

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE 7-2018

IN THE MATTER OF AMENDING THE OFFICIAL ZONING MAP OF YAKIMA COUNTY ESTABLISHED BY YCC 19.10.20

WHEREAS, Monson LLC, Monson & Sons LLC, Monson Cattle Company Inc., and Monson & Sons Cattle Company Inc. submitted a minor rezone application (File Nos. ZON2018-00002 and SEP2018-00014) on March 27, 2018 to rezone six parcels that they own, totaling approximately 132 acres, located adjacent to and northeasterly of the City of Selah, west of the Yakima River, and north of South Rushmore Road, from R/ELDP-40 (Remote/Extremely Limited Development Potential) to AG (Agriculture); and,

WHEREAS, in accordance with YCC 16.04 (State Environmental Policy Act), the Yakima County SEPA Responsible Official issued a Determination of Non-Significance (DNS) on August 23, 2018 after conducting an environmental review on the proposed action to approve the application; and,

WHEREAS, in accordance with the procedural provisions in YCC 19 and YCC 16B, the Yakima County Administrative Official provided notices of the application and the open record public hearing, and requesting comments thereon; and,

WHEREAS, in further compliance with the provisions of YCC 19 and YCC 16B, the Yakima County Hearing Examiner conducted an open record public hearing on the application on September 6, 2018, followed by the issuance of his recommendation on September 20, 2018 to DENY the requested rezone; and,

WHEREAS, after providing public notices in accordance with YCC 16B, the Board conducted a closed record public hearing on October 23, 2018 to act on the Hearing Examiner's recommendation in accordance with YCC 16B.03.030(1)(d); and,

WHEREAS, after closing the hearing, the Board deliberated and determined that the requested rezone should be approved on only two of the requested six parcels and denied on the other four parcels; now, therefore,

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

Section 1. Findings. The Board hereby makes the following findings:

- A. The subject property is prone to floods and ice flows, and therefore rezoning all six parcels to AG would be inappropriate at this time.
- B. The applicant also has land to the north for expansion, and therefore rezoning all six parcels to AG would be inappropriate at this time.
- C. Yakima County wants to be supportive of the applicant's efforts to be able to expand their business and increase the economic activity in the area.

- D. The record does not include factual data demonstrating the harm that would result from rezoning only the subject property's two smallest parcels that are furthest away from the floodway.
- E. The Board adopts the Hearing Examiner's Findings, attached hereto in Attachment A, except to the extent that they are inconsistent with the Board's above findings.

Section 2. Conclusions. The Board hereby makes the following conclusions:

- A. Harm was not demonstrated by rezoning only the subject property's two smallest parcels that are furthest away from the floodway from R/ELDP-40 to AG.
- B. Rezoning only the subject property's two smallest parcels provides an appropriate public benefit of increasing economic activity in the area.
- C. The recent revision of YCC Title 19 to prohibit split zoning of parcels constitutes a substantial change in circumstances that warrants a rezone on the two smallest parcels from R/ELDP-40 to AG.
- D. Rezoning only the two smallest parcels that are furthest away from the floodway from R/ELDP-40 to AG constitutes an acceptable compromise between economic development and the area's environmental constraints.
- E. The Board adopts the Hearing Examiner's Conclusions, attached hereto in Attachment A, except to the extent that they are inconsistent with the Board's above conclusions.


Section 3. Decision. The Official Zoning Map established by YCC 19.10.20 is hereby amended by rezoning parcels 181436-43402 and 181436-43403, constituting 6.42 acres, from R/ELDP-40 to AG, as shown in Attachment B.


Section 4. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

Section 5. Effective Date. This rezone shall be effective immediately.


DONE this 18th day of December 2018




 Ron Anderson, Chairman


 Michael D. Leita, Commissioner


 Attest: Rachel Michael
 Clerk of the Board


 J. Rand Elliott, Commissioner
 Constituting the Board of County Commissioners
 for Yakima County, Washington

Attachments to Ordinance:

Attachment A: *Hearing Examiner's Recommendation*, dated September 20, 2018.

Attachment B: *Map of Subject Property* (depicting the parcels hereby rezoned from R/ELDP-40 (Remote/Extremely Limited Development Potential) to AG (Agriculture)).

**COUNTY OF YAKIMA, WASHINGTON
HEARING EXAMINER'S RECOMMENDATION**

September 20, 2018

**In the Matter of an Application)
For a Rezone Submitted by:)
)
Monson, LLC; Monson & Sons, LLC;)
Monson Cattle Company, Inc.; and)
Monson & Sons Cattle Company, Inc.)
)
To Rezone Six Parcels Totaling 132.44)
Acres Northeasterly of Selah, North of)
The South Rushmore Road, and West of)
The Yakima River from the R/ELDP-40)
Zoning District to the AG Zoning District)**

**ZON2018-00002
SEP2018-00014**

A. Introduction. The preliminary background findings relative to the public hearing process conducted for this application are as follows:

- (1) The Hearing Examiner conducted an open record public hearing regarding this rezone application on September 6, 2018.
- (2) The staff report prepared and presented by Yakima County Project Planner Phil Hoge recommended denial of the application.

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(3) Thomas Durant of PLSA Engineering & Surveying testified in favor of the rezone as the agent for the applicants/property owners.

(4) Senior Washington State Department of Fish and Wildlife Biologist Eric Bertrand and Yakima County Water Resources Senior Fish and Wildlife Resources Biologist and Yakima County Flood Control District representative Joel Freudenthal both testified in opposition to the requested rezone.

(5) Since the hearing testimony consists of detailed arguments both for and against the proposed rezone, it would be difficult to fairly summarize the hearing testimony, and it may also be helpful to the members of the Board of Yakima County Commissioners for the testimony to be set forth in full in this Recommendation in order to dispense with the need to listen to the recording of the hearing. The testimony as determined from listening to a CD copy of the recording of the open record public hearing is set forth below in Section X of this Recommendation.

(6) No written comments were submitted by members of the public regarding the requested rezone.

(7) This recommendation has been issued within 10 business days of the open record public hearing.

B. Summary of Recommendation. The Hearing Examiner recommends that the Board of Yakima County Commissioners deny the requested rezone from the Remote/Extremely Limited Development Potential (R/ELDP-40) zoning district to the Agriculture (AG) zoning district as recommended by Project Planner Phil Hoge without ruling out the right to submit applications for contract rezone(s) or conditional use(s) under the existing zoning without any guarantee as to the outcome of the County's consideration of such applications.

C. Basis for Recommendation. Based upon a view of the site without anyone else present on September 5, 2018; the information contained in the staff report, the application, the exhibits, the testimony and the other evidence presented at the open record public hearing on September 6, 2018; and a review of the Yakima County Comprehensive Plan (*Horizon 2040*), the Yakima County Unified Land Development Code which is Title 19 of the Yakima County Code (YCC), and the provisions of the Upper Yakima River Comprehensive Flood Hazard Management Plan (1998 and 2007 update), the Hearing Examiner makes and issues the following:

FINDINGS

I. Applicants/Property Owners/Agent. The applicants/property owners are Monson, LLC; Monson & Sons, LLC; Monson Cattle Company, Inc.; and Monson & Sons Cattle Company, Inc., 252 North Rushmore Road, Selah, Washington 98942. The agent for the applicants/property owners for this rezone application is Thomas Durant of PLSA Engineering and Surveying, 521 North 20th Avenue, Suite 3, Yakima, Washington 98902.

II. Location. The six parcels involved in this rezone application total 132.44 acres. They are adjacent to the northeastern Selah city limits north of South Rushmore Road and west of the Yakima River. The County Assessor's parcel numbers are 181436-43402, 181436-43403, 181436-44006, 181436-44007, 191431-22001 and 191431-23002.

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III. Application. The main aspects of this rezone application may be summarized as follows:

(1) This rezone application was submitted on March 27, 2018. The application requests an amendment to the official zoning map established by the Yakima County Unified Land Development Code which is Yakima County Code (YCC) Title 19. Specifically, it requests a change from the Remote/Extremely Limited Development Potential (R/ELDP-40) zone to the Agriculture (AG) zone for six parcels consisting of 132.44 acres north of South Rushmore Road and west of the Yakima River bordering the northeast city limits of Selah.

(2) The parcels are contiguous to each of other and to other property owned by one or more of the applicants/property owners. The parcels are currently used for agricultural purposes as pastureland and raising livestock. A demolition permit has been issued for the removal of an existing manufactured home on parcel no. 181436-43403 which is the only structure presently located on the parcels.

(3) There is an existing fruit packing and storage facility on adjacent property zoned Agriculture and other neighboring parcels owned by the applicants/property owners that are in agricultural use or are used for bin storage. Other nearby properties owned by others are in agriculture, residential and industrial land uses including similar fruit packing, storage and processing plants to the west; surface mining to the east; industrial sprayfields to the north and a golf course to the south.

(4) The main purpose stated for the requested rezone is to facilitate the continued expansion of the Monson fruit packing and storage facility onto the parcels owned by Monson, LLC. Although agricultural related industry uses can be allowed in the R/ELDP-40 zone, split-zoning classifications interfere with expansion because of setbacks and recently adopted YCC Title 19 provisions that prevent merger of properties across zoning boundaries.

(5) During the public hearing, the applicants/property owners agreed to limit the requested rezone to Assessor's Parcel Nos. 181436-43402 and 43403 abutting South Rushmore Road which are each 3.21 acres in size and agreed to prohibit future residential

development on the parcels by way of a contract rezone with the County. These parcels have been purchased recently with the desire to use them in the future for expansion of the existing fruit packing and storage facility as an agriculturally related industry.

(6) Since no new structures are proposed with this application, it is a non-project rezone application. Since the rezone request is site-specific and does not depend upon a Comprehensive Plan or Sub-Area Plan amendment, YCC §19.36.030 provides that it is a minor rezone which may be processed at any time under Type 4 review. The procedures for Type 4 review of minor rezones are prescribed by YCC §16B.03.030, YCC Table 3-1, YCC §16B.03.040, YCC Table 3-2 and YCC Chapter 19.36.

IV. Description of the Property. The nature and characteristics of the property involved in this rezone request may be described as follows:

(1) The six parcels involved in this rezone request total 132.44 acres and are basically flat. The entire site is within the FEMA-designated 100-year floodplain, with 82% of the property lying within the Floodway and the remaining 18% lying within the Flood Fringe. *(See Attachment B to the Findings and Recommendation of the Administrative Official).*

(2) The “Floodway/Channel Migration Zone Environment” established by Yakima County’s Shoreline Master Program (SMP, YCC Title 16D) is designated on roughly the same area as FEMA’s Floodway. *(See Attachment C to the Findings and Recommendation of the Administrative Official).* The SMP’s “Rural Environment” is designated on the entirety of three parcels and is designated on most of the fourth parcel lying closest to the Yakima River. *(See Attachment D to the Findings and Recommendation of the Administrative Official).*

(3) The potential wetlands that appear to exist on the two westernmost parcels are also under jurisdiction of the SMP to the extent that they are remnants of a side channel of the Yakima River. *(See Attachment B to the Findings and Recommendation of the Administrative Official).* To the extent that the wetlands result from irrigation seepage, they are not regulated wetlands. ((YCC §16D.07.02(1) and YCC §16C.07.02(1)). Any required buffers

associated with SMP-designated wetlands would be regulated by the County Critical Areas Ordinance (YCC Title 16C) unless the land use adjacent to the remnant channel is agricultural such as growing crops or grazing, in which case the Yakima County Voluntary Stewardship Program would apply rather than YCC Title 16C buffers.

V. Jurisdiction. The jurisdictional aspects of this rezone application may be summarized as follows:

(1) YCC §19.36.030 entitled “Minor Rezone – Map Amendment” states that rezone applications consistent with Table 19.36-1 and not dependent upon a Comprehensive Plan or Sub-Area Plan amendment shall be considered minor rezones. These quasi-judicial actions, when site-specific, may be processed at any time under Type 4 review pursuant to YCC Section 16B.03.030.

(2) According to YCC Table 19.36-1 entitled Zoning District Consistency with Comprehensive Plan Future Land Use Designations, the requested Agriculture (AG) zoning district is consistent with, and may implement, the Rural Remote/Extremely Limited Development Potential (RR/ELDP) land use designation of the Yakima County Comprehensive Plan. The review process will consider those sections of Title 19 that control the direction and requirements for considering approval of this application.

(3) The Yakima County Hearing Examiner has conducted an open record public hearing and has prepared this recommendation for consideration by the Board of Yakima County Commissioners at a closed record public hearing that will result in a decision by that Board. The record of both public hearings are open to public inspection per YCC Title 16B.

VI. Notices. Notices of the September 6, 2018, public hearing were provided as follows:

Publishing of notice of public hearing in the newspaper:	August 6, 2018
Mailing of notice of public hearing to property owners:	August 6, 2018
Posting of notice of public hearing on the property:	August 16, 2018

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VII. State Environmental Policy Act (SEPA). A SEPA Final Determination of Non-Significance was issued for this non-project rezone on August 23, 2018. Mr. Hoge explained at the hearing that this determination was reached because significant adverse environmental impacts were only possible rather than probable in the absence of knowing what specific use would be proposed for the parcels.

VIII. Comprehensive Plan, Zoning and Land Uses. The Comprehensive Plan, Zoning and Land Use characteristics of the subject property and properties in the vicinity may be summarized as follows:

(1) The Comprehensive Plan (*Horizon 2040*) designation for the six parcels involved in this rezone request is Rural Remote/Extremely Limited Development Potential (RR/ELDP). Property north of some of the parcels is either within the RR/ELDP or Agricultural Resource (AR) designation. Property west of the larger parcels is designated AR and west of the smaller parcels is designated RR/ELDP. Property across the river to the east is designated RR/ELDP with a Mineral Resource Overlay. Some of the property to the south is designated RR/ELDP or RR/ELDP with a Mineral Resource Overlay and some of the property is within the Selah Urban Growth Area. (*See Attachment E to the Findings and Recommendation of the Administrative Official*).

(2) The zoning of the six parcels involved in this rezone request is Remote/Extremely Limited Development Potential (R/ELDP-40). Property north of the parcels is either within the R/ELDP-40 or Agriculture (AG) zone. Property west of the larger parcels is within AG zone and west of the smaller parcels is within the R/ELDP-40 zone. Property to the east of some of the parcels is within the R/ELDP-40 zone and property across the river is within the Mining zone. Property to the south is either within the R/ELDP-40 zone or within Selah's zoning. (*See Attachment F to the Findings and Recommendation of the Administrative Official*).

IX. Written Comments. The only written comments were those submitted by the Washington State Department of Ecology and by several Yakima County Divisions (Multi-Disciplinary Team) which may be summarized as follows:

(1) Washington State Department of Ecology: Rezoning a piece of property is often the first step in a proposed development. Water availability is essential for development, and not every parcel has water rights under the proponent's name. If water will be used on all of the parcels referenced in the application, the proponent should consider submitting a change application to Ecology for their existing water rights or pursuing a different water supply to those parcels. During the construction phase, if you plan to use water for dust suppression at your site, be sure that you have a legal right. Temporary permits may be obtainable in a short time-period. The concern of Water Resources is for existing water rights. In some instances water may need to be obtained from a different area and hauled in or from an existing water right holder. Questions may be directed to Jolee Ramos at (509) 454-4173 or jolee.ramos@ecy.wa.gov. *(See Attachment G to the Findings and Recommendation of the Administrative Official).*

(2) Water Resources/Flood Control Zone District: Relative to ZON2018-00002, Water Resources will research the connection between the Remote/Extremely Limited Development Potential zone and the Upper Yakima CFHMP (Comprehensive Flood Hazard Management Plan) recommendations. This zone may have fulfilled one of the CFHMP recommendations. Further comments will be received during the 14-day APO/agency comment period. Relative to SEP2018-00014, the Water Resources Division opposes the proposed rezone for the following reasons:

(i) No Adverse Impact (NAI) to adjacent properties should be the goal in floodplains. This would be difficult or impossible to accomplish due to increased flood depths and velocities as consequences of warehouses reducing flood storage.

(ii) This is already an area with a history of flooding. South Rushmore Rd. was damaged in previous floods and flood insurance claims were paid to property owners for floods in 1996 and 2009. Increasing flood risks through land use changes is not an appropriate response to risk.

(iii) Development Recommendations were dropped from the 2007 Upper Yakima R. CFHMP due to their implementation through Comprehensive Plan 2015. Zone R/ELDP-40 was added in part for sensitive, frequently flooded areas of Yakima and Naches River floodplains. A rezone would “turn back the clock” on these CFHMP recommendations in this area and perhaps lead to challenges of other R/ELDP-40 floodplains.

(iv) Three of the parcels are mapped almost entirely within the FEMA Floodway. If no change is proposed to current agricultural activities in floodways there is no need to rezone these parcels.

(v) This rezone would create islands of AG zoning within R/ELDP-40.

(vi) These problems cannot be mitigated through SEPA conditions.

Stormwater conditions will be required for future construction projects and land use changes on these parcels.

(3) Transportation: Relative to ZON2018-00002 and SEP2018-00014, as proposed there are no effects to transportation with the rezoning of these parcels. At the time of future building, modifications of lot lines, etc, Transportation will review such projects for transportation requirements.

(4) Environmental: Relative to ZON2018-00002 and SEP2018-00014, 82% of the site is in the floodway; and the remaining 18% is in the floodplain fringe. At least some of the site is within the Shoreline Master Plan's Rural and CMZ environments. Potential wetlands are indicated on the site. Type 3 streams are also indicated.

(5) Building: Relative to ZON2018-00002 and SEP2018-00014, 7/5/2018 flood plains located on parcel. Building permit required for proposed structures in addition to fire code and supplemental permits as needed. No other issues or concerns.

X. Testimony Presented at the Hearing. The following testimony presented at the public hearing as determined by listening to a CD copy of the recording of the hearing and including the Hearing Examiner’s questions or comments in italicized parentheses will

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dispense with the need to provide a fair summary of the respective positions and arguments presented and with the need for the members of the Board of Yakima County Commissioners to listen to the recording of the hearing:

(1) **Gary Cuillier:** Okay. Good morning, everybody. This is a rezone request filed by Monson L.L.C., Monson & Sons, LLC, Monson Cattle Co., Inc., Monson & Sons Cattle Co., Inc., six parcels, 132.44 acres, east of Selah. I viewed the site as much as I could. I didn't go through the private gate on South Rushmore Road. It was pretty well-marked not to. And I did see the sign there, on the south side by the golf course on this property. I saw the sign on the west side by the main entrance to the Monson facility. And I drove around and tried to see as much as I could from the freeway. And I've read all of the staff report and the exhibits, and kind of marked them up and highlighted them. This will be a recommendation on my part. It will go to the Board of Yakima County Commissioners for a final decision. No doubt you all have seen the staff report, and the application and the staff report are very informative and detailed and well-written. My recommendation in this will be ready 10 business days from today's date. Anyone who's testifying here today would come to the lectern and speak into the microphone – because it's being recorded so that the Commissioners could have a record of the hearing they could listen to – and state their name and mailing address. I don't think I had any preliminary questions on this as I read through the materials. It's very complete, as I mentioned. And all the notice requirements were satisfied in time in all the different ways of giving notice, so we have a valid hearing. We'll go ahead. Are you ready to get started? [Phil Hoge: Yeah.] Thank you. First, we'll have Mr. Phil Hoge, the County's Project Planner for this particular matter, either summarize or give his staff report and recommendation on the matter. Then we'll go to the applicant; the applicant's representative, Mr. Durant; anyone else who wants to testify in regard to the applicant's position. Then, anyone else who is here, either pro or against, can testify in the same manner I previously described. Okay?

(2) **Phil Hoge:** All right. Thank you. I am Phil Hoge, Project Planner for Yakima County Planning Division, and I'd like to also mention that here today is Joel Freudenthal

with the Yakima County Water Resources Division and Yakima County Flood Control Zone District. He's here in case you have any questions in that area. *(Thank you.)* This is an application that's entitled Monson Minor Rezone. File numbers are ZON2018-00002 SEP2018-00014. And, as you mentioned, the applicant is four Monson companies. You've already named them. And you've already also mentioned that the property consists of six parcels, 132 acres, and the location adjacent and northeast of the City of Selah, north of South Rushmore Road and west of the Yakima River. The application is to rezone this property from Remote / Extremely Limited Development Potential to Agriculture. It was submitted on March 27 of this year, determined complete on April 24, submitted by Thomas Durant of PLSA Engineering and Surveying. State Environmental Policy Act review was conducted on this application, and on April 27, the Notice of Application and Environmental Review was mailed to agencies and adjacent property owners, and a notice was placed in the Yakima Herald-Republic calling for comments on the application. We did receive one letter from the Department of Ecology. That's Attachment G in the staff report. And we also received comments from several Yakima County divisions, which are in Attachment H to the staff report, and I'll describe those comments later. On August 6, we issued the Determination of Non-Significance for comments to agencies and adjacent property owners, and we received no additional comments. Then, on August 23, we issued the final Determination of Non-Significance, DNS, and since there is no administrative appeal provided for under the Yakima County Code for Type 4 applications, which includes minor rezones, that is considered final for administrative purposes. Any appeals, we understand, would be to the court system, and we haven't heard of any. Public notice of the application, as you mentioned, were made in accordance with the Yakima County Code, which consisted of a legal notice in the Herald-Republic and mailing to agencies and adjacent property owners, the applicant, and the agent on April 27. The same thing, the same mailing and legal notice on May 6, and then, in addition, on August 16, two signs were posted on the property by the applicant's agent. The comments that we received include the following: the Department of Ecology mentioned water rights and that not every parcel has a water right, and if water will be used, they suggested submitting a Change of Application to Ecology or pursuing a different water supply. That will be up to the applicant to follow that if needed. They also commented to make sure that any water to be used for dust suppression have a

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legal right. Yakima County Transportation Division submitted comments indicating that there were no effects to transportation with rezoning, and at the time of future development, they would review for any transportation requirements. The Building and Fire Division similarly noted that there would be building permits required for any future structures, and fire code and supplemental permits, and they also noted floodplains existing on the property. The Environmental Section of the County noted that 82% of the site is in FEMA floodway and the remaining 18% is in the floodplain fringe, the hundred-year floodplain, that, also, part of the site is designated by the Yakima County Shoreline Master Program as Rural Environment and Channel Migration Zone Environment. They also noted that there are potential wetlands and potential Type 3 streams indicated by the County mapping systems. Finally, the Water Resources Division/Flood Control Zone District provided comments. They oppose this rezone, and I'll summarize their comments here, briefly. The first comment was, it's difficult to accomplish no adverse impact to adjacent properties during a flood as a consequence of warehouses reducing flood storage, and that refers to the rezone that will allow warehouses as Type 1 uses rather than as current Type 3 uses. So they're concerned about intensifying the floodplain. Second comment. This area has a history of flooding. South Rushmore Road was damaged in previous floods, and flood insurance claims were paid to property owners in the 1996 and the 2009 floods. Number Three. The upper Yakima River Comprehensive Flood Hazard Management Plan that was developed and issued in 1996, and it was being developed at the same time that Plan 2015, the County Comprehensive Plan, was being developed, but it was issued prior to the County Comprehensive Plan being issued, but it was recommending changes in zoning by the County to address flooding issues. And this comment goes on to say that this recommendation was implemented through adoption of the Rural Remote/Extremely Limited Development Potential designation in the Comprehensive Plan (*Plan 2015*), and then ultimately implemented through the Remote / Extremely Limited Development Potential zone. This recommendation was implemented, and as a result, it was dropped from the 2007 update of the Upper Yakima River Comprehensive Flood Hazard Management Plan. Their final comment on this subject was that a rezone would turn back the clock on these Comprehensive Flood Hazard Management Plan recommendations. And then, finally, they noted that six of the parcels are almost entirely within FEMA floodway, three of the six, and

then the other three are in the floodway, the hundred-year floodplain. The Yakima County Code provides that there are eight considerations that must be included in the Hearing Examiner's written Recommendation, so I'll go through those briefly, and they're described in more detail in the staff report. The first consideration is the testimony at public hearing, so we're here to hear that testimony. They're actually lettered, so I'll read them by their letter. Consideration B is the suitability of the property in question for uses permitted under the proposed zoning, and the staff's finding on this was that the subject property is more suitable for the uses permitted under the current R/ELDP zone than the proposed Agriculture zone due to the property being periodically flooded, and they provided an aerial photo in Attachment I that shows the area inundated, in fact, the whole rezone area was inundated during the 1996 flood, and so it does give a graphic illustration of the flooding that does occur from time to time in that area. In terms of the appropriateness of the uses that are permitted in the existing and proposed zones, we've attached a two-page analysis called Attachment J to the staff report. It's called Analysis of Changing the Zoning from R/ELDP to AG. And what we've found is that there are 35 different land uses that are listed on Table 19.14-1, the Allowable Land Use Table, that have different Application Types depending on what zone you're in, whether it be the current and proposed zone. All the other land uses are the same, so we didn't bother to analyze the ones that are the same, because the rezone doesn't have any effect on those, so we've focused on these 35 land uses of different levels of review. And our conclusion is that it's more appropriate, the uses that are permitted in the existing zone is more suitable, primarily related to the flooding issues. Consideration C is the recommendation from interested agencies and departments, and, as I just noted, the Yakima County Water Resources Division / Flood Control Zone District recommends that the rezone be denied due to flooding issues and Yakima County's adopted planning policies related to the flooding as described in 11-B. Consideration D is the extent to which proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Yakima County Comprehensive Plan. The staff finding on this is that, in general, the staff believes that the proposed rezone deviates unacceptably from the goals and policies of the Comprehensive Plan, and then we list several of those goals and explain why we think that. In general, the Plan designation of RR/ELDP is currently on the property, and because of the flooding, we believe that the current zone, R/ELDP-40, better implements that Plan

designation because, as you see, the mapping criteria and the policies to protect adjacent lands from flood damage. It's really based on the flood damage. And then, also, the Upper Yakima River Comprehensive Flood Hazard Management Plan adopted by reference by the Yakima County Comprehensive Plan, and that also has policies, as explained, this rezone we believe would deviate from. Consideration E is the adequacy and availability of public services such as roads, sewer, water and other required public services, and in this one, staff mostly concurs with the application's narrative that the public facilities are mostly adequate. We did, however, note the concern about the adequacy of South Rushmore Road during the flood. That would be overtopped in a flood, it has been before. People have been rescued with boats that were back there, living back there. That could be an inadequacy during a flood or after a flood that would result in public expenses or repairs. Consideration F is the compatibility of the proposed zone change and associated land uses with neighboring land uses. The staff finding is that we believe that the uses likely allowed in the proposed AG zone are relatively incompatible with neighboring land uses due to the possibility that they would exacerbate damages to neighboring land uses in flood events compared to the uses likely allowed in the current R/ELDP-40 zone. Consideration G is the public need for the proposed change, and staff feels that the public need really is related to flooding and the need to protect adjacent property owners from increasing flood damage. And so we don't think that there is a public need, or at least a need that outbalances that public need for ameliorating that flood damage or preventing that flood damage. And, also, part of this consideration is that we're supposed to look at other AG zoned land that's already in the area that might be already adequate and, therefore, you don't need more AG land, and staff noted that there was 150 acres adjacent of open AG zoned land currently existing. So the timing is not appropriate to provide additional AG zoned land in the area due to these flooding issues. Consideration H is whether a substantial change in circumstances exists to warrant an amendment to the current designation or zone, in this case the zone. The staff finding is that adoption of the development regulations in 2015 that prevent or make difficult the expansion of plant facilities into neighboring properties when they have different zoning classifications, and this was what the application suggested, was they change the circumstances. We don't feel that that's a valid change in circumstances that warrants the proposed rezone to AG. And this is especially true of the 82% of the property that lies within the Floodway or the

Monson, LLC; Monson & Sons, LLC;
Monson Cattle Company, Inc.; and
Monson & Sons Cattle Company, Inc.
Rezone Six Parcels Northeasterly of Selah
North of South Rushmore Road and West of
The Yakima River from R/ELDP-40 to AG
ZON2018-00002; SEP2018-00014

