

# **BOARD OF YAKIMA COUNTY COMMISSIONERS**

## **ORDINANCE 4-2019**

### **IN THE MATTER OF AMENDING THE OFFICIAL ZONING MAP OF YAKIMA COUNTY**

**WHEREAS**, Bill Hordan, Hordan Planning Services on behalf of DCR Land Holding, LLC submitted a complete minor rezone application (File No.: ZON2018-00001/SEP2018-00005) on January 24, 2018 for three parcels totaling 522+ acres from Agriculture (AG) to Remote/Extremely Limited Development Potential (R/ELDP) pursuant to YCC 19.34.020; and,

**WHEREAS**, in accordance with the procedural provisions in YCC 19 and YCC 16B, the Yakima County Administrative Official provided public notices of the application and the open record public hearing, 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 May 30, 2019, followed by the issuance of his recommendation on June 13, 2019 to APPROVE the requested rezone; and,

**WHEREAS**, after providing public notices in accordance with YCC 16B, the Board conducted a closed record public hearing on July 16, 2019 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 per the Hearing Examiner; now, therefore,

**BE IT HEREBY ORDAINED** by the Board of County Commissioners of Yakima County, Washington that:

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

- A. Findings, Conclusions, and Recommendation of the Hearing Examiner. The Board hereby adopts the Hearing Examiner's Recommendation dated June 13, 2019, including its Findings and Conclusions, attached hereto as Attachment A.

**Section 2. Yakima Title 19 Official Zoning Map Amendment.** The official zoning map, as adopted by YCC 19.10.020 and subsequently amended, is hereby further amended by rezoning the "Subject Property" depicted on the map attached hereto as Attachment B, from Agriculture to Remote/Extremely Limited Development Potential.

**Section 3. 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 4. Effective Date.** This ordinance shall be effective immediately.

DONE this \_\_\_\_\_ day of \_\_\_\_\_ 2019

JUL 30 2019

  
Michael D. Leita, Chairman

  
Norm Childress, Commissioner

  
Attest: Melissa Paul, Clerk of the Board



Linda Kay O'Hara  
Deputy Clerk of the Board

  
Ron Anderson, Commissioner  
*Constituting the Board of County Commissioners for Yakima County, Washington*

Approved as to form:



Deputy Prosecuting Attorney

Attachments to Ordinance:

Attachment A: *Hearing Examiner Recommendation*, dated June 13, 2019

Attachment B: *Zoning Map of subject property*



# Public Services

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901  
(509) 574-2300 • 1-800-572-7354 • FAX (509) 574-2301 • [www.co.yakima.wa.us](http://www.co.yakima.wa.us)

VERN M. REDIFER, P.E. - Director

June 17, 2019

TO: DCR Land Holding Company, LLC & Parties of Record  
FROM: Karri Espinoza, Office Coordinator *KE*  
RE: Hearing Examiner Recommendation -- File Nos. ZON18-001/SEP18-005

On, June 13, 2019 the Yakima County Hearing Examiner issued his recommendation on Type 4 Review for a rezone. The Examiner's recommendation is enclosed.

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

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

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**County of Yakima, Washington  
Office of the Hearing Examiner**

<b>In the matter of the Application by</b>	<b>)</b>	<b>File No. ZON2018-00001</b>
	<b>)</b>	
<b>DCR Land Holding Company, LLC</b>	<b>)</b>	
	<b>)</b>	<b>Hearing Examiner Recommendation</b>
<b>For Type 4 Review of the Rezone of</b>	<b>)</b>	
<b>Property in the Vicinity of the Intersection</b>	<b>)</b>	
<b>of State Route 24 and State Route 241</b>	<b>)</b>	
<b>from the Agriculture Zoning District to</b>	<b>)</b>	
<b>the Remote/Extremely Limited</b>	<b>)</b>	
<b>Development Potential Zoning District</b>	<b>)</b>	

**I. INTRODUCTION.**

On January 24, 2018 Yakima County Public Services Department: Planning Division received a minor rezone application from Bill Hordan of Hordan Planning Services on behalf of DCR Land Holding Company, LLC ("DCR"). The original application package included a Conditional Use Permit application for an Off-road Vehicle Recreation Facility, and a Critical Areas Permit pertaining to the stream and floodplain on the subject property. It also included a State Environmental Protection Act ("SEPA") checklist that was primarily focused on the effects of motorcycle hill climbing events rather than on the broader matter of the proposed change in zoning, though the proposal to rezone was duly identified in the checklist. A SEPA Determination of Non-significance ("DNS") addressing only the rezone was issued on April 29, 2019.

The subject property has been the site of motorcycle hill climbing competitions or similar events that have presumably been authorized by the County, if at all, based on the provisions of Chapter 5.16 YCC or predecessor legislation. Events in the 1960s and 1970s were locally organized as reported in public comments. Most recently, the events have been subject to event permitting, have drawn national attention among motorcycle hill climbing interests and have drawn a thousand or more spectators and competitors.

On March 28, 2019, DCR chose to bifurcate the minor rezone review from the CUP and CAO reviews rather than continue to seek consolidated permit review. An open record hearing on the rezone application was convened on May 30, 2019. The Hearing Examiner was provided with a staff report and set of hearing exhibits prior to the hearing. Senior Planner Dinah Reed presented the staff report at the hearing. The County Planning Division recommended approval of the minor rezone application. DCR was represented at the hearing by attorney James Carmody of MEYER, FLUEGGE & TENNEY, P.S.

Several members of the public provided comment at the hearing. Most of the comments related to the Off-road Vehicle Recreation Facility CUP application that was bifurcated from the current

proceeding. These comments concerned the impacts of ORV events including fire danger, wildlife impacts, dust generation, noise from ORVs and helicopters, general disruption of the rural lifestyle of the neighbors, crowd control and substance abuse concerns, water availability and water rights impacts, effectiveness of County permitting enforcement, and the history of landowner compliance with regulatory requirements for the motorcycle hill climb facilities. The Hearing Examiner viewed the property on June 12, 2019.

## **II. SUMMARY OF RECOMMENDATION.**

Because the application to rezone the DCR property is supported by evidence and analysis allowing favorable consideration of the application under ULDC 19.36.030(5), the Hearing Examiner recommends approval of the application to rezone the subject property from Agriculture (AG) to Remote/Extremely Limited Development Potential (R/ELDP). This recommendation does not extend to any application for a specific permitted use of the property, including any application for an Off-road Vehicle Recreational Facility, based on DCR's request to bifurcate the proceedings for the rezone and the ORV Recreation Facility CUP and other permits.

## **III. FINDINGS.**

Based on the staff report and exhibits, comments on the record, statements at the open record hearing, and a review of the pertinent provisions of *Horizon 2040* and the Yakima County Code, including the Unified Land Development Code (Title 19 YCC, referred to as the "ULDC"), the Hearing Examiner makes the Findings set out in this Section III. Any finding more properly determined to be a conclusion is deemed to be such.

### **1. APPLICANT/OWNER.**

**Property Owner:** DCR Land Holding Company, LLC  
P.O. Box 25  
Grandview, WA 98930

**Applicant:** Bill Hordan  
Hordan Planning Services  
410 N. 2<sup>nd</sup> Street  
Yakima, WA 98901

### **2. LOCATION AND PARCEL NUMBER.**

The subject parcel is located on the southwest side of the intersection of Highway 24 and Highway 241. (Tax parcel Nos: 231213-21002, 231213-12004, 231213-41001)

### **3. PROPERTY DESCRIPTION, ZONING AND LAND USE**

The property consists of three parcels: 231213-21002 is 404.95 acres, 231213-12004 is 75.58 acres, and 231213-41001 is 41.86 acres, totaling 522.39 acres. All three parcels are within the AG zoning district. The property contains a stream that the County and DCR consider to be a Type 5 ephemeral stream that has been partially filled from earlier activity on the property. The property in large measure is steeply sloped and contains a large rock outcropping. The less-steep portion of the property near the highway intersection, including the area affected by the Type 5 stream, has been developed with graveled roads, staging areas, water tanks, campsites and parking areas that can accommodate participants and spectators for the motorcycle hill climbing events held on the property. It is accessed by a WDOT-approved approach off of State Route 241. No county roads serve the interior of the property.

Portions of the subject properties have been designated as Upland Wildlife Habitat Conservation Area under Chapter 16C.11 YCC. Some portions of the property have recently been used for grazing purposes. No portion of the property is in use for crop production. No irrigation water rights are appurtenant to the properties.

All surrounding parcels are within the AG zoning district except that a 17.91-acre parcel to the north is zoned Highway Tourist Commercial and contains the Silver Dollar Café and a house site. Other parcels to the north of Route 24 are zoned AG, are as large as 135+ acres and are vacant. Directly to the north of the subject property and south of the Route 24 is a house site on 18.77 acres. To the east are three smaller parcels with house sites, ranging in size from 2.60 – 55+ acres. To the west and south are sections identified as federal land; also to the west and south are sections owned by Western Land & Cattle LLC, which are vacant and total thousands of acres.

#### **4. PROJECT DESCRIPTION**

This minor rezone application requests an amendment to the official zoning map established by Title 19 ULDC. It would change the zoning of the 522.39 acres from AG to R/ELDP. Based on DCR decision to bifurcate the rezone application from other land use and permit applications, this proceeding is effectively a non-project rezone.

#### **5. COMPREHENSIVE PLAN DESIGNATION.**

According to Yakima County Comprehensive Plan (*Horizon 2040*), the subject site is designated Agricultural Resource. “The intent of Yakima County’s Agricultural Resource land use category is to implement the Growth Management Act planning goal related to maintaining and enhancing natural resource-based industries, which includes productive agricultural industries. This category is intended to preserve, stabilize, and enhance the primary agricultural land base which is being used for, or offers the greatest potential for, continued production of agricultural products and harvesting. The Agricultural Resource land use category carries out this goal by establishing a single agricultural zone, allowing flexible parcel sizing on large lots, limiting small lot segregations, and establishing a special exemption process to review potentially conflicting uses.”

#### **6. NOTICE.**

Notice of the May 30, 2019 public hearing was provided in the following manner:

- Notice of Public Hearing was mailed to adjoining property owners on April 12, 2019.
- Publishing of a legal notice of the open record public hearing notice in the Yakima Herald-Republic: April 12, 2019
- Posting of hearing notice on the property: May 14, 2019

## **7. ENVIRONMENTAL REVIEW**

The Yakima County SEPA Responsible Official conducted a review of the application under the provisions of the State Environmental Policy Act under County File Number SEP2018-00005. A Determination of Non-Significance was issued on April 29, 2019, and no appeal has been filed. In absence of any appeal, the DNS establishes for current purposes that the rezone does not present any significant environmental impacts.

## **8. JURISDICTION OF THE HEARING EXAMINER.**

The proposal is subject to the ULDC. Section 19.36.030 ULDC provides 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.30.030.” Table 19.36-1 sets forth Zoning District consistency with Comprehensive Plan Future Land Use designations. The table indicates that both the AG and R/ELDP zoning districts are consistent with the Agricultural Resource plan designation. The Type 4 review process entails the Yakima County Hearing Examiner conducting an open record public hearing, considering the written evidence and testimony presented, preparing a written recommendation, and forwarding the recommendation to the Board of County Commissioners (BOCC). The BOCC renders the final decision on the rezone application.

## **9. MINOR REZONE REVIEW CRITERIA AND THEIR APPLICATION TO THE SUBJECT PROPERTY**

There are eight decision criteria provided in ULDC 19.36.030(5) that are to be addressed in any recommendation for a minor rezone. The decision criteria and pertinent analyses of each one are set forth below.

a. *The testimony at the public hearing:* Most of the public comments related to the Off-road Vehicle Recreation Facility CUP application that was bifurcated from the current proceeding. These comments concerned the impacts of ORV events on the property, particularly given the possibility of more frequent events, which would compound impacts regarding fire danger, traffic safety, wildlife impacts, dust generation, noise from ORVs and helicopters, general disruption of the rural lifestyle of the neighbors, crowd control and substance abuse concerns, water availability and water rights impacts, effectiveness of County permitting enforcement, and the history of landowner compliance with regulatory requirements for the

motorcycle hill climb facilities. The physical impacts raised in the comments generally are framed in terms of the recent use of the property for motorcycle hill climbing events under the County's event licensing procedures. Such impacts are not caused by the mere rezoning of the property, except with respect to the potential frequency of events. However, the rezone itself does not present significant adverse environmental impacts based on the issuance of the DNS with no appeals filed. The actual permitting of ORV Recreation Facilities may present such issues as are raised in the public comments.

“ ‘Off-road vehicle recreation facilities’ means facilities that include motor-cross courses, jeep courses, snowmobile courses and similar facilities where there have been physical improvements made to the property either deliberately or inherently.” ULDC 19.01.070(15). They are reviewed as Type 2 uses under Table 19.14-1 in Chapter 1914 ULDC. For such uses, the Reviewing Official must prepare written findings and conclusions stating the specific reasons upon which the decision or recommendation to approve, approve with conditions or deny the application is based. The findings must, at a minimum, address the following criteria:

- (a) The present and future needs of the community will be adequately served by the proposed development and that [sic] the community as a whole will be benefited rather than injured;
- (b) The proposed use is compatible with neighborhood land uses, the goals, objectives and policies of the Comprehensive Plan, and the legislative intent of the zoning district;
- (c) The site of the proposed use is adequate in size and shape to accommodate the proposed use;
- (d) All setbacks, spaces, walls and fences, parking, loading, sitescreening, landscaping, and other features required by this Title;
- (e) The proposed use complies with other development and performance standards of the zoning district and this Title;
- (f) The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;
- (g) The proposed use will have no substantial adverse effect on abutting property or the permitted use thereof;... and
- (i) The development complies with all criteria in Chapter 19.18 [ULDC] applicable to the proposed use, unless otherwise administratively adjusted.

See ULDC 19.03.080(7). Per ULDC 19.18.350, the ORV facility evaluation must also include the following:

- (1) Environmental review and SEPA mitigation where required;
- (2) Proximity to adjacent residences or other especially sensitive land uses;
- (3) Parcel size not less than five acres and location within parcel sufficient to buffer the use from adjacent properties;
- (4) Access and adequate off-street parking, as needed depending on the size and purpose of the facility;
- (5) Proximity to/avoidance of critical areas;
- (6) Hours of operation;
- (7) Noise mitigation measures, enforceable under the Noise Control Ordinance (YCC Chapter 6.28); and
- (8) Effective dust control/suppression measures to prevent dust from leaving the property.

Notice of an application for a proposed off-road recreation vehicle facility is sent to adjoining property owners within one thousand feet of the property where the facility is to be sited.

It appears that the review process for an ORV Recreation Facility would provide substantial opportunity to members of the public to raise the kinds of issues noted at the hearing, including issues related to the frequency of events of various scales. These issues are not settled by the issuance of the DNS for the rezone. Accordingly, while the bulk of the public comments are generally not relevant to the non-project rezone application, the public has recourse to the Type 2 review comment process for specific use applications.

b. *The suitability of the property in question for uses permitted under the proposed zoning:* According to Title 19 Table 19.36-1 'Zoning District Consistency with Comprehensive Plan Future Land Use Designations' of Title 19, the requested R/ELDP zoning district is consistent and may implement the Agriculture Resource land use designation of the Yakima County Comprehensive Plan. Per ULDC 19.11.030(a) :

The Remote/Extremely Limited Development Potential (R/ELDP-40) zoning district is intended to recognize areas and allow development consistent with service availability and environmental constraints in remote areas and other places with extremely limited development potential.

All three parcels do not have access to public water and sewer, are not located in an irrigation district, and have steep slopes unsuitable for crops. Typical AG uses include growing of crops, silviculture, animal feeding operations, aquaculture, and agriculture stands and markets. Most AG uses are also allowed in the R/ELDP zoning district. Per the staff report, a small percentage of the subject property is categorized as farmland soil. The areas that do show farmland soil are

classified as “prime farmland if irrigated”, and “farmland of unique importance”. Parcel 41001 has a large percentage of area classified as “farmland of unique importance”. However, the R/ELDP zone would not prevent the agricultural use of the property, including grazing. The limiting factor is water.

R/ELDP also allows recreational uses which are not allowed in the AG zoning district -- or the uses are allowed without an open record hearing, such as ORV recreation facilities, parks or playgrounds. As evidenced from the past use of the property, the topography makes it particularly useful for certain kinds of ORV Recreation Facility uses.

c. *The recommendation from interested agencies and departments:* No recommendations have been received from agencies outside of Yakima County Public Services, which recommends approval of the rezone based on the staff report.

d. *The extent to which the proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Comprehensive Plans, adopted neighborhood plans and the intent of Title 19 ULDC:* The Agricultural Resource land use category in *Horizon 2040* is intended to preserve, stabilize, and enhance the primary agricultural land base which is being used for, or offers the greatest potential for, continued production of agricultural products and harvesting. The Agricultural Resource land use category carries out this goal by establishing a single agricultural zone, allowing flexible parcel sizing on large lots, limiting small lot segregations, and establishing a special exemption process to review potentially conflicting uses.” The principle applicable *Horizon 2040* goal is GOAL LU-ER-AG 1: “Maintain and enhance productive agricultural lands and discourage uses that are incompatible with farming activities.” It does not appear that the rezone would materially impair this goal. To the contrary, as noted above, Table 19.36-1 provides that the requested R/ELDP zoning district is consistent with and may implement the Agriculture Resource land use designation.

All three of the subject parcels are outside of an irrigation district and have steep slopes, largely unsuitable for crops. It may be argued that it would have been more appropriate to put the subject property in the *Horizon 2040* Remote Rural/Extremely Limited Development Potential category, given the conditions at the property and the purpose of that category (“challenging geographical features many of these areas possess, such as: natural hazard potential (excessive or unstable slopes, soil constraints, topographic or flooding characteristics, and wildfire potential); or remote location (outside of expected rural fire service area, lack of all-weather access, depth to groundwater)”). However, that category is not what was adopted for the subject property in the *Horizon 2040* Future Land Use designation. Nevertheless, since the R/ELDP zone would not prevent agricultural use, and would actually limit property divisions to a greater extent in any case, the proposed zone does not conflict with the *Horizon 2040* designation.

e. *The adequacy and availability of public facilities, such as roads, sewer, water and other required public services:* The subject parcel does not have access to public services such as water and sewer, and it is not within an irrigation district. Such services are not required by R/ELDP zoning. The property is accessed only from the state highway system.

*f. The compatibility of the proposed zone change and associated uses with neighboring land uses:* The public comment raised substantial concerns about the compatibility of an ORV Recreation Facility with the neighboring rural and residential uses. However, as discussed previously, the array of uses allowed in the AG zone and R/ELDP zone are substantially similar, and the ORV Recreation Facility use is subject to specific review to assure compatibility and appropriate mitigation in the Type 2 review process.

*g. The public need for the proposed change. Public need shall mean that a valid public purpose, for which the Comprehensive Plan and this Title have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum, document:*

*Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan may designation or current zoning district within the area as appropriate; and.*

*Whether the timing is appropriate to provide additional land for a particular use:*

The proponents of the rezone have the burden of proof in demonstrating that conditions have substantially changed since the original zoning and the rezone in response to the change must bear a substantial relationship to the public health, safety, morals or welfare. *Parkridge v. City of Seattle*, 89 Wn.2d 454,462, 573 P.2d 359, (1978). A rezone must be justified for public health, safety, morals, or general welfare purposes. *Henderson v. Kittitas County*, 100 P.3d 842, 846, 124 Wn.App. 747, (Wash.App. Div. 3 2004).

The need for more land in a zoning district for a particular purpose and the appropriateness of timing for the additional land are indicators of public need, though not exclusively so. The Planning Division argues that DCR has not shown that there is a substantive need for the proposed change in zoning. There are thousands of acres of AG zoned land surrounding the subject parcels that will likely never be developed because of the lack of public services such as power, roads, and water/sewer/fire & life safety, so it is argued that no need for more R/ELDP lands.

However, the staff report analysis does not consider the more granular matter of whether the land inventory affords the actual opportunity for uses allowable within the district. For example, there may be areas within a zoning district that are particularly suited for certain uses even though other lands in the zoning district may not be. As a collateral matter, *Horizon 2040* recreation goals and policies include GOAL POS 2: "Provide and facilitate development of a range of appropriate parks and recreation services to effectively meet the needs and interests of Yakima County residents;" and Policy POS 2.12: "Encourage development of non-traditional recreation venues including a white water park, BMX track, skate parks and other facilities for emerging sports activities."

DCR argues that there is both a pent up need for well-regulated ORV facilities in the area and an opportunity for economic growth based on this recreational opportunity. Based on the history of significant recreational events at the subject property, it supports a unique opportunity for such ORV use and a non-traditional recreational venue as contemplated in *Horizon 2040*. No countervailing evidence has been presented in the record to show that there is a surplus of such opportunities on R/ELDP lands in the County. In addition, economic growth and related tax

revenues to provide additional services to the community is a benefit to the public health, safety, and welfare. *Henderson*, at 846. Taking these considerations all together, the potential uses of the rezoned property are sufficiently connected to public recreational, safety and economic purposes.

h. Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone. The “substantial change” rule described in the previous section III.9.g does not apply where the rezone implements a new comprehensive plan or plan amendment, or the plan cannot be implemented without the rezone. *Bjarnson v. Kitsap County*, 899 P.2d 1290, 78 Wn.App. 840, (Wash.App. Div. 1 1995.). In this case, both the current AG district and R/ELDP district can implement the plan, and the Board of County Commissioners made a legislative determination that the subject property should be zoned AG. The point of the substantial change requirement is to avoid changes in zoning that render it significantly different from the surrounding zoning for the mere benefit of the landowner without connection to the public interest. Mere consistency of the new zone with the plan does not get to the question of whether the rezone is necessary to implement the plan.

In applying the changed circumstances test, appropriate considerations include: changed public opinion, changes in land use patterns in the area of the rezone, and changes on the property itself. *Bjarnson* at 847. DCR’s narrative indicates that one change in circumstances is the realization within the planning community that Agriculture zoning has been unduly restrictive in light of the limitations it imposes on uses that are otherwise reasonable given the specific conditions of a property. This realization is reported by DCR to have been part of the basis for the rezoning of the Silver Dollar Café property from AG to Highway Commercial.

In addition, the property itself has been changed, along with the circumstances of its use. The existing site has been used as an off-road vehicle recreation event facility off and on since 1961. The current improvements to the property have accumulated over time in response to the growth in interest of the motorcycle hill climbing events. The popularity of the events conducted on the property has increased the number of attendees each year in recent years. There has been sufficient interest for DCR to consider more events on the property. Additional events would make the Outdoor Festival Permit that has been traditionally issued for the hill climb events impractical. The increased interest constitutes a change in circumstances connected to the County’s recreational goals that warrant consideration of a change in zoning as requested.

#### IV. CONCLUSIONS.

1. County staff have indicated that a rezone application need not meet all of the criteria to be considered in rendering a decision on it. It is true that there is no explicit requirement that all of the ULDC 19.36.030(5) criteria be met. However, certain of the criteria are rooted in language in decisions by Washington courts as described in III.9.g, above—in particular the *Parkridge* and *Bjarnson* line of cases. Thus applicants for the minor rezone must demonstrate the satisfaction of public need and substantial change criteria in ULDC 19.36.030(5)(g) and (h).

2. Quasi-judicial decisions such as minor rezones must be supported by substantial evidence. This burden is appropriate given that the current zoning was assigned following deliberations by the Board of County Commissioners to implement the comprehensive plan.

3. The application materials, staff report, hearing exhibits and testimony at hearing include evidence and analysis that supports a conclusion that the minor rezone is positively consistent with the criteria in ULDC 19.36.030(5) as described in III.9, above.

4. In broad terms, both the current zoning and proposed zone are "consistent" with the *Horizon 2040* Future Land Use designations based on Table 19.36-1.

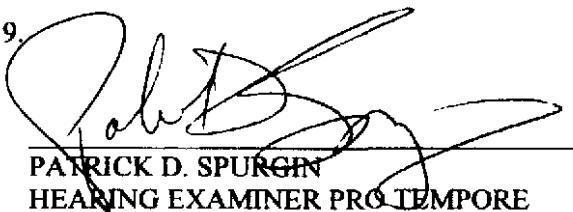
5. The Findings above and these Conclusions support a recommendation for approval of the minor rezone application.

6. These conclusions do not dispose of the numerous public comments offered both in writing and at the hearing. A response to those comments to the extent they relate to a specific use of the subject property are outside of the scope of the current minor rezone review. The resolution of the rezone application may facilitate application for review of specific uses allowable in the R/ELDP zoning district, but those uses remain subject to review requirements noted in Table 19.14-1 and to other relevant regulatory requirements along with associated public comment opportunities. Future land use applications will be subject to approval, approval with conditions, or denial based on the applicable review process.

#### **V. RECOMMENDATION.**

Based on the findings, analysis, and conclusions above, the Hearing Examiner recommends APPROVAL of the application by DCR to rezone its properties described in the application materials in the record for ZON2018-00005 from the Agriculture Zoning District to the Remote/Extremely Limited Development Potential.

DATED THIS 13TH DAY OF JUNE 2019,



PATRICK D. SPURGIN  
HEARING EXAMINER PRO TEMPORE

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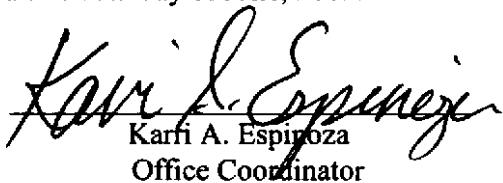
FILE NO: ZON18-001  
HEARING EXAMINER RECOMMENDATION

**AFFIDAVIT OF MAILING**

STATE OF WASHINGTON )  
                          ) ss.  
COUNTY OF YAKIMA    )

I, Karri A. Espinoza, being first duly sworn, and as an employee of the Yakima County Public Services, Planning Division, I dispatched through the United States Mails, HEARING EXAMINER RECOMMENDATION, a true and correct copy of which is enclosed here-with; that said notice, was addressed to applicant, agent and parties of record, that said parties are individually listed on the Mailing List retained by the Planning Division and that said notices were mailed by me on the 17th day of June, 2019.

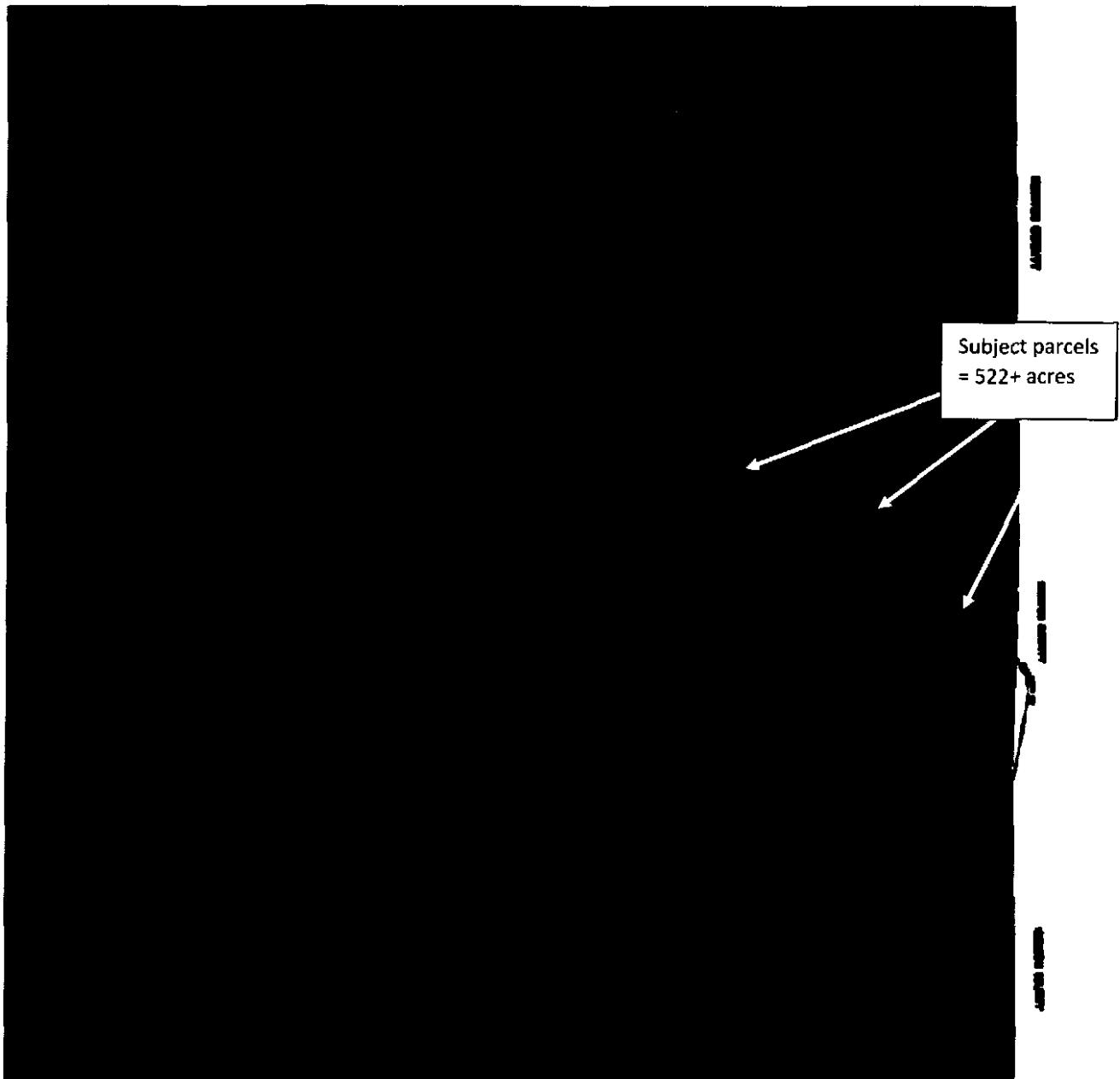
That I mailed said notices in the manner herein set forth and that all of the statements are made herein are just and true. Dated this 17th day of June, 2019.



Karri A. Espinoza  
Office Coordinator

**Attachment B**

**Current Zoning Map**



**Proposed Zoning Map**

