

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE NO. 6 - 2018

IN THE MATTER OF AMENDING BOTH THE YAKIMA COUNTY COMPREHENSIVE PLAN - *HORIZON 2040* AND YAKIMA COUNTY CODE TITLE 19 – UNIFIED LAND DEVELOPMENT CODE PERTAINING TO THE 2018 BIENNIAL MAP AND TEXT AMENDMENT CYCLE AND THE CITY OF MABTON’S EMERGENCY URBAN GROWTH AREA BOUNDARY AMENDMENT.

GENERAL

WHEREAS, in compliance with the Washington State Growth Management Act (GMA), Chapter 36.70A RCW, the Board of Yakima County Commissioners (Board) adopted the Yakima County Comprehensive Plan - *Horizon 2040*, on June 27, 2017, and adopted development regulations – Yakima County Code (YCC) Title 19, on May 5, 2015; and

WHEREAS, RCW 36.70A.130 requires that Yakima County as a “fully planning” county; shall update its comprehensive plan and development regulations, as necessary, to reflect local needs, new data, and current laws; and

WHEREAS, under RCW 36.70A.130, the plan and development regulations are subject to continuing review and evaluation, but the plan may be amended no more than one time per year; and

WHEREAS, the GMA, RCW 36.70A.130(2)(b), requires Yakima County to establish procedures and schedules whereby comprehensive plan amendments are considered by the Board; and

WHEREAS, under YCC 16B.10.040, applications for plan amendments, apart from Urban Growth Area (UGA) boundaries, will be considered on a biennial basis starting 2013 and must be submitted in writing, to the Planning Division, no later than January 31 in order to be considered for that biennium’s amendment process; and

WHEREAS, Resolution No. 439-2012 suspended the 2013 biennial plan amendment cycle in accordance with 16B.10 to allow for the Code Update/Simplification Project (CU/SP) and update of the County-wide Planning Policies (CWPP); and rescheduling the next biennial amendment cycle for the 2014 calendar year; and

WHEREAS, Resolution No. 103-2015 resolved a scheduling conflict with the 2016 biennial amendment cycle and GMA required comprehensive plan update June 30, 2017, deadline that moved the next scheduled biennial amendment cycle up a year from 2016 to 2015, thus keeping the next biennial amendment cycle for the calendar year 2018; and

WHEREAS, as part of its comprehensive plan and development regulations update process, the County has established a public participation program, YCC 16B.10, which sets forth minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process; and

2018 BIENNIAL MAP AND TEXT AMENDMENTS

WHEREAS, Yakima County's procedures and schedules are established by YCC 16B.10, which provides that applications for biennial plan amendments must be submitted in writing no later than January 31; and

WHEREAS, the Yakima County Planning Division published in the Yakima Herald-Republic a legal notice and a display ad to inform the public of the opportunity to submit formal applications for site-specific comprehensive plan map amendments, together with the forms to request a comprehensive plan and development regulation text amendments by the January 31, 2018 deadline; and

WHEREAS, prior to the deadline, applications for three applicant initiated proposed site-specific map amendments to *Horizon 2040*: LRN2018-00001 (Crosier Orchards, Inc.), LRN2018-00002 (Gilbert Orchards, Inc.), and LRN2018-00003 (Williamson) and two applicant initiated proposed development regulation text amendments to YCC Title 19: LRN2018-00004 (Durant) and LRN2018-00005 (Schoolcraft) were submitted to the county for consideration; and

WHEREAS, the Yakima County Planning Division initiated a development regulation text amendment (LRN2018-00006) to amend four portions of YCC Title 19; and

WHEREAS, one of the proposed text amendments under LRN2018-00006 specifically addresses Senate Bill 5674 which was approved by the Washington State Legislature and signed into law by Governor Jay Inslee on April 27, 2017 – with an effective date of July 23, 2017 – authorizing a local legislative authority to adopt an ordinance delegating final plat approval to and established planning commission, or agency, or to such other administrative personnel; and

WHEREAS, in accordance with YCC 16B.10.040, on April 11, 2018, the Planning Commission considered and suggested docketing of the two development regulation text amendments (LRN2018-00004 and LRN2018-00005); and

WHEREAS, on April 13, 2018, notices of completeness, application, environmental review, and future hearing were mailed to adjacent property owners within 300 feet of the proposed amendment properties for LRN2018-00001 and LRN2018-00002, and a half-mile of the proposed amendment property for LRN2018-00003, and to those agencies with environmental expertise, and published in the Yakima Herald-Republic; and

WHEREAS, on May 7, 2018 notices of completeness, application, environmental review, and future hearing were mailed to interested parties and those agencies with environmental expertise and published in the Yakima Herald-Republic for LRN2018-00004, LRN2018-00005, and LRN2018-00006; and

WHEREAS, LRN2018-00001 and LRN2018-00002 site-specific map amendments to *Horizon 2040* were presented to the Planning Commission for their review on May 9, 2018; and

WHEREAS, staff drafted a development agreement for LRN2018-00003 to address the split estate matter that would condition any approval of applying the Mineral Resource Overlay on 186 acres pending an agreed upon land exchange with the applicant (Williamson) and the Washington Department of Fish and Wildlife effective within a five-year period from the effective date of this ordinance; and

WHEREAS, LRN2018-00003 site-specific map amendment to *Horizon 2040* and LRN2018-00004, LRN2018-00005, and LRN2018-00006 text amendments to YCC Title 19, were presented to the Planning Commission for their review on June 13, 2018; and

WHEREAS, the Planning Commission conducted a properly advertised and noticed public hearing on July 11, 2018, to hear testimony on the proposed site-specific map and text amendments; and

WHEREAS, the Planning Commission held their deliberations on August 8, 2018; and

WHEREAS, on August 21, 2018 Yakima County provided a 60-day notice to the Department of Commerce, as required by RCW 36.70A.106 on the proposed comprehensive plan and development regulation amendments; and

WHEREAS, the Planning Commission, having carefully considered the applicants' justifications, the staff recommendation, and the written and oral testimonies in its deliberations approved their Findings and Recommendations on September 5, 2018, for the proposed site-specific map and text amendments; and

WHEREAS, the Planning Commission's Findings and Recommendations, the three proposed site-specific map amendments to *Horizon 2040*, and the three proposed text amendments to YCC Title 19, were presented to the Board of Yakima County Commissioners for their review on November 28, 2018; and

WHEREAS, the Board of Yakima County Commissioners conducted a properly advertised public hearing on December 11, 2018, to hear testimony on the proposed site-specific map amendments outlined in the Planning Commission recommendations; and

WHEREAS, the Board of Yakima County Commissioners held their deliberations on December 11, 2018, immediately after the close of the open record public hearing and did adopt motions approving, denying or modifying the proposed site-specific map and text amendments; and

WHEREAS, site-specific map amendments, applicant and Yakima County initiated text amendments must be processed in compliance with the State Environmental Policy Act (SEPA); and

WHEREAS, on November 21, 2018, Yakima County staff issued a Determination of Non-Significance for the 2018 Biennial Comprehensive Plan (site-specific map) (SEP2018-00002, SEP2018-00004, and SEP2018-00006) and Development Regulation Text Amendments (SEP2018-00020, SEP2018-00022, and SEP2018-00023) which analyzed the environmental and growth management impacts of all proposed actions and considered all submitted comments from agencies and parties of record; and

2018 MABTON EMERGENCY UGA AMENDMENT

WHEREAS, Yakima County's procedures and schedules are established by YCC 16B.10, which provides that applications to amend UGA Boundaries will only be considered at five-year intervals, and after a specific sequence of steps are accomplished; and

WHEREAS, Section II.E.1.a of the **Master Interlocal Agreement for Growth Management Act Implementation in Yakima County**, last revised on December 29, 2015 by the Board and the County's 14 Cities, provides for Cities to request amendments to UGA boundaries outside of the 5-year schedule by requesting the emergency amendment process allowed under RCW 36.70A.130(2)(b); and

WHEREAS, the Growth Management Act, RCW 36.70A.130(2)(b), allows counties to adopt comprehensive plan amendments whenever an emergency exists after appropriate public participation; and

WHEREAS, the Mabton City Council adopted Resolution 2018-10 on April 24, 2018, authorizing its mayor and staff to secure an amendment to its UGA boundary and expressing support for the project that would be enabled by such amendment; and

WHEREAS, Bill Hordan, Hordan Planning Services, submitted a letter to Yakima County dated August 7, 2018, describing the details of Mabton's proposal to amend its UGA and the reasons for it; and

WHEREAS, the Board, after considering Mabton's proposal, adopted Resolution 288-2018 on August 21, 2018, finding that an emergency exists and directing the Planning Division to initiate consideration of Mabton's request (LRN2018-00009) as soon as possible in accordance with RCW 36.70A.130(2)(b); and

WHEREAS, on October 11, 2018, Yakima County provided a 60-day notice to the Department of Commerce, as required by RCW 36.70A.106 on the proposed emergency UGA amendment; and

WHEREAS, on October 24, 2018, a combined notice of completeness, application, environmental review, and future hearing was mailed to adjacent property owners within 300 feet of the proposed amendment property for LRN2018-00009 and those agencies with environmental expertise, and published in the Yakima Herald-Republic; and

WHEREAS, on July 14, 2015, Yakima County issued its 20-year population projections for each of the fourteen cities and towns of the County based on OFM's medium county population projections; and

WHEREAS, both the Growth Management Act and *Horizon 2040* requires Yakima County to conduct a land capacity analysis to analyze the growth needs for the City of Mabton as part of this emergency UGA amendment; and

WHEREAS, the Master Interlocal Agreement for Growth Management Act Implementation in Yakima County, in accordance with RCW 36.70A.070(3) and WAC 365-196-415, requires GMA planning Cities and the County to develop Capital Facilities Plans that cover the entire UGA; and

WHEREAS, the Planning Commission conducted a properly advertised public hearing on November 7, 2018, to hear testimony on the proposed emergency UGA amendment; and

WHEREAS, the Planning Commission held their deliberations on November 7, 2018 immediately after the close of the open record public hearing; and

WHEREAS, the Planning Commission, having carefully considered the applicant's justifications, the staff recommendation, and the written and oral testimonies in its deliberations approved their Findings and Recommendations on November 7, 2018, for the proposed emergency UGA amendments; and

WHEREAS, the Planning Commission's Findings and Recommendations and the emergency UGA map amendment to *Horizon 2040* and YCC Title 19, were presented to the Board of Yakima County Commissioners for their review on November 28, 2018; and

WHEREAS, the Board of Yakima County Commissioners conducted a properly advertised public hearing on December 11, 2018, to hear testimony on the proposed emergency UGA amendment outlined in the Planning Commission recommendations; and

WHEREAS, the Board of Yakima County Commissioners held their deliberations on December 11, 2018, immediately after the close of the open record public hearing and did adopt motions approving, denying or modifying the proposed emergency UGA amendment; and

WHEREAS, UGA amendments must be processed in compliance with the State Environmental Policy Act (SEPA); and

WHEREAS, on December 7, 2018, Yakima County staff issued a Determination of Non-significance for the City of Mabton's Emergency UGA Amendment (SEP2018-00050), which analyzed the environmental and growth management impacts of all proposed actions and considered all submitted comments from agencies and parties of record; and

WHEREAS, the Board of Yakima County Commissioners considered the proposed amendments to the comprehensive plan, YCC Title 19 Official Zoning Map and text, concurrently to ascertain the amendment's cumulative effects, as set forth in SEPA documents referenced above; and

WHEREAS, the Board has determined that all Plan and development regulation amendments are internally consistent; now therefore,

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

Section 1. Reasons for Action.

The 2018 amendments before the Board of Yakima County Commissioners are as follows:

- A. Three site-specific comprehensive map amendments (LRN2018-00001, LRN2018-00002, and LRN218-00003) that are considered part of the regular Yakima County biennial plan amendment cycle.
- B. Two applicant initiated proposed development regulation text amendments (LRN2018-00004 and LRN2018-00005) to YCC Title 19 – Unified Land Development Code and considered part of the regular Yakima County biennial plan amendment cycle.
- C. Yakima County staff initiated proposed development regulation text amendments (LRN2018-00006) to four portions of YCC Title 19 and considered part of the regular Yakima County biennial plan amendment cycle.

- D. The City of Mabton's proposed Emergency Urban Growth Area Amendment (LRN2018-00009) was considered as allowed by RCW 36.70A.130(2)(b), YCC 16B.10, and Section II.E.1.a of the **Master Interlocal Agreement for Growth Management Act Implementation in Yakima County**.

Staff reports for each of the site-specific map, development regulation text, and the City of Mabton's emergency UGA amendment requests were provided to the Planning Commission that identified specific issues and recommended approval, modification or denial of the proposed amendments. Following public testimony and deliberations, the Planning Commission has determined which of the proposed amendments are needed to correct errors, address deficiencies or more closely correspond to the goals, policies and intent of *Horizon 2040* and presented their findings and recommendations to the Board of Yakima County Commissioners for their consideration. The Board of Yakima County Commissioners then reviewed said amendment requests, held a public hearing and decided to approve, modify or deny the proposed amendments.

Section 2. Findings.

- A. Compliance with Growth Management Act. The Board of Yakima County Commissioners find that the amendments to Yakima County Comprehensive Plan - *Horizon 2040*, and YCC Title 19, adopted by this ordinance are in substantial compliance with RCW 36.70A (the Growth Management Act, or GMA). The Comprehensive Plan is internally consistent and policies within and among elements are complementary, not contradictory. The Comprehensive Plan contains policies, implementation measures, and procedures which provide for its review and adjustment if internal conflicts are discovered.
- B. State Environmental Policy Act (SEPA). Yakima County adopted *Horizon 2040* on June 27, 2017, and adopted by reference *Plan 2015's*, Chapter III Environmental Analysis. *Plan 2015* was originally designed to integrate SEPA and GMA consistent with the provisions of WAC 197-11-210 through 197-11-235. The issuance of the November 21, 2018, *Final Notice of Determination of Non-Significance for the 2018 Comprehensive Plan and YCC Title 19 Official Zoning Map and Text Amendments* (SEP2018-00002, SEP2018-00004, SEP2018-00006, SEP2018-00020, SEP2018-00022, and SEP2018-00023) and December 7, 2018, issuance of the *Determination of Non-Significance for the City of Mabton's Emergency UGA Amendment* (SEP2018-00050) provides the environmental evaluation and documentation required under SEPA for the plan, development regulation, and emergency UGA amendments.
- C. Analysis of Cumulative Effects. The cumulative effects have been considered as part of the SEPA review process outlined in subsection B. above.
- D. The Board of Yakima County Commissioners adopts the two proposed site-specific comprehensive plan map amendments (LRN2018-00001 and LRN2018-00002) without any modifications as detailed in the Findings and Recommendations of the Planning Commission dated September 5, 2018, which includes:
- i. LRN2018-00001/SEP2018-00002: Crosier Orchards, Inc. (see Exhibit 1) – The subject properties are located ¼ mile southeast of the intersection of Roza Hill Drive and Warrior Road, and approximately 1.75 miles north of the City of Moxee. The subject properties are identified as Assessor Parcel(s): 191324-11408 and 191324-14405. Address(es): (Crosier) 9463 Mieras Road, Yakima, WA and (Hooper) 8906 Roza Hill Drive, Yakima,

WA. Land Use: Agricultural Resource to Rural Self-Sufficient. Zoning: Agriculture (AG) to Rural-10/5 (R-10/5) Zoning District – approximately 60 acres.

- ii. LRN2018-00002/SEP2018-00004: Gilbert Orchards, Inc. (see Exhibit 2) – The subject properties are located on the north and south side of Gilbert Road, about 1,000 feet west of the intersection of Wiley Road and Gilbert Road, within the Urban Growth Areas of the City of Yakima. The subject properties are identified as Assessor Parcel(s) 171211-12002, -12003, -12005, -12007, -12405, -11014, -11031, -11035, -11403, -11404, -11405, -11417 and 171202-44416, -44448, -44449, -44450. Address: 10804 Gilbert Road, Yakima, WA. Land Use: Urban Residential and Urban Commercial to Urban Industrial. Zoning: Suburban Residential (SR), Single-Family Residential (R-1), and Local Business (B-2) to Light Industrial (M-1) – approximately 66.25 acres.

E. The Board of Yakima County Commissioners adopts the proposed site-specific comprehensive plan map amendment (LRN2018-00003) with modifications to the Findings and Recommendations of the Planning Commission dated September 5, 2018 (modification from 610 acres to 186 acres), which includes:

- i. LRN2018-00003/SEP2018-00006: Williamson/Hordan (see Exhibit 3) – The subject property is located north of Highway 410, approximately two miles west of Highway 410 and Highway 12 intersection, and approximately six miles west of the town of Naches. The subject property is identified as Assessor Parcel: 161527-11001. Address: None. Land Use: Rural Remote/Extremely Limited Development Potential (RR/ELDP) with the conditional approval of the Mineral Resource Overlay until the applicant fulfills the terms of the development agreement (see Exhibit 3.A.) and as determined by the Planning Official. Zoning: Remote/Extremely Limited Development Potential – approximately 186 acres.

F. The Board of Yakima County Commissioners adopts the two applicant proposed development regulation text amendments (LRN2018-00004 and LRN2018-00005) without any modifications as detailed in the Findings and Recommendations of the Planning Commission dated September 5, 2018, which includes:

- i. LRN2018-00004/SEP2018-00022: Durant (see Exhibit 4) – Mini-Storage Siting - YCC Title 19 development regulation text amendment to subsection YCC 19.18.320(1)(a) that requires the permitted zoning district to be contiguous to a designated urban arterial or rural collector except in the Light Industrial (M-1), Heavy Industrial (M-2), and General Commercial (GC) zoning districts.
- ii. LRN2018-00005/SEP2018-00020: Schoolcraft (see Exhibit 5) – Funeral Homes with Crematorium - YCC Title 19 development regulation text amendment to Table 19.14-1 Allowable Land Uses to add “Funeral Homes with Crematorium” as a new land use category permitted under the same zoning districts as Funeral Homes without Cemetery or Crematorium to include a higher level of land use review, Type 2, under the Large Convenience Center (LCC) and General Commercial (GC) zoning districts, in addition a new Type 3 land use review in the Heavy Industrial (M-2) zoning district. A code fix to the Cemetery, Crematorium, Columbaria, and Mausoleums land use category to add a Type 3 level of review under the Light Industrial (M-1) zoning district as it was prior to YCC Title 19.

G. The Board of Yakima County Commissioners adopts the four staff-initiated proposed development regulation text amendments (LRN2018-00006) without any modifications as detailed in the Findings and Recommendations of the Planning Commission dated September 5, 2018, which includes:

i. LRN2018-00006/SEP2018-00023 (see Exhibit 6)

1. Auto Wrecking, Dismantling, Salvage or Junkyard - YCC Title 19 development regulation text amendment for a code fix to Table 19.14-1 Allowable Land Use Table to add “Auto Wrecking, Dismantling, Salvage or Junkyard” land use category and level of reviews to what it was prior to YCC Title 19.
2. Wholesale Nursery - YCC Title 19 development regulation text amendment to YCC 19.01.070 Definitions to redefine “Nursery,” add new definitions that distinguishes the differences between “Retail Nursery” and “Wholesale Nursery.” The Wholesale Nursery land use category will be added to Table 19.14-1 Allowable Land Use Table. Regulatory notes to restrict the sale of incidental products pertaining to wholesale nurseries will be added to YCC 19.18.340.
3. Accessory Dwelling Units - YCC Title 19 development regulation text amendment to subsection YCC 19.18.020(1)(c)(vi)(A) to provide an exception to previously permitted temporary aged and infirmed residences located beyond the 100 feet maximum distance from the primary residence and applying for an accessory dwelling unit land use, provided all other requirements for accessory dwelling units in YCC 19.18.020 are met.
4. Final Plat Authorization - YCC Title 19 development regulation text amendment to YCC subsection 19.34.070(2)(m)(i) to authorize Administrative Official signature and approval of a final plat.

H. The Board of Yakima County Commissioners adopts the Mabton city-specific UGA map amendment (LRN2018-00009) without any modifications as detailed in the Findings and Recommendations of the Planning Commission dated November 7, 2018, which includes:

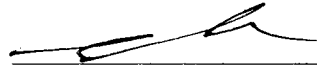
- i. LRN2018-00009/SEP2018-00050; City of Mabton (see Exhibit 7) – The subject property is located to the city limits of Mabton, west of the intersection of Hwy 241 and Washington Street. The subject property is identified as Assessor Parcel: 220801-12002. Address: 8301 Sunnyside Mabton Road, Sunnyside, WA 98935. Land Use: Agricultural Resource (AR) to Urban Commercial (UC). Zoning: Agriculture (AG) to General Commercial (GC) – approximately 10 acres.
- ii. The Board of Yakima County Commissioners accepts the City of Mabton’s letter that their capital facilities are adequate to serve the UGA map amendment and no additional capital facilities planning is needed (see Exhibit 7.A).

Section 3. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not

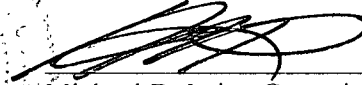
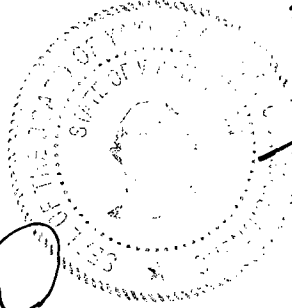
affect the validity of the remainder of the resolution, or the validity of its application to any other persons or circumstances.

Section 4. Effective Date. Pursuant to the Growth Management Act (RCW 36.70A), Yakima County must publish a Notice of Adoption within 10 days after the Board's approval of this ordinance, thus starting the required 60-day appeal period. Therefore, this ordinance becomes effective on the 61st day after publishing of the Notice of Adoption. A development agreement that is in substantial conformance with the draft development agreement attached hereto as Exhibit 3.A shall be recorded within the five years from the effective date of this Ordinance.

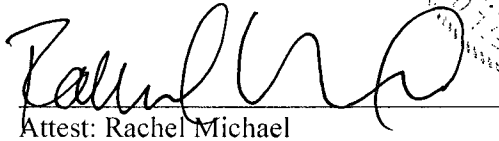
DONE this 18th day of December, 2018



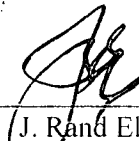
Ron Anderson, Chairman



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*

- Exhibit 1 – LRN2018-00001/SEP2018-00002: Crosier Orchards, Inc. (map attached)
- Exhibit 2 – LRN2018-00002/SEP2018-00004: Gilbert Orchards, Inc. (map attached)
- Exhibit 3 – LRN2018-00003/SEP2018-00006: Williamson/Hordan (map attached)
- Exhibit 3.A – LRN2018-00003/SEP2018-00006: Draft Development Agreement
- Exhibit 4 – LRN2018-00004/SEP2018-00022: Durant (YCC Title 19 text amendment attached)
- Exhibit 5 – LRN2018-00005/SEP2018-00020: Schoolcraft (YCC Title 19 text amendment attached)
- Exhibit 6 – LRN2018-00006/SEP2018-00023: Yakima County Staff (YCC Title 19 text amendment attached)
- Exhibit 7 – LRN2018-00009/SEP2018-00050 (map attached)
- Exhibit 7.A - LRN2018-00009/SEP2018-00050 (City of Mabton Capital Facilities Letter)

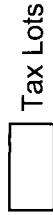
Exhibits 1

Exhibit 1

LRN2018-00001 / SEP2018-00002
Applicant: Crosier Orchards, Inc.

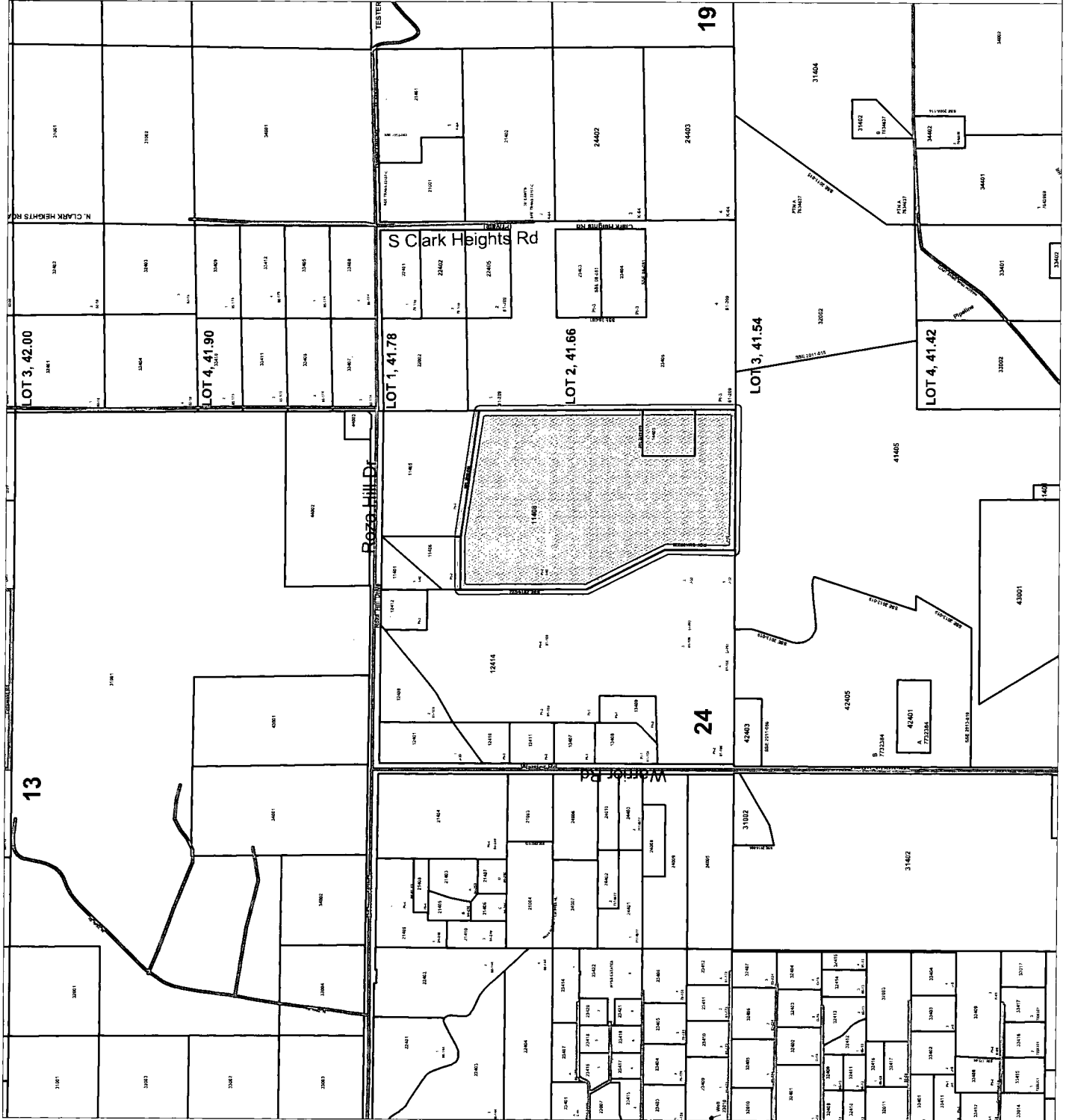
Comp Plan Map Amendment and Rezone

Area hereby amended:
Comp Plan:
From AR to RSS
Rezone:
From AG to R-5/10



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County cannot accept responsibility for any errors.
Therefore, there are no warranties for this product.



Parcel Lot lines are for visual display
only. Do not use for legal purposes.

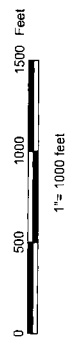



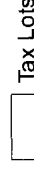
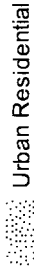
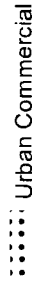
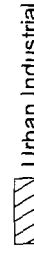
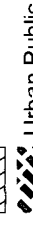
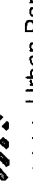
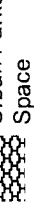


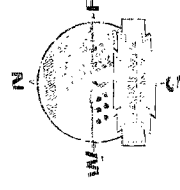
Exhibit 2

Exhibit 2

LRN2018-00002/SEP2018-00004

West Valley Area Yakima County Comprehensive Plan - Land Use Designations and Rezones

-  Re-Zone Areas
-  Urban Growth Boundary
-  Streets
-  Tax Lots
-  Urban Residential
-  Urban Commercial
-  Urban Industrial
-  Urban Public
-  Urban Parks and Open Space
-  Urban Tribal



Yakimap.com

Date: 8/31/2018

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County cannot accept responsibility for any errors.
Therefore, there are no warranties for this product.

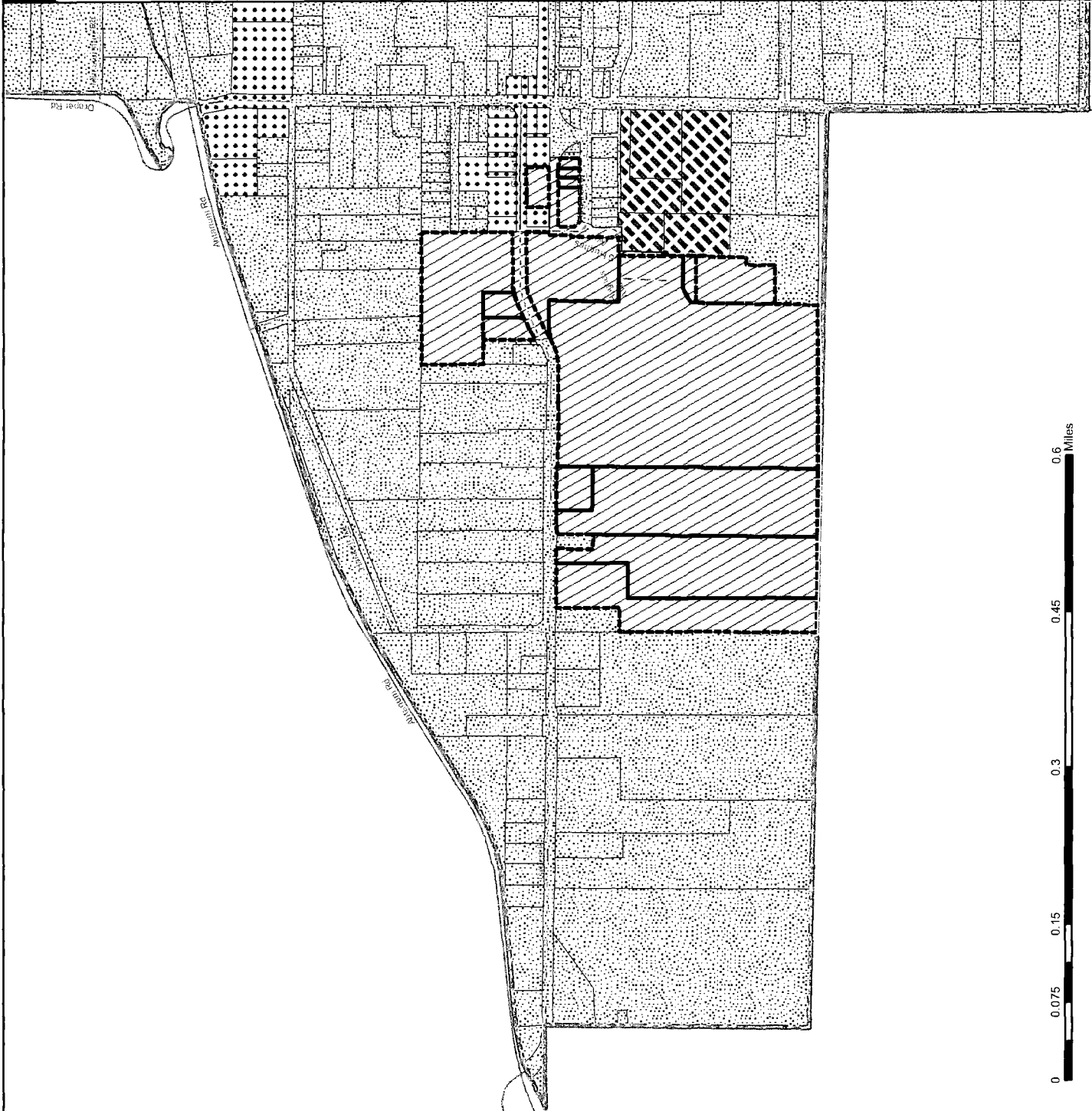






Exhibit 3

Exhibit 3

LRN2018-00003/SEP2018-00006

MINERAL RESOURCE OVERLAY (MRO)

-  Mineral Resource Addition Area
-  Current Mineral Resource Site
-  Streets
-  Tax Lots

Yakimap.com

Date: 12/12/2018

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Exhibit 3.A

Exhibit 3.A

After Filing Return to:
Yakima County Public Services Department
128 N. Second Street, Fourth Floor
Yakima, WA 98901
Attention: Planning Manager

**DEVELOPMENT AGREEMENT
BETWEEN
MIOCENE RESOURCE, LLC and YAKIMA COUNTY**

Parties:	Miocene Resource, LLC and Yakima County, a municipal corporation
Abbreviated Legal Description:	ALL EX BEG AT SW COR OF SEC, TH N 1650 FT, TH SE'LY 2335 FT, TH W 1650 FT TO BEG.
Additional Legal Description:	As described in attached Exhibit A "Subject Property" (Limited to 186-acres)
Assessor's Property Tax Parcel Account Numbers:	161527-11001 "Subject Parcel" (approximate 610 acres)

**DEVELOPMENT AGREEMENT
BETWEEN
MIOCENE RESOURCE, LLC and YAKIMA COUNTY**

THIS DEVELOPMENT AGREEMENT ("Agreement"), is entered into between YAKIMA COUNTY, a municipal corporation duly organized and existing under the laws of the State of Washington, and MIOCENE RESOURCE, LLC, a Washington limited liability corporation, the owner of the mineral rights described herein ("Subject Property"), and is specifically conditioned on the amendment of the Official Yakima County Comprehensive Plan – *Horizon 2040* with respect to Subject Property.

I. Description of Property

1.1 The property subject to this Agreement ("Subject Property") is legally described in Exhibit A and its location is depicted on the map in Exhibit B, both of which are

attached and incorporated in this agreement. It lies on the north side of State Route 410, approximately two miles west of the State Route 410 and State Route 12 intersection, and approximately six miles west of the town of Naches.

- 1.2 Fee title to the Subject Parcel is currently held by the Washington State Fish and Wildlife Department; but the separate mineral rights are owned by Miocene Resource, LLC. Yakima County policies require that a site-specific amendment to the resource element of the County's comprehensive plan amendment be authorized by all parties holding an ownership interest in the Subject Property.

II. Purposes

This Agreement is entered into based on the following understanding of the parties for the purposes of implementing:

- 2.1 That Miocene Resource, LLC will first secure the County's conditional approval to apply a Mineral Resource Overlay on the subject 186-acre portion of the approximate 610-acre Subject Parcel;
- 2.2 Miocene Resource, LLC will execute and record a deed for the Subject Property confirming their ownership interest in the Subject Property;
- 2.3 It is understood by both parties that the Mineral Resource Overlay will be limited to just the 186 acres as proposed by the applicant;
- 2.4 This Agreement will only be in effect for a period of 5 years from the effective date of the adopted Ordinance XX-2018 (Exhibit C) and becomes null and void thereafter; and
- 2.5 No extensions of time for performance will be granted.

III. Applicability

- 3.1 The implementation of designating the Mineral Resource Overlay is incorporated into this agreement under section "II. Purposes" above.
- 3.2 The designation of the Mineral Resource Overlay shall be effective upon meeting all of the conditions as described within this Agreement under section "II. Purposes" and as determined by the Planning Official.

IV. General Provisions

- 4.1 This Agreement may be amended only upon mutual agreement of the parties following public review and comment period and the procedures for a major rezone provided in YCC 19.36.040 and 16B.10.090.

4.2 This Agreement shall be recorded with the Yakima County Auditor promptly after execution and shall constitute a covenant running with Subject Property that shall be binding on the heirs, successors, and assigns of the parties.

4.3 Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement. Only a majority vote of a quorum of the Yakima County Board of County Commissioners has the authority to waive any term or condition of this Agreement on behalf of the County.

4.4 If any term of this Agreement is held invalid by any court, the remainder of the Agreement remains valid and in full force and effect.

4.5 This Agreement shall be governed by the laws of the State of Washington. Any action, suit, or judicial proceeding for the enforcement of this Agreement shall be brought in the Superior Court for the State of Washington in Yakima County, Washington.

4.6 This Agreement contains all terms and conditions agreed upon by the parties. No change or addition to this Agreement shall be valid or binding upon either party unless such change or addition is in writing and executed by both parties.

IN WITNESS WHEREOF, this Agreement has been entered into between the parties on the date last signed below.

List of Exhibits:

Exhibit A – Legal Description of Subject Property

Exhibit B – Map of Subject Property

Exhibit C – Ordinance XX-2018

(Miocene Resource, LLC & LRN2018-00003/SEP2018-00006)

DONE this ____ day of _____ 2018

BOARD OF YAKIMA COUNTY COMMISSIONERS

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*

Approved as to form:

Deputy Prosecuting Attorney

Dave Williamson, individually and as director and agent of
Miocene Resource, LLC

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On this ____ day of _____, 2018, before me, a Notary Public in and for the State of Washington, personally appeared Ron Anderson, Michael D. Leita, and J. Rand Elliott, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Board of Commissioners of County of Yakima to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of Washington, residing at _____
My appointment expires _____
Print Name _____

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On this ____ day of _____, 2018, before me, a Notary Public in and for the State of Washington, personally appeared _____

_____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they executed the instrument as a voluntary act for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of Washington, residing at _____
My appointment expires _____
Print Name _____