glass containers, Paperboard containers, and Rubber products.
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
B) as well as Chapter 19.33 Nonconforming Lots, Structure, and Uses (Appendix C) 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, thus 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.

I. Discussion of Environmental Analysis (SEPA)

Staff will complete an assessment of the potential environmental impacts associated with all 2018 Biennial Amendments to the Comp Plan and Development Regulations and will propose 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 plan 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. When future development applications are submitted, further environmental review will likely be required of most projects. At that time, mitigation measures may be required to avoid probable significant adverse environmental impacts. Any impacts associated with this Comprehensive Plan Map Amendment will be addressed in the SEPA.

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 D). The comments will be addressed through the SEPA process. Additionally, comment letters from the Transportation and Water Resource Divisions were received (Appendix E and F, respectively).

J. CONCLUSIONS

1. The comprehensive plan amendment request meets the approval criteria of YCC 16B.10.090 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 – Horizon 2040.
2. The rezone request meets the approval criteria in YCC Chapter 16B.10 for a rezone.

3. Yakima County will finalize SEPA review on this proposed Comprehensive Plan Map Amendment after the Planning Commission takes public testimony on this proposal at their July 11, 2018 hearing. Environmental impacts resulting from future applications are unknown at this time, but will be addressed when they are applied for.

K. 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.

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ATTACHMENTS:

Appendix A – Maps
Appendix B – Light Industrial and Heavy Industrial Districts (M-1, M-2) YCC 19.13.030
Appendix C – Nonconforming Use Development Regulations YCC 19.33
Appendix D – Neighbor Comment Letter
Appendix E – Yakima County Transportation Division Comment Letter
Appendix F – Yakima County Water Resources Division Comment Letter

\nt2\Planning\Long Range\Projects\Plan Amendments\2018 Plan Amendments\LRN18-002 Gilbert Orchards SR-R1 to LI\PC_Hearing\LRN18-002_CompPlanMapStaffReport_HearingDraft_NM2_tc (002).docx
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></td>
<td>M-1</td>
</tr>
<tr>
<td></td>
<td>M-2</td>
</tr>
<tr>
<td>Minimum lot area (1)</td>
<td>One-half acre</td>
</tr>
<tr>
<td>New parcels smaller than one-half acre are not permitted unless consistent with a binding site plan approval for the use</td>
<td>One-half acre</td>
</tr>
<tr>
<td>Minimum lot width</td>
<td>60 feet</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>100 percent</td>
</tr>
<tr>
<td></td>
<td>or less as required by Section 19.21.030 for sitescreening/landscaping</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>60 feet</td>
</tr>
<tr>
<td>Additional restrictions may apply within the Airport Safety Overlay. See Section 19.17.030.</td>
<td>None</td>
</tr>
<tr>
<td>Minimum vision clearance triangle at intersections, railroads, curbcuts and driveways</td>
<td>See Subsection 19.10.040(7)</td>
</tr>
<tr>
<td>Minimum building setback (2)</td>
<td></td>
</tr>
<tr>
<td>Front/street side* (3)</td>
<td>Classified road (arterial or collector)</td>
</tr>
<tr>
<td></td>
<td>50 feet from planned centerline</td>
</tr>
<tr>
<td></td>
<td>Roads with a right-of-way or vehicular access easement greater than 60 feet in width</td>
</tr>
</tbody>
</table>

* Distances may include required clearance for site safety/landscaping.

(1) This section does not apply to certain activities regulated by the Federal Telecommunication Act of 1996 or its successor.

(2) Additional restrictions may apply within the Airport Safety Overlay. See Section 19.17.030.

(3) Distances may include required clearance for site safety/landscaping.
### 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></td>
<td>M-1</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)})</td>
<td>10 feet from edge of easement</td>
</tr>
<tr>
<td>(see Chapter 19.23)</td>
<td></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

**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.

See Section 19.18.205

See Section 19.21.030
(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 represent 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.
(b) 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.

(c) 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
(b) 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
owner of said building or structure. A lapse of more than 18 months shall be considered a discontinuation under Subsection (7) below.

(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 taxpayer, 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 is 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 rezoning, 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.

Yours sincerely,

[Signature]

4/18/18
Below are the comments from transportation. They would not fit in workflow tasks so I entered in into the comment section.

Jase Testerman

Any additions/subtractions/revisions to:

Gilbert Orchards LLC Properties affected by zoning change, 17121112003, 17121112002, 17121112007, 17121112405, 17121111035, 17120244450, 17120244449, 17120244448. Gilberts Orchards, has failed to comply with several conditions arising from previous land use decisions regarding traffic. In addition, previous mitigation measures, in which Gilbert Orchards has come into compliance with, have proven to be insufficient.

CUP2012-00026 Required Gilbert Cellars to follow the Loading Space Regulations outlined in YCZO 15.64.080 in which loading areas must be designated and designed to allow for all loading to occur outside of the County Road Right-of-Way (R/W). As recently as April 10th, complaints have been made to Yakima County Roads in regards to trucks loading not only in the R/W, as well as the roadway itself.

Land use mitigation requirements were put into place with CUP2015-00019. During the review process it was annotated that there were issues with trucks utilizing the roadway and County Road R/W for loading. There is no truck route which typically is present in M1 zoning, therefore it was imperative to keep the truck traffic off the more densely populated areas on Wiley Road and move them to the higher classification of roadway – Ahtanum Road- as expediently as possible. By doing so it alleviates traffic congestion, discourages hazards inherent with commercial trucks sharing the roadway with passenger vehicles, and allows for better efficiency for road repairs/maintenance. Gilbert Cellars was required to provide a traffic circulation plan intended to keep all operational activities out of the County Road away from S. Wiley Rd. As part of the traffic circulation control measures Gilbert Cellars was supposed to provide signage that directed traffic to and from Ahtanum road to the west. Gilbert Orchards was supposed to utilize Gilbert Rd., west, to Ahtanum of commercial vehicles. Additionally, they were supposed to provide a plan of how to do self-enforcement of all the above traffic control measures. Gilbert Cellars has failed to keep trucks and equipment out of the roadway, continue to load vehicles in the roadway, and continue to have truck traffic utilize Wiley City Road. There is a 10 year window for Gilbert Orchards to come into compliance with the decision of CUP15-019; but, the previously required conditions of mitigation have shown no signs of improving traffic in that area. Several complaints have been made to the Yakima County Roads department regarding the above stated issues, to which we have responded by requesting support from the Yakima County Sherriff’s office to enforce the Yakima County Parking Ordinance. To assist in the efforts to improve traffic and remove hazards from the R/W, Yakima County Roads has surveyed the area to clearly identify the R/W. Communications with the shift managers of Gilbert Orchards has been made by the Yakima County Sherriff’s Office to encourage self-enforcement of traffic laws and Yakima County Code. At this time, all measures that have been taken have had little to no mitigating effects on the hazards created by the current land use.

Yakima County Roads believes that the following measures should be required in order to better mitigate such hazards and ensure that Gilbert Orchards has a plan to comply with previous decisions and with YCC Title 19.23. and provide a
transportation network consistent to the proposed zoning; M1. All previous land development mitigations requirements shall remain in effect.

Per YCC 19.13.030 (2) (b) Transit-oriented site planning and traffic demand management programs are implemented; Per YCC19.23.040 (2)(b)(i) and (ii) Gilbert Cellars shall make frontage improvements and offsite improvements to mitigate impacts to the transportation network. To identify the such impacts and the effects of operations by Gilbert Orchards, applicant shall provide a traffic impact analysis and design study. The analysis should be able to provide the following information: The impacts to the intersection of Ahtanum and Gilbert; The intersection of Gilbert road and S. Wiley Road; S Wiley Road and Ahtanum; Of the vehicles using Gilbert Road how many are a result of the Gilbert Orchards operations to include employee vehicles, trucks, special equipment; How many trucks are utilizing S Wiley Road in coming from and going to Gilbert Orchards; How on site circulation can be improved so that vehicles are not loading in the roads and R/W; What measures will Gilbert Orchards take in enforcing traffic flow requirements.

Jamie West
Yakima County Transportation
Engineering Review Tech
509-574-2300
Hi Noelle –

My apologies for not submitting our comments promptly. If you or Tommy have questions please let me know. Our comments were collaborative, so Terry, Joel or David could also answer any questions. Harold sat in on our discussions but didn’t review my written comments.

**Accela:** The Yakima County Flood Control Zone District (FCZD) and Yakima County Stormwater Utility provide the following comments:
This is a known area of drainage and flood concerns with extensive damage in the past and recent flood mapping to establish risk. Due to repeated Wiley City flooding and shallow groundwater we believe this area lacks appropriate infrastructure to support the likely light industrial uses that will result
from the rezone, and we recommend a master plan or similar overarching approach that includes the development of infrastructure – such as road, sewer, drainage, stormwater – which will ensure that post-
rezone uses are compatible with the surrounding residential uses and the comprehensive plan objectives for the light industrial zone. This proposal would benefit from a zoning suitability analysis to adequately consider issues including transportation, waste water, flood changes and high
groundwater. The remaining considerations include the light industrial ability to expand lot coverage to
100% at full build out. This would make it more difficult to ensure adequate stormwater facilities outside
the 100-year floodplain. Another concern is a reduced level of review for likely projects. For example, from YCC Table 19.14-1 agriculturally related industries now require Type 3 review but would change to
Type 1 review under light industrial zoning

One of the infrastructure topics is process water and its likely increase as the facility expands. To increase waste water capacity a bond or LiD could be created to assure the improvements are funded. If one of the considered options includes extending the sewer line west from its current terminus on Ahtanum road in the Town of Ahtanum to Wiley City, the County should plan ahead for increased development pressure in the areas between Yakima and Wiley City. Another option would be pretreatment ponds and re-use of the process water for ag irrigation similar to other large CA complexes in the valley.

A flood topic to consider is the fact that floodplains for a Spring Creek Tributary and Bachelor Creek have a split flow area on the parcels identified for future buildings. Increasing the number and density of buildings at this location will change the percentage of flow in Spring and Bachelor Creeks during flooding. The allowed Industrial lot coverage of 100% would complicate the problem. A FEMA Conditional Map Revision (CLOMR) that models the buildings as well as the channels would include analysis of changes in the split flow. This is the minimum needed to assure that No Adverse Impacts occur for nearby properties. Changing this split percentage could change the flood maps downstream of that site.

The hazards of increased velocities and depth need to be known. A primary concern is the nearby school and houses on small lots that already experience flooding during even smaller floods. Even though mapping indicates flooding will not be increased by more than one foot during a 100-year flood, the increased depth and velocity could mean the difference between a person being swept off
their feet and being able to walk safely through flood waters.

The proposed phasing and timelines leave out some important information that would allow a more
accurate stormwater review of the rezone. The area south of Bachelor Creek has an identified phase but no indication of the likely development for that site. There is no information about future plans for the northernmost undeveloped parcel. What is anticipated?

If approved, a long term conceptual plan for removal and replacement of stormwater facilities as the impervious surface expands may be required. The application states the current stormwater plan is appropriate for future development. Confirmation from the project engineer will be required. Contact Dianna Woods at (509) 574-2300 if there questions about these comments.

Dianna Woods, CFM  
Program Analyst  
FCZD / Water Resources  
dianna.woods@co.yakima.wa.us  
(509) 574-2328 Desk

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From: Noelle Madera  
Sent: Thursday, June 07, 2018 10:39 AM  
To: Dianna Woods <dianna.woods@co.yakima.wa.us>  
Cc: Thomas Carroll <thomas.carroll@co.yakima.wa.us>  
Subject: RE: SEP2018-004 & LRN2018-002 Gilbert Orchards

Dianna,

The Planning Commission hearing won’t be until July. But the extended comment period ended weeks ago. In that email we sent we said we will open it up for two weeks, but two weeks is the standard SEPA notice timeline. We are in the process of trying to finalize the Threshold Determination for the second SEPA notice, and that notice was to get comments to develop the Threshold Determination potential mitigation. We can still take the comments to help develop the Threshold Determination, but we’ll need them very soon. If we don’t receive them we’ll continue with the process.

Thanks,

Noelle Madera

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From: Dianna Woods  
Sent: Thursday, June 7, 2018 10:34 AM  
To: Noelle Madera <Noelle.Madera@co.yakima.wa.us>  
Subject: SEP2018-004 & LRN2018-002 Gilbert Orchards

Hi Noelle – just a note to let you know I’ve gathered stormwater comments from staff and hope to get Terry’s flood input tomorrow. I don’t see a date for the Planning Commission hearing, has that been scheduled?

Thanks,

Dianna Woods, CFM  
Program Analyst  
FCZD / Water Resources  
dianna.woods@co.yakima.wa.us
(509) 574-2328 Desk