

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE 6-2020

IN THE MATTER OF AMENDING THE OFFICIAL ZONING MAP OF YAKIMA COUNTY ESTABLISHED BY YCC TITLE 19.10.20 TO REZONE THE PROJECT KNOWN AS CANYON VIEW ESTATES TO MPDO

WHEREAS, Mike Heit of HLA Surveying and Engineering, on behalf of Scenic Ranch, LLC., submitted a minor rezone application (File Nos. ZON2020-00001, SUB2020-00004 and SEP2020-00005) on February 7, 2020 for a minor rezone to include a 19.97-acre parcel within the Master Planned Development Overlay and a 16-lot subdivision (Parcel No. 181317-13423); **and**,

WHEREAS, in accordance with YCC 16.04 (State Environmental Policy Act), the Yakima County SEPA Responsible Official issued a Mitigated Determination of Non-Significance (DNS) on August 27, 2020 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 2, 2020, followed by the issuance of his recommendation on September 22, 2020 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 December 1, 2020 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; **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 Board adopts the Hearing Examiner's Recommendation dated September 22, 2020, including its Findings and Conclusions, attached hereto in Attachment A.

Section 2. Yakima Title 19 Official Zoning Map Amendment. The Official Zoning Map established by YCC 19.10.20 and subsequently amended, is hereby further amended by rezoning parcel 181317-13423, to include the subject property within the Master Planned Development Overlay, as shown in Attachment B.

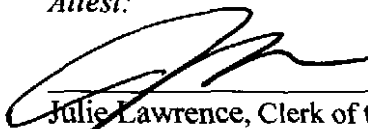
BOARD OF YAKIMA COUNTY COMMISSIONERS

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 rezone shall be effective upon completion of the appeal period.

DONE DEC 29 2020


Attest:


Julie Lawrence, Clerk of the Board
Linda Kay O'Hara, Deputy Clerk of the Board



Approved as to form:

Ron S. Anderson DPA


Ron Anderson, Chairman


Amanda McKinney, Commissioner


LaDon Linde Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*

Attachments to Ordinance:

Attachment A: *Hearing Examiner's Recommendation*, dated September 22, 2022

Attachment B: *Map of Subject Property* (depicting the parcels hereby Included in the Master Planned Development Overlay

COUNTY OF YAKIMA, WASHINGTON
OFFICE OF THE HEARING EXAMINER

In the Matter of an Application by HLA)	File Nos. ZON2020-00001;
Engineering and Land Surveying Behalf of)	SUB2020-00004
Scenic Ranch, LLC. for a minor rezone to)	
include certain property in the Master)	HEARING EXAMINER RECOMMENDATION
Planned Development Overlay and a 16-Lot)	
Subdivision within the MDDO Zoning District)	
)	

I. INTRODUCTION

On February 7, 2020 Yakima County, Public Services Department: Planning Division received an application from Mike Heit of HLA Engineering and Land Surveying, Inc. (hereafter "HLA") on behalf of Scenic Ranch, LLC., (hereafter "Scenic Ranch") for a Residential Master Planned Development Overlay minor rezone and a 16-Lot Subdivision on 19.97 acres of land within the Single-Family Residential (R-1) zoning district. The lots are proposed to vary in size from approximately 0.89 acres to 1.55 acres, with access onto Scenic Drive.

An open record hearing on the application was conducted through a web meeting on the GoToMeeting platform on September 2, 2020. Prior to the hearing, Yakima County Planning staff provided the Hearing Examiner and Scenic Ranch with a staff report and set of hearing exhibits. The staff report was presented at the hearing by Noelle Madera. Scenic Ranch was represented by Mike Heit of HLA. Several public comment letters were received prior to the hearing and are included in the hearing record. In addition, several members of the public joined the web meeting and provided additional comment. The comments concerned impacts to neighborhood character, lighting effects, on-site sewer system impacts to Cowiche Canyon, traffic and pedestrian safety impacts, noise from community recreation areas, stormwater management, fire safety, viewshed impacts, and the cumulative effects of development of all properties in the area owned by Scenic Ranch. Comments also raised issues about development coordination between Yakima County and the City of Yakima.

II. SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends approval of the Scenic Ranch MPDO rezone and Subdivision, subject to conditions to assure compliance with the Yakima County Comprehensive Plan – Horizon 2040 and pertinent development criteria, standards, and regulations. These conditions are set out in Section V., below.

Based on the information in the application file, information and analysis contained in the staff report and hearing exhibits, public comment received at the hearing, a review of Title 19 Unified Land Development Code (ULDC) requirements (sections 19.30.080, 19.17.040, 19.34.050, and 19.36.030), and a review of applicable goals and policies of the Yakima County Comprehensive Plan (*Horizon 2040*), the Hearing Examiner makes the following Findings and provides the following Analysis of the proposed rezone and subdivision.

III. FINDINGS AND ANALYSIS

A. Findings based on the staff report and exhibits.

1. Applicant and Landowner. The application was filed by HLA on behalf of Scenic Ranch. Scenic Ranch is the landowner of record of the subject property.

2. Location and Parcel Number. The subject property is located on the north side of Scenic Drive, approximately 600 feet west of the City of Yakima (Parcel Number: 181317-13423).

3. Project Proposal. Scenic Ranch proposes to subdivide a 19.97-acre parcel into 16-lots and to include the property within the Master Planned Development Overlay (MPDO). The lots are proposed to vary in size from approximately 0.89 acres to 1.55 acres, with an interior access road approach from Scenic Drive. The interior access road would be a 30-foot-wide private road with rolled curb and an associated meandering asphalt pathway. The development will feature approximately 3,200 lineal feet of asphalt walking path through the community. There are two proposed open space recreational areas, totaling 2.52 acres that would be available for various recreational and sporting activities. The recreational area conceptual design feature a combination of greenspace and natural landscape with an additional 1,700 lineal feet of gravel walking path. The development would be fully built out in one phase with the private road extending off Scenic Drive. Nob Hill Water will be extended through the development. The large on-site septic systems, or community septic systems will service the homes.

The basis for the MPDO rezone proposal is that subdivisions within the R-1 zoning district that are utilizing a community on-site septic system are required to cluster (YCC Table 19.12.010-1). This would require the lots to meet the 4.0 to 7.0 units per acre site density (YCC Table 19.34.035-1). The MPDO would provide relief from the site density limitation.

The development is anticipating being a Premier residential neighborhood with 5,000 square foot plus sized homes similar to adjacent developments. The property is relatively steep in grade, and 10,890 square foot lot size is insufficient to create building pads and driveways necessary for the proposed development. The proposal includes larger lots that are intended by Scenic Ranch to make the most effective use of the topography and create lot sizes more harmonious with the lot sizes on neighboring property. In order to deal more efficiently and economically with the hillside topography, the proposed lot size departs from the clustering of lots and the 0.25 acre lot size provided by the ULDC. The larger lots will allow the building pads to be leveled and sloped back to existing ground without the use of massive retaining walls.

4. Zoning, Land Use Designation and Land Use. The subject property and surrounding parcels are zoned Single-Family Residential (R-1). This zoning district is intended to

facilitate development at targeted urban densities under the Comprehensive Plans, and provide for low-density, single-family residential development in areas designated by the Comprehensive Plan, depending on availability of infrastructure. Lower densities facilitate future subdivision at urban densities as infrastructure availability increases. The *Horizon 2040* land use designation for this property and surrounding area is Urban Residential. The intent of the Urban Residential land use category is to provide for a full range of urban housing types, from single and multi-family development to high density family housing. The Urban Residential land use designation is a general designation intended to accommodate all the urban residential land use designations listed in each of the fourteen cities' and towns' future land use maps. The subject property is currently vacant. The surrounding properties are vacant, in agriculture production, or developed as residential properties.

5. Public Notice. A Notice of Application, Notice of Completeness, and Notice of Environmental Review and Notice of Future Hearing was mailed to adjoining property owners (APOs) and agencies with interest on February 26, 2020. It was discovered that the notices mailed did not include its second page, which contained the information regarding commenting. Therefore, a corrected notice was mailed March 11, 2020 with the comment period ending March 25, 2020. Evidence of timely publication of the hearing notice, its mailing to nearby landowners, and its posting of the property are included in Hearing Exhibit 1, which is part of the record.

6. Environmental Review. A State Environmental Policy Act (SEPA) review was conducted under File No. SEP2020-00005. Under SEPA review, the SEPA Responsible Official determines "whether a proposal has any probable significant adverse environmental impacts." WAC 197-11-330(5). SEPA review entails the review of the SEPA checklist provided by the applicant. YCC 16.04.120, WAC 197-11-315. If a SEPA Responsible Official determines that the effects of a proposal can be mitigated to avoid probable significant adverse impacts, the determination is documented in a Mitigated Determination of Non-Significance (MDNS). WAC 197-11-340, WAC 197-11-350. The County's SEPA Responsible Official issued an MDNS threshold determination for this proposal on August 27, 2020 that included the following mitigation measures:

Mitigation Measure A1: Prior to ground disturbing activities, a cultural resources survey shall be completed. If archaeological resources are discovered, the proponent shall coordinate with DAHP and any affected Indian Tribes to mitigate for potential impacts to those resources.

Mitigation Measure A2: If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the State provides notice to proceed. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or

further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

A SEPA determination is deemed to be conclusively in compliance with SEPA, the SEPA rules, and the provisions of YCC Chapter 16.04, unless a SEPA appeal is filed. YCC 16B.06.060(5).

7. Agency and Public Comments and Staff Report Response. The following comments and responses are reiterated from the staff report, with the exception of 7.f.

a. State of WA Department of Ecology:

Toxics Clean Up: Based on the historical use of this land, there is a possibility that soil contains residual concentrations of pesticides. Ecology recommends that the soils be sampled and analyzed for lead and arsenic, and for organochlorine pesticides. If these contaminants are found at concentrations above the Model Toxics Control Act cleanup levels Ecology recommends that potential buyers be notified of their occurrence.

Water Quality: In summary, a NPDES Construction Stormwater General Permit is recommended and that a Stormwater Pollution Prevention Plan shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

Staff report response: *The applicant shall comply with the Department of Ecology's recommendation for soil testing, obtain an NPDES permit, and prevent stormwater discharge off-site. See the Department of Ecology's comment letter for contact information.*

b. Yakima-Tieton Irrigation District: In summary, the District commented that this project is within the Irrigation District boundaries and has irrigation water shares appurtenant to it. The project must include irrigation water distribution to all lots created by the Plat.

Staff finding: *The applicant will be required to comply with and meet the requirements of the Yakima County Code, as conditioned in Condition 12. For more information see the attached comment letter.*

c. Yakima County Building and Fire Life Safety: The Building Division provided the following comments:

"No flood plains on parcel. Building permit required for proposed structures in addition to fire code and supplemental permits as needed."

Staff Finding: *At the time of construction the property owners will be required to obtain all necessary building permits.*

d. Neighbor Comment: A neighboring comment letter was received with the following questions. Additionally, the neighbor had some questions on how the property is proposed to be developed, which could be found in the application materials. A copy of the application was sent to the neighbor with information on future commenting opportunities. Below are questions from the neighbor with Yakima County responses (italicized).

i. Will the development be gated/will there be CC&Rs? *Unknown – Yakima County Planning doesn't require or enforce private CC&Rs.*

ii. How can they be assured that the development is of the same standard as the surrounding community and will not reduce the value of our property/home? *Yakima County does not regulate the standard of residential structures built; however, in the application material the proposal is referred to as a "premier upscale residential housing development".*

iii. Will the location of the on-site community septic system adversely affect the neighbor's property? *Yakima County conducted an environmental review, which included the proposed community septic system under file number SEP2020-00005. A determination was made that there were no environmental impacts. Additionally, the community septic system will be required to be meet all approval requirements....*

iv. Will there be a master plan development review required by the City and will neighboring land owners have the opportunity comment? *The property is within Yakima County's jurisdiction; therefore, all permitting will be completed by the County. The City of Yakima was notified of the proposal and given an opportunity to comment.*

v. It was the neighbor's understanding that the property in this area was deemed farm land and the neighbor questioned how it transferred into residential property. Additionally, they stated that they were under the impression that the property could only be subdivided into smaller parcels over extended periods of time. *Although it appears the property has been in agricultural production, the property is zoned Single-Family Residential (R-1) and is within the Urban Growth Area (UGA). Agricultural production can occur in the UGA and the R-1 zoning district. The subdivision onto smaller parcels over an extended period of time sounds like the subdividing requirements in the Agricultural (AG) zoning district. That requirement allows for a 1-3 acre subdivision around an existing house every 15 years. However, that requirement only applies to the Agricultural zone; therefore, it does not apply to this property.*

e. Neighbor Comment: Another neighbor responded with the following comments: "I am concerned about the environmental impact of a large on-site community septic system being placed on the edge of Cowiche Canyon in close proximity to Cowiche Creek; an environmentally sensitive area. Your agency has determined that an Environmental Impact Statement is not necessary, which I believe is a wrong decision. To my understanding, this specific system was vested under a loophole in the Master Planned Development code provisions; this loophole has since been closed. Approval through a loophole only reinforces my opinion that this approval without an EIS is highly questionable.

Scenic Ranch LLC owns the adjacent land to the west (24408, 24409, 24410) that is zoned R-1, but presently is in agriculture. In the Scenic Ranch Master Development Overlay response to question 19, it is stated that 'impacts from the existing farming operations will be eliminated.' One may assume that future residential development will follow on this property, some of which abuts Cowiche Canyon as well. Setting the precedent of a large on-site community septic system on the edge of the Canyon may have further negative impacts on the canyon in the future."

Staff Finding:

Concerns Over Impact of Community Septic – The Environmental Review evaluated potential impacts of the proposal. The determination was that there was no need to require mitigation regarding the placement of the community septic. Although it was determined the community septic did not need mitigation through the SEPA review, it will still have to be approved through either the Yakima Health District or the Washington State Department of Health

Vested Under Previous Code – Yakima County did update this section of code (Ordinance 9-2019), which went into effect 19 February 2020. The applicants applied prior to the effective date of the newly adopted code and the application was deemed complete (applied 7 February, deemed complete 18 February). YCC 16B.04.010(6) states that "all project permit applications are vested under relevant County codes in effect at the time of filing a completed application." Since the application was deemed complete prior to the effective date of the code updates, they are vested under the previous code, which allows for this proposal (superseded version of Chapter 19.17 attached for reference).

Development on Adjacent Property – Scenic Ranch LLC does own parcels west of the subject property. Based on aerial photos, this property is in active agriculture production. This property is also located within the Urban Growth Area and zoned R-1; therefore, the property owner can develop it in residential lots. If they want the property within the MPDO they would need to meet the current requirements of 19.17.040 as updated in Ordinance 9-2019. They will not be vested under the previous code.

f. **Public hearing comments.** Several neighbors, including some who earlier provided written comments, restated concerns related to traffic safety and driver behavior, lighting effects, sewage treatment and runoff, consistency of building design with neighborhood development, and the prospective impacts from residential development of other properties in the area on local farming practices. Concerns were also expressed about the adequacy of environmental review. As previously noted, the SEPA Responsible Official has issued a determination regarding the significance of environmental impacts from the proposed subdivision. This determination is controlling absent the filing of a timely SEPA appeal. In addition, the purposes of the development regulations include, among others,

- Encourage the most appropriate use of the land for commerce, industry and residences in districts where they are compatible with neighboring land uses;
- Protect the social and economic stability of resource lands (farm, forest and mineral), rural and unincorporated urban areas of the County;
- Provide for adequate privacy, light, air and view;

- Promote development within unincorporated areas coordinated with infrastructure and services, and minimizes the public and private costs to maintain; [and]
- Protect existing land uses and property values from adverse impacts of adjoining developments.

See YCC 19.10.010. In absence of a showing that a proposal violates the regulations intended to achieve these purposes, neighbor dissatisfaction with a proposal is not alone a lawful basis for rejecting an otherwise sufficient application. *Sunderland Family Treatment Services v. City of Pasco*, 127 Wn.2d 782, 797, 903 P.2d 986, (Wash. 1995)(community opposition alone cannot justify a land use decision).

B. Jurisdiction of the Hearing Examiner.

“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.” YCC 19.36.030. Site-specific minor rezones are processed under Type 4 review. YCC 16B.03.040, Table 3-2. Type 4 Project permit applications are quasi-judicial actions which require an open record hearing before the Hearing Examiner. The Examiner’s written decision constitutes a recommendation to the Board of County Commissioners. The Board of County Commissioners conducts a closed record hearing to act on the Examiner’s recommendation. YCC 16B.03.030(1)(d).

According to Table 19.36-1—*Zoning District Consistency with Comprehensive Plan Future Land Use Designations*, the requested Master Planned Development Overlay (MPDO) plan designation is consistent with and may implement the Single-Family Residential zoning district and Urban Residential land use designation of the Yakima County Comprehensive Plan. Therefore, no Comprehensive Plan amendment is required for the rezone and renders it a minor rezone.

The Hearing Examiner must “consider the written evidence and testimony presented, prepare a written recommendation, and forward the recommendation to the Board of County Commissioners (BOCC).”

C. Analysis of the Application under the MPDO Review Criteria

The Hearing Examiner is charged to issue a written recommendation to approve, approve with conditions or deny the proposed minor rezone. The recommendation is to include a set of specific considerations pursuant to YCC 19.36.030(5), which are set forth and analyzed in turn below.

1. The testimony at the public hearing. Several members of the public provided additional oral comment on the proposal at the on-line hearing. Much of the comment reiterated comments provided in writing during the comment period on the application. These comments concerned impacts to neighborhood character, lighting effects, on-site sewer system impacts to Cowiche Canyon, traffic and pedestrian safety impacts; noise from community recreation areas, stormwater management, fire safety, viewshed impacts, and the cumulative effects of development of all properties in the area owned by Scenic Ranch. These comments

are generally evaluated in the context of the review criteria set out in the following sections. However, as noted in III.A.6, above, a SEPA determination is deemed to be conclusively in compliance with SEPA, the SEPA rules, and the provisions of YCC Chapter 16.04, unless a SEPA appeal is filed. YCC 16B.06.060(5). Therefore, with respect to comments related to the adequacy of the evaluation of impacts to natural or built environment, those comments were properly raised during SEPA review, and in absence of an appeal, consideration of those comments is not within the jurisdiction of the hearing examiner.

2. The suitability of the property in question for uses permitted under the proposed zoning. YCC 19.17.040(5)(d) outlines the review criteria for an MPDO rezone, which are set out below and addressed in turn to evaluate the suitability of the property for the proposed MPDO zoning:

i. *The master plan development application demonstrates the economic and efficient use of land and provides for an integrated and consistent development plan for the site:* The application narrative states that the proposal is for a premier, upscale residential housing development. The applicants are intending this to be “high-end” housing. The proposal offers that, based on the level of homes, development and the topography, the master planned development demonstrates the best economic use and efficient use of the land. But for the MPDO, the absence of a regional sewer system that would reasonably serve the development would require cluster development per YCC with lots sizes and developed area densities prescribed in Table 19.34.035-1. Subdivisions within the R-1 zoning district that are utilizing a community on-site septic system are required to cluster (YCC Table 19.12.010-1). While it might possible that a connection to the regional sewer system could be engineered at the project, it would presumably require cost-prohibitive extensions and other engineered features based on the current location of regional sewer mains. Public sewer is not “available” at the site based on YCC 19.25.030(1). If the proposed subdivision can be effectively served by appropriately sized community on-site sewage disposal system at a reasonable cost, and in a manner allowing densities and lot sizes closer to those in the surrounding neighborhood, the project outcome would be more economical and efficient than what is possible under the existing development standards.

ii. *The applicant has identified development standards and uses that are consistent with the master plan and designed to be compatible with adjacent land uses after consideration of applicable mitigation and site design. The Hearing Examiner may consider development standards that are different from currently adopted development standards to provide flexibility in site planning; to implement project design and concepts; to respond to market conditions; or to otherwise achieve the public benefits contemplated by the concept plan:* Except with respect to clustering requirements and related site development density, this proposal is consistent with development standards and land uses, based on the R-1 zoning of this property.

Some public comment noted that other lots in the vicinity are large, and expressed concerns about the consistency of the proposal with such large lots. Cluster development would require the developable lots to meet the 4.0 to 7.0 units per acre site density (YCC Table 19.34.035-1) which translates into a cluster of lots with average sizes of no less than 7,000 square feet and no greater than ¼ acre. The lot sizes associated with this proposal do not meet that requirement (0.89 to 1.55 acre lots). The parcel mapping feature of the Yakima County

Assessor's web site bears out the testimony that there are large lots in the area, particularly relative to the 7,000 square foot to ¼ acre lot sizes implicated by Table 19.34.035-1. The Hearing Examiner may consider the adjustment to the development standards under the version of YCC 19.17.040 in effect at the time the subject applications were made, including the allowance of densities lower than the densities for developed areas otherwise dictated in areas not served by public sewer service. Allowing flexibility in site planning that provides relief from clustering would render the lots more similar to lot residential sizes currently present in the area, and thus with the neighborhood character and, presumably market conditions in the vicinity.

iii. *Consideration shall be given to "low impact development" concepts.* Some public comment expressed concerns about drainage from the impervious surfaces within the development. Low impact design elements in the ULDC provide some response to this concern. Per YCC 19.01.070(12) "low impact design" means stormwater management and land development strategies that emphasizes conservation and use of existing natural site features integrated with [distributed], small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential, commercial and industrial settings. Low impact design addresses stormwater management and land development that is applied at the parcel and subdivisions scale that emphasis conservation and use of on-site natural features.

The application material provides that Scenic Ranch MPDO stormwater will all be contained on-site in a combination of retention swales and underground infiltration and that all drainage facilities and mitigation measures for this proposal will be in accordance with the current edition of the Washington State Department of Ecology Stormwater Management Manual for Eastern Washington and the Yakima County Regional Stormwater Manual. The subdivision will also have large greenspace areas and pathways, further promoting a low impact development concept. As proposed, this meets the intent of the low impact development.

iv. *There will be adequate infrastructure capacity available by the time each phase of development is completed.* The MPDO is proposed to be built out in one phase. As proposed and conditioned, adequate infrastructure will be available at the time of development. A 30-foot wide paved road with rolled curb and meandering asphalt pathway as a sidewalk is proposed. The subdivision can be served by Nob Hill Water and would be serviced by a community Large On-Site Septic System (LOSS) on community owned tracts which must meet WAC 246-272B and WA State Department of Health requirements. The property will have an 8" sewer main collecting all the sewerage for the subdivision and transporting the sewage to the drainfield components of the community LOSS, which are planned to be located in association with community recreation areas. The precise location and acceptability of the drainfields will depend on the suitability of the areas under the regulatory requirements. In the future if public sewer becomes more efficiently available to service the property, the 8" sewer line could be converted to a public sewer line and connected to the public main.

v. *The Master Planned Development contains design, landscaping, parking/traffic management, and use mixture and location that limit or mitigate conflicts between the Master Planned Development and adjacent uses. Consideration shall be given to site planning that supports land use flexibility through means of appropriate setbacks, landscaping, site screening, buffers and other design features or techniques.* The applicants have proposed landscaping and

some fencing. This MPDO proposal is a mixture of residential and recreation areas for the MPDO residents. The surrounding area is residential or in active agriculture.

Some public comments raised concern about view impacts, but any such impacts were determined by the SEPA Responsible Official to be non-significant, and no evidence has been presented to indicate that the prospective development would have such visual impacts as to make it incompatible with the established neighborhood character. Additional residential uses do not create a conflict with the surrounding properties or adjacent uses.

vi. *All potential significant off-site impacts including noise, shading, glare and traffic have been identified and mitigation incorporated to the extent reasonable and practical.* Some public comment raised concerns about the consequences of additional traffic being generated by proposed development, as well as noise and light generated on the property. Concerns were also expressed about impacts to protected areas in Cowiche Canyon from LOSS failure. The SEPA environmental review did not identify any significant off-site impacts due to this proposal. The Yakima County Transportation Division has stated that this proposal will have no significant impact to the existing Yakima County Roadway System. Any impacts associated with the private roadway will be managed by development standards. This proposal is for a residential MPDO with no commercial uses associated with it; therefore, there is no evidence that noise impacts associated with this development will be substantially different from noise generated in the surrounding residential areas. Lighting is regulated by YCC 19.10.040(10). There are no "dark sky" provisions in the ULDC outside of the regulation.

vii. *The project is designed and includes appropriate consideration of open spaces and transportation corridors, designs of street and public open space amenities, and results in the functional and visual appearance of one integrated project.* The proposal includes a 30-foot-wide private road with rolled curb and a meandering asphalt pathway for sidewalks. The road alignment winds down the hillside to meet Yakima County's 10 percent grade requirements. Open spaces have also been provided, over two acres (not including the pathway). The pathways provide resident access to the open spaces for all residents. The proposal components are appropriately cohesive and integrated.

viii. *The proposed development is not adverse to the public health, safety or welfare.* This proposal, if developed consistent with conditions that assure compliance with development standards and county policies regarding environmental protection will have no adverse impacts to the public health, safety, or welfare.

ix. *The public benefits of approving the Master Planned Development outweigh the effect of modification of standards to the underlying zoning district.* Cluster development is the arrangement or grouping of dwellings or lots to increase densities (e.g. smaller lots) on some portions of the property to preserve the remainder agricultural or forest use, future infill development, open space, or for the location of on-site sewer systems. Since public regional sewer is not reasonably available to this property the applicants have proposed a community on-site septic system. The MPDO ordinance allows for a relaxation to development standards.

Horizon 2040 Goal H1 recognizes that "sufficient housing should be available to meet the needs of the existing and projected population, including a diversity in the type, density and location of housing within the County." This proposal would provide high-end, upscale housing to the residents of Yakima County in a manner that minimizes the need for wholesale changes

to the natural grade and retaining wall installation, and provides an opportunity for expanded presence of native vegetation. Given effective and compliant operation of a LOSS, there is no compelling need for preserving the minimum development density for this project.

x. *The proposed development is designed to be consistent with the Shoreline Master Program and Critical Areas Ordinance.* This project is not located within the SMP shoreline. A very small portion of the subject property is mapped as Oversteepened Slopes – High Risk. No residential units will be located within this mapped area; therefore, this proposal is consistent with the Critical Areas Ordinance.

xi. *An approved Master Planned Development Overlay shall be incorporated into a development agreement as authorized by RCW 36.70B.170 (YCC 19.17.040(5)(h)).* The applicants will be required to record a Development Agreement as may be required by code.

3. The recommendation from interested agencies and departments. No recommendations have been offered by any agencies regarding the relief from clustering requirements.

4. 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 this Title. The Yakima County Comprehensive Plan – Horizon 2040 has several goals and policies and development regulations bearing on this proposal. The MPDO is consistent with the following Elements, Goals and Policies of **Horizon 2040**:

a. *Housing Element 7.4.1 – Additional Housing Units Needed.* Based on population increase, states “As discussed in detail in Section 7.3.4 of the Housing Element, Yakima County will need roughly 25,341 additional housing units by the year 2040. The Housing section works on the assumption that of the 25,341 total housing units, 11,525 units will be needed just for the unincorporated areas and 13,816 for the incorporated areas.”

b. *Housing Element 7.4.11 – Neighborhood Character and Vitality.* “Yakima County’s residential neighborhoods vary in size, density, housing type, and amenities. The character of a neighborhood, both its livability and identity, is closely associated with its design, the characteristics of the residents and the services provided. Regardless of the character of the neighborhood, residents generally want a feeling of comfort and security, privacy and a sense of belonging. Neighborhood character is an important element of the Housing Element and is a central component of an approach that encourages a hierarchy of well-defined places. Over the next 20 years, preservation of existing neighborhoods will require a conscious acknowledgement of existing nature of the people, visual character, and services found in each neighborhood.”

c. *GOAL H 1:* Sufficient housing should be available to meet the needs of the existing and projected population, including a diversity in the type, density and location of housing within the County.

d. *POLICY H 1.4:* Encourage the public and private sectors to develop and maintain an adequate supply of housing for all segments of the population.

e. *GOAL H 6:* Encourage the preservation and protection of existing neighborhoods and design and/or plan future development in a manner which promotes neighborhood settings and environments.

f. **POLICY H 6.3:** Design subdivisions, planned residential developments, multi-family units or other residential projects in a manner which encourages neighborhood environments and open space.

g. **GOAL YKLU-U2:** Build sustainable new neighborhoods.

The MPDO is not readily harmonized with other Elements, Goals and Policies of *Horizon 2040*. Examples are:

a. **Housing Element 5.8.2 Urban Lands – Growth Management Act Requirements.**

The Growth Management Act (GMA) includes the following goals that directly relate to urban land use:

- **Urban Growth.** Encourage development in areas where adequate public facilities and services exist or can be provided in an efficient manner.
- **Reduce Sprawl.** Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

b. **GOAL LU-U 2:** Provide for an orderly, phased transition from rural to urban uses within the Urban Growth Area.

c. **POLICY LU-U 2.3:** Through land use controls, prevent conversion of land in urban growth areas to uses/densities that cannot be urbanized by...

- i. **OBJECTIVE 2.3.1:** Requiring cluster development where it is clear that urban services are not immediately available and when it is feasible to approve interim community water and/or sewer systems.
- ii. **OBJECTIVE 2.3.2:** Requiring connection to public water and sewer systems where available, including interim systems or facilities where feasible.
- iii. **OBJECTIVE 2.3.3:** Providing a conversion plan identifying how the balance of the property could urbanize when all services are available.

Given the topography of the property and the nature of existing residential development in the area, as well as the open space and recreational elements of the proposal, the deviation from certain provisions of *Horizon 2040* does not appear to compel a determination that the flexibility provided by the MPDO ordinance would be inappropriate in this instance. In addition, the LOSS can be designed to provide for direct connection to public sewer at such a time as it may become available in the area.

5. The adequacy and availability of public facilities, such as roads, sewer, water and other required public services. Roads and water utilities are available and adequate for this proposal. As addressed previously, public sewer is not available to this property; however, the applicants have proposed a community on-site septic system to serve the development, which will be adequate until such time as public sewer becomes available.

6. The compatibility of the proposed zone change and associated uses with neighboring land use. The proposed zone change of the MPDO is for a residential development, which will be compatible with the surrounding residential development absent any substantial evidence in the record to the contrary. No owners of neighboring properties have indicated that allowing the larger lots rather than the clustered configuration otherwise required by code

would be incompatible with the current land uses. Other nearby property is in agricultural production, but is also owned by Scenic Ranch and located in the R-1 zoning district. As such, no particular protection of the farming operations is contemplated in the ordinance if the agricultural operator does not provide evidence of incompatibility.

7. 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:

- a. Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate; and,**
- b. Whether the timing is appropriate to provide additional land for a particular use.**

As reported in the staff report, there is a need for more housing stock to meet the projected population growth. Additionally, this land is already designated for residential development; therefore, this Residential MPDO produces no change to the existing designation for housing; the appropriateness of the timing of the rezone is not significant when the object is to allow MPDO-related flexibility in the application of development regulations.

8. Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone. This rezone is for inclusion of the subject property within the MPDO for residential purposes, and does not change the existing designation of residential use of the property; the existing land use designation is Urban Residential and the existing zoning is Single-Family Residential (R-1). The purpose of this rezone is to flexibly allow the development of the property in a way that will allow large view lots and effective use of the topography more than would be permitted under clustering regulations.

D. Analysis of the Application under Subdivision Review Criteria. YCC 19.34.050(5)--Subdivisions Decision Criteria, provides that the Reviewing Official will approve a preliminary subdivision if the applicant has demonstrated the application complies with the following approval criteria or that the application can meet these criteria by complying with conditions of approval:

1. The preliminary subdivision is in the public interest. The proposed subdivision will provide additional lots and contributes to the diversity of housing types in accordance with *Horizon 2040*. The proposed subdivision serves the public use and public health, safety, and general welfare to the extent it complies with the subdivision and zoning development standards and land use requirements which have been adopted by the Board of Yakima County Commissioners. See YCC 19.10.010.

2. Public and Private Facilities. The following facilities are adequate to serve the proposed subdivision before or concurrent with the development of the preliminary subdivision:

a. *Public and private streets and roads (YCC 19.23.050):* The development is proposed to be served by a private road that accesses off Scenic Drive. The applicants have proposed a 30-foot-wide road with rolled curb and a meandering asphalt pathway for sidewalks. The road alignment winds down the hillside to meet the Yakima County's 10% grade requirements. Portions of the Transportation Division's comments are provided below.

"The private road will need to provide access for parcel 181317-13421, as proposed. Approval of the MPDO (ZON2020-001) is required in order to allow the private road serving 16 or more lots. If approved the proposed private roadway is allowed per YCC 19.23.050. Per YCC 19.23.050 the proposed roadways may not be private as they will serve more than 16 lots. "(b) Servicing 16 lots or development that generate 160 or more daily vehicle trips, unless located within an approved rural master planned resort or urban master planned development."

"Primary proposed roadway name conflicts with Title 13.26.070(1)(a)(iii) of the County code which states, 'variations of the same name with a different road designation shall not be used (i.e., Maple Avenue, Maple Road, Maple Drive).' The applicant will be required to submit a 'Road Naming Application' to the County Roads Department for approval and the name chosen for the naming application will need to be shown on the face of the final plat."

YCC 19.23.050 prescribes standards the private road must meet. This development will be required to comply with all standards of YCC 19.23.050 prior to the final plat. Based on the Transportation Division's comments, the proposed road name does not meet the naming requirements of Ch. 13.26 YCC. The applicant will be required to apply for a Road Naming Application that meets the requirements.

YCC Table 19.12.010-2 requires structural setbacks from private roads. There is an existing garage located on parcel 181317-13421 adjacent to the new private road. This parcel is also owned by Scenic Ranch, LLC. Based on the setback table, the structural setback for the existing garage to the new private road would be 40 feet from the planned centerline. The original site plan did not show the setback but does have a note that the garage will be relocated. Scenic Ranch provided an updated site plan showing that the existing garage meets the setback, so relocation of the garage will not be required under this recommendation.

b. *Open spaces, parks, and recreation:* The proposal includes approximately 3,200 lineal feet of asphalt walking path through the community. There are two open space recreational areas, totaling 2.52 acres that can be used for various recreational and sporting activities. The recreational areas will feature a combination of greenspace and natural landscape with an additional 1,700 lineal feet of walking path. YCC 19.34.060(7) requires subdivisions five acres or larger within Urban Growth Areas (UGAs) to designate a portion of land area as recreation area. Recreation areas may include private or public parks, pocket parks or mini-parks, playgrounds, trails, and pathways. The required ratio is 435.6 sq. ft. per dwelling

unit. The 2.52 acres proposed by the applicant exceeds this requirement. The applicant will be required to dedicate and maintain the open space areas in accordance with YCC 19.34.060(7)(a)(iv).

c. *Drainage (Stormwater Requirements)*; Per YCC 19.10.040(12), private development projects must comply with the National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act (CWA) where applicable. The Yakima County Water Resources Division had the following comment:

"This proposal is located within the Yakima County Stormwater Management Utility. Stormwater must be retained on site. A Stormwater Plan with supporting documentation will be required for this project (SUB) and approval of the Plan by Yakima County Public Services is required prior to any land disturbance and issuance of building permits. This includes road construction and utility installation. Best Management Practices (BMPs) for subdivisions may also be required. The pathways and recreation areas must also be included in the stormwater analysis to minimize the risk of stormwater flowing off-site and over the rocky bluff on the north end of parcel. The ability to use drainage swales and roadside ditches may be limited or prohibited due to the parcel's slope and shallow soils on the north end.

A Washington State Department of Ecology Construction Stormwater Permit will be required and must be reviewed for completeness by Yakima County prior to soil disturbance. Yakima Regional Stormwater and Low Impact Design Manuals are posted on the County stormwater web site, <http://www.co.yakima.wa.us/1732/Stormwater-Management>. These manuals are equivalent to the Eastern Washington Stormwater Manual and may be used for guidance. A stormwater plan checklist link is also located on this web site to assist the applicant in submitting a complete plan.

Natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250. Drainageways include the two draws arriving from the west and east that merge near the center of the parcel. Easements for the natural drainageways may be required which could affect lot layout. The need for drainageway easements will be determined as part of the stormwater plan review.

Condition before land disturbance.

A stormwater plan must be submitted and approved before any ground disturbance occurs or building permits are issued. Ground disturbance includes grading vegetation removal and utility installation.

The stormwater plan review includes evaluation of the application for Washington State Department of Ecology Construction Stormwater Permit.

On-going conditions.

Stormwater must be retained on site.

Any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250

Plat notes.

The owners shown hereon, their grantees and assignees in interest hereby covenant and agree to retain all surface water generated within the plat on-site. Any natural drainageways must not be altered or impeded.

Natural Resources Conservation Service soils data, as depicted by the Yakima County GIS Department, indicate the parcel has shallow depth to groundwater, shallow depth to hardpan, and/or poorly draining soils that may make compliance with requirements to retain runoff on site difficult or limiting, depending on the amount and type of current and future site development and available engineering solutions.

Yakima County GIS contour information indicates the presence of drainageways on the parcel that may limit the amount and location of future development.

All stormwater generated on the subject parcels must be retained on site. Approval by Yakima County Public Services of an engineered stormwater plan along with supporting documentation is required prior to issuance of the building permit or land disturbance. The above plat notes must be included on the face of the final short plat map.

d. *Access to mass transit where there is or will be such transit:* The closest mass transit stop is one mile from the property (Summitview Avenue). Since the proposal is not located near a mass transit route, such transit facilities and transit stops are not required for the proposed subdivision.

e. *Potable water supplies:* The applicants have proposed to serve the development with Nob Hill Water. YCC Table 19.25-1 requires connections of 9 or more lots within the Urban Growth Area to connect to an area wide public water system. This proposal meets this requirement. As a condition of subdivision approval, all lots must be served with public water from Nob Hill Water Association prior to final plat approval. All applicable fees must be paid, easements provided, and lines installed to each of the lots prior to final plat approval. Construction must be according to the requirements of the water provider. The applicant must provide written verification by the Nob Hill Water Association that this condition is met.

f. *Sanitary waste collection and treatment:* YCC Table 19.25-2 requires a subdivision in the Urban Growth Area serving more than 9 lots to be served by a Municipal, County, or Other State Approved Operator. The applicant has proposed to serve the proposal with a community septic system. As mentioned previously, the applicants have applied for the MPDO along with this Subdivision which allows for the relaxation of standards. The Yakima Health District commented as follows:

"The septic system(s) for this project are to be community septic systems and must follow the Yakima Health District process for community septic systems. ... Alternatively, a large on-site septic system may be used. Large on-site septic systems are regulated by the State Department of Health. Test holes will be required before a determination can be made regarding septic system suitability on this project."

The applicants provided the following in the application materials:
"The Scenic Ranch MPDO will be serviced by a community Large On-Site Septic System (LOSS) on a community owned tract, meeting WAC 246-272B, and Washington State Department of Health requirements. A community septic system is proposed because [of] the inability to service the land with public sewer. The property will have an 8" sewer main collecting all the sewerage for the subdivision, and transporting the sewage to the community LOSS. In the future if public sewer became available to service the property, the 8" sewer line could be converted to a public sewer line and connected to the public main."

YCC 19.25.045(3) requires a covenant or plat note with the following information. This requirement is a condition of final approval for future sewer connection.

"A covenant or plat note is recorded by the property owner that commits the current and future property owner(s) to connect to a regional sewer system and an area-wide public water system, if both are not provided, within 12 months of the system being located adjacent to the subject property. The covenant or plat note shall also contain a provision that commits the current and future property owner(s) to participate in a future local improvement district if this is the method used to extend sewer and water."

The applicant will be required to work with the Yakima Health District or the Department of Health for the design and installation of the community septic system and provide verification to the Yakima County Planning Division that the community septic system has been approved.

g. *Schools and Educational Service:* The property is located within the Naches Valley School District in an area that is served by the school bus route system. No comments were

received from the School District, presumably reflecting no concern regarding availability of schools, educational services and schoolgrounds to serve the development.

h. *Pedestrian facilities, particularly for students who walk to and from school:* The proposed subdivision will have adequate pedestrian facilities for students who will only have to walk a relatively short distance from their home to Scenic Drive and back in order to attend schools which are not within walking distance of proposed subdivision. The applicant has proposed walking paths within the MPDO/Subdivision for students who may want to walk to school.

i. *Fire prevention services:* Comments received from the Yakima County Fire Marshal's Office are as follows:

"Must meet fire apparatus access requirements including but not limited to width, turnouts, turnarounds, all weather surface and grade of no greater than 10%. (Ordinance 503.1, Appendix D of the International Fire Code) Fire Flow will be required (Ordinance and International Fire Code 507.3, Appendix B of the International Fire Code) All buildings will need to obtain proper building and fire safety permits."

The property is located within Fire District 12. All requirements of the Fire & Life Safety Division must be met.

j. *Irrigation water supplies:* The property is located within the Yakima-Tieton Irrigation District. The Irrigation District offered the following comments:

Irrigation easements and distribution facilities shall be provided as required under RCW 58.17.310 and YCC 19.34.070(2)(d). A statement shall be placed on the face of the plat evidencing that the subdivision lies within the boundaries of an irrigation district and that irrigation water rights-of-way may be imposed by said irrigation district under RCW 58.17.310. If the irrigation district serves as its own treasurer, a certificate in accordance with YCC 19.34.070(2)(d)(iv) is required. The following irrigation district acknowledgement shall also be placed on the face on the plat (YCC 19.34.070(2)(d)(iii)):

The property described hereon is wholly or in part within the boundaries of the Yakima-Tieton Irrigation District. The irrigation easements and rights-of-way on this plat as required by Yakima County Code Title 19 (either currently existing irrigation easements or rights-of-way or newly created ones) are adequate to serve all lots located within this plat which are otherwise entitled to irrigation water under the operating rules and regulations of the district. The irrigation easement and rights-of-way are adequate to transmit irrigation water under the operating rules and regulations of the district. Lots _____, in whole or in part, are

not entitled to irrigation water under the operating rules and regulations of the district.

Irrigation easements and distribution facilities must be provided as specified by the Yakima-Tieton Irrigation District. Confirmation of the irrigation district's approval shall be in the form of a signature on the face of the final plat with the required irrigation district statement (YCC 19.34.070(2)(d) and RCW 58.17.310).

3. Compliance with Standards. The application will conform to all adopted County and State rules and regulations as set forth in Section 19.01.020. As proposed and conditioned this project meets all County and State rules and regulations.

4. Phasing. The applicants are not proposing phased development.

5. Grading. Where the slope between the highest and lowest points on the site exceeds five percent, a final grading plan for the full development, consistent with the drainage plan, depicting the final grade shall be shown for the entire plat with topographic contours at intervals of not more than five feet. The application material states that the site slopes from the south to the north with slopes varying from approximately 10-percent to 25-percent slopes. Prior to final plat the applicants will be required to provide a final grading plan.

6. Flood, Inundation or Swamp Conditions. As noted in the staff report, the subject property is not located in an area impacted by flood, inundation, or swamp conditions. This is not applicable to this development.

E. Consistency Analysis (YCC 16B.06.020). As part of project review, the reviewing official will determine if a proposed project is consistent with Yakima County's applicable development regulations or, in the absence of applicable regulations, the adopted Yakima County Comprehensive Plan. Consistency should be determined in the project review process by considering four factors found in applicable plans and regulations (RCW 36.70B.040). They are as follows:

1. The type of land use. If approved, the applicant's request will change the Yakima County Zoning Official Zoning Map by adding the Master Planned Development Overlay (MPDO) over the Single-Family Residential (R-1) zoning district and the Urban Residential land use category. The applicants have proposed a residential MPDO only, and no accessory commercial uses have been proposed or approved. The Residential MPDO proposal is consistent with the existing zoning and land use designation and with the surrounding area.

2. The level of development, such as units per acre or other measures of density. The underlying zoning district of the MPDO is R-1 which allows one dwelling per parcel. The proposal shows that only one dwelling will be proposed per parcel under the MPDO. However, the lot sizes will be larger than typical for an R-1 zoning district in the Urban Growth Area. Under the R-1 zoning district, if the subject parcel had access to both municipal water and sewer, there is no maximum lot area for each parcel. Without access to both municipal water and sewer, under R-1 zoning the applicant is required to cluster the development with a density of 4.0-7.0 units per acres, limiting the average maximum lot size to be $\frac{1}{4}$ acre. The MPDO specifically allows for flexibility of development standards to meet MPDO purposes. Since the

applicants have applied under the MPDO provision, this development is not inconsistent with the density requirements.

3. **Infrastructure, including public facilities and services needed to serve the development.** As discussed in III.D, adequate public facilities exist or will be conditioned to serve the proposed development.

4. **The characteristics of the development, such as development standards.** As conditioned, the character of the development will be consistent and compatible with applicable development standards and the purpose and intent of the MPDO and R-1 zoning district.

IV. CONCLUSIONS.

1. The elements of the environment subject to evaluation under SEPA review are listed in WAC 197-11-444. These elements include vehicular traffic, waste water management systems, runoff, scenic resources, noise, aesthetics, and stormwater, among other elements. The Yakima County SEPA Responsible Official has determined that the proposed development, as mitigated in accordance with the MDNS issued August 27, 2020, does not present significant adverse impacts to the natural or built environment. In absence of a timely appeal, the SEPA determination is deemed to be conclusively in compliance with SEPA, the SEPA rules, and the provisions of YCC Chapter 16.04, YCC 16B.06.060(5).

2. Based on the foregoing Findings, the proposed rezoning of the subject property to the Master Planned Development Overlay to allow increased lot sizes and the use of a community on-site sewer system is consistent with the intent and specific provisions of YCC 19.17.040 and *Horizon 2040*.

3. Based on the foregoing Findings, and assuming compliance with MPDO standards and conditions assuring compliance with development regulations, the proposed Preliminary Plat of Scenic Ranch, meets the standards for preliminary plat approval set out in YCC 19.34.050(5).

4. The preceding conclusions warrant a recommendation for the approval of Scenic Ranch MPDO and preliminary plat applications

V. RECOMMENDATION

From the foregoing Findings and Conclusions, the Hearing Examiner recommends (1) APPROVAL of the application by Scenic Ranch LLC for a Master Planned Development Overlay rezone (County File No. ZON2020-00001) SUBJECT TO THE CONDITIONS SET FORTH BELOW and (2) APPROVAL of the Preliminary Plat of Scenic Ranch (County File No. SUB2020-00004) also SUBJECT TO THE CONDITIONS SET FORTH BELOW.

The following conditions are conditions precedent to the full effectiveness of the subject Master Planned Development Overlay, Development Agreement and Subdivision approval and must be completed within five years of the date of the final Yakima County Board Decision.

ZON2020-00001/SUB2020-00004/SEP2020-00005

Scenic Ranch LLC MPDO/Subdivision

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1. The applicant shall apply for all Building and Fire Life Safety permits for the proposed structures. All permits for the proposed structures must be issued, inspected, and finalized prior to occupancy. Please contact the Yakima County Public Services Department: Building and Fire Safety Division at (509) 574-2300 prior to development.

2. Prior to the recording of the final plat, a private road shall be designed, approved and constructed to provide each lot with access to Scenic Drive. The private road must meet the requirements of YCC 19.23.050(6). Stamped engineering documentation demonstrating that the private road meets the standards of YCC 19.23.050(6) shall be provided prior to plat finalization:

- a. A professional engineer shall design the road, provide the specifications, engineering judgement and assumptions supporting the road design, test its construction, and certify it meets the following standards:
 - i. All private roads shall be designed using the highest practical design speed with a minimum of 25 miles per hour.
 - ii. The private road shall accommodate two-way traffic unless a design modification for on-way traffic is proposed and approved.
 - iii. All private roads must meet the minimum fire apparatus access road requirements of YCC Title 13.
- b. The road shall meet AASHTO recommended design guidelines for development density, use and intensity that could be served by the road based on plan designation, zoning, public safety, and natural hazards. In lieu of the applicant's engineer submitting a detailed analysis, the following minimums are required. The applicant's engineer will be required to certify that the project meets the minimum requirements contained in Table 19.23.050-1.
- c. Where private roads require a crossing of an existing natural stream or drainageway, the crossing shall comply with applicable Building Codes, and the Critical Areas Ordinance or Shoreline Master Program.
- d. Drainage facilities shall be provided in accordance with YCC Chapter 12.10 to prevent any drainage onto a public roadway.
- e. Easements shall be of sufficient widths to include all provided transportation improvements.
- f. Pedestrian facilities that meet AASHTO guidelines for a separated multi-user trail or sidewalk shall be provided from all lots and units to the nearest public road or trail in Urban Growth Areas.

3. In accordance with YCC 19.23.050(6)(b)(i) the private road must be retained permanently as a private road, be located within a non-exclusive access easement, and be maintained privately.

4. Covenants meeting the recording requirements of the Yakima County Auditor's Office shall be provided for the perpetual maintenance of the private road and shall be submitted to the Yakima County Planning Division prior to finalization of the subdivision. These covenants must be signed by the owners of record, according to the records of the office of the

County Auditor of property to an aggregate amount of the majority of the lineal frontage upon the improvement required and of the area within the boundaries of the properties served by the road. Said covenants must establish a road maintenance fund and require the owners in the development to pay into such fund. Covenants shall be approved by the County. The covenants shall be recorded by the developer with a copy of the recorded document provided to the Planning Division and shall be referenced on the face of the plat prior to its recording.

5. A private road name sign shall be provided by the developer at the intersections of the private roads with the public road. Such sign shall meet the specifications in the Manual on Uniformed Traffic Control Devices. Names for private roads shall be approved by the County under the Road Naming and Site Addressing Ordinance YCC Chapter 13.26. The applicants shall complete a Road Name application with the Yakima County Transportation Division. Contact the Yakima County Transportation Division at (509) 574-2300 for more information.

6. The private road shall be open and unobstructed for use by emergency, public service and utility vehicles.

7. The private road must meet fire apparatus access requirements, including but not limited to width, turnouts, turnarounds, all weather surface, and grade of no greater than 10%.

8. All prior dedications of right-of-way, deeds, and grants shall be shown on the face of the final plat.

9. Lot(s) 1-16 of the subdivision shall be served via a community on-site sewage disposal system or large on-site sewage disposal system. The sewage disposal system must be approved by the Yakima Health District and installed prior to the recording of the final plat. Verification of approval from the Yakima Health District or Washington State Department of Health must be submitted to the Planning Division verifying that the community on-site sewage disposal system was installed meeting the requirements of the Yakima Health District or Washington State Department of Health.

10. Community on-site sewage disposal easements must be established in accordance with YCC 19.25.050. The applicant will need to coordinate easement placement with their surveyor, the Yakima Health District or Washington State Department of Health, and any other agency with jurisdiction.

11. All lots must be served with potable water from Nob Hill Water Association prior to final plat approval. All applicable fees must be paid, easements provided, and lines installed to each of the lots prior to final plat approval. Construction must be according to the requirements of the water provider. The applicant must provide to the Planning Division a written verification by Nob Hill Water Association that this condition is met.

12. Irrigation easements and distribution facilities shall be provided as required under RCW 58.17.310 and YCC 19.34.070(2)(d). A statement shall be placed on the face of the plat evidencing that the subdivision lies within the boundaries of an irrigation district and that irrigation water rights-of-way may be imposed by said irrigation district under RCW 58.17.310. If the irrigation district serves as its own treasurer, a certificate in accordance with YCC 19.34.070(2)(d)(iv) is required. The following irrigation district acknowledgement shall also be placed on the face of the short plat (YCC 19.34.070(2)(d)(iii)):

The property described hereon is wholly or in part within the boundaries of the Yakima-Tieton Irrigation District. The irrigation easements and rights-of-way on this plat as required by Yakima County Code Title 19 (either currently existing irrigation easements or rights-of-way or newly created ones) are adequate to serve all lots located within this plat which are otherwise entitled to irrigation water under the operating rules and regulations of the district. The irrigation easements and rights-of-way are adequate to transmit irrigation water under the operating rules and regulations of the district. Lots _____, in whole or in part, are not entitled to irrigation water under the operating rules and regulations of the district.

13. Utility easements in accordance with YCC 19.25.050 must be reserved for and granted to all utilities (and their respective successors and assigns) and shall be shown on the face of the plat.

14. A development agreement is required and shall be signed by the majority of the Board and all property owners and lien holders within the boundaries of the Master Planned Development Overlay and recorded prior to approval and/or issue of any implementing plat or permits per YCC 19.17.040(5)(h).

15. All recreation areas shall be dedicated to the homeowners association per YCC 19.34.060(7)(a)(iv). Dedicated recreation areas comply with the size requirements of YCC 19.34.060(7)(a). A covenant shall provide perpetual maintenance of recreation areas dedicated to or operated by parties other than a local government. The covenants shall establish a fund for recreation area maintenance and require the owners in the development to pay annually into such fund. Covenants shall be approved by the County.

16. Approval of a Stormwater Plan by Yakima County Public Services is required prior to issuance of the building permit or land disturbance; land disturbance includes, without limitation, vegetation removal, grading, grubbing and utility installation.

17. A Washington State Department of Ecology Construction Stormwater Permit will be required. A copy of the permit must be submitted to Public Services before land disturbance.

18. A final grading plan for the full development, consistent with the drainage plan, depicting the final grade shall be submitted for the entire plat with topographic contours at intervals of not more than five feet, in accordance with YCC 19.34.050(5)(a)(v).

19. The applicant shall show on the face of the final plat the location of the acreage for the park and other recreational features.

20. At the time the final plat is to be recorded all property taxes and special assessments must be paid for the full year (RCW 84.56.345)

21. All parties with record title interest in the property must sign the final plat. All required signatures shall be in permanent black ink (YCC 19.34.070(2)(c)).

22. The Final Subdivision Application shall consist of:

- a. A survey of the final plat meeting the requirements of YCC 19.34.070 and consisting of the original Mylar (or equivalent material, paper or other form acceptable to the County Auditor) and five paper copies (YCC 19.34.070(4));

- b. A current Subdivision Guarantee (title report), which cannot be more than 60 days old (YCC 19.30.060(8)); and
 - c. The final plat recording fee (YCC 19.34.040(4)).
23. The owners, their grantees and assignees in interest will abide by the Compliance, Extension, Expiration and Reinstatement requirements as outlined in YCC 16B.07.050. The applicant shall complete all required conditions, submit documentation that all conditions were met and request County inspection or review to determine that the requirements have been fulfilled within the timeframe specified in the decision and any authorized extensions.

The subdivided property will be subject to the following notes with all blank spaces filled in based on Yakima Health District approval, which must be placed on the final plat by the surveyor:

24. In accordance with YCC 19.17.040, the proposed MPDO has set aside Tract A and Tract B as the recreation area/open space and is not subject to further subdivision.

25. The owner(s) of Lots 1-16 hereon, their grantees and assignees in interest, hereby covenant, and agree to participate in the maintenance of the shared open space - Tract A and Tract B, as provided in this plat, and to join in an owner's maintenance association designed to provide for its perpetual maintenance.

26. Yakima County has no responsibility to build, improve, maintain or otherwise service any private road for this plat. Any road right-of-way dedicated to the public by this plat shall not be serviced by the County until such time as it is improved to County road standards and accepted as a part of the County road system.

27. The owner(s) of Lots 1-16 shown hereon, their grantees and assignees in interest, hereby covenant and agree to participate in the maintenance of the private road serving this plat and to join in an owners' or road maintenance association designed to provide for their perpetual maintenance.

28. Yakima County has in place an urban and rural addressing system per YCC Chapter 13.26. Determination of street names and address numbers for developed residential and commercial lots within this plat are at the discretion of the Yakima County Public Services Department upon issuance of an eligible building permit.

29. Lots 1-16 of this subdivision have been required to use a (large) community on-site sewage disposal system for the maximum number of _____ bedrooms as permitted by the Yakima Health District/Department of Health. The owners shown hereon, their grantees and assignees in interest, hereby covenant and agree to adhere to the requirements of the community on-site sewage disposal system as established by the Yakima Health District/Department of Health and as designed under the recorded Declaration of Covenants for Community On-Site Sewage Disposal System to provide for its perpetual maintenance. Individual septic systems may not be installed on any of these lots.

30. In accordance with YCC 19.25.045(3) the purchaser(s) and lessee(s) of Lots 1-16 hereby agree to connect to an available regional sewer system and area-wide public water system within 12 months of the system being located adjacent to the lots within the subdivision and to participate in a future local improvement district if this method is used to extend sewer.

ZON2020-00001/SUB2020-00004/SEP2020-00005

Scenic Ranch LLC MPDO/Subdivision

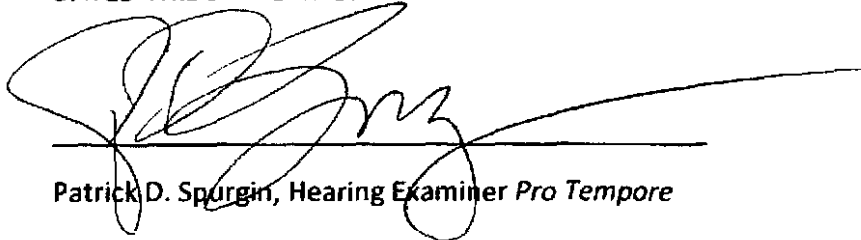
31. Purchaser(s) and lessee(s) are hereby notified that Lots 1-16 have been provided water by Nob Hill Water Association. Individual wells may not be installed on any of these lots.

32. The owners shown hereon, their grantees and assignees in interest hereby covenant and agree to retain all surface water generated within the plat on-site. Any natural drainageways must not be altered or impeded.

33. Natural Resources Conservation Service soils data, as depicted by the Yakima County GIS Department, indicate the parcel has shallow depth to groundwater, shallow depth to hardpan, and/or poorly draining soils that may make compliance with requirements to retain runoff on site difficult or limiting, depending on the amount and type of current and future site development and available engineering solutions.

34. Yakima County GIS contour information indicates the presence of drainageways on the parcel that may limit the amount and location of future development.

DATED THIS 22ND DAY OF SEPTEMBER 2020

A handwritten signature in black ink, appearing to read 'P. Spurgin', is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Patrick D. Spurgin, Hearing Examiner *Pro Tempore*

Tax Lots

**Highlighted Parcel Hereby
rezoned to be included in
the Master Planned
Development Overlay**

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



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