

# BOARD OF YAKIMA COUNTY COMMISSIONERS

## ORDINANCE 11-2014

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

**WHEREAS**, KR Pendleton, LLC submitted a complete minor rezone application (File Nos. ZON2014-00003 and SEP2014-00026) on May 23, 2014 to rezone two parcels that it owns, totaling approximately 6.9 acres located east of Selah and I-82, from VR (Valley Rural) to I (Industrial); and,

**WHEREAS**, in accordance with the State Environmental Policy Act (SEPA), codified as Title 43, Ch. 21C of the Revised Code of Washington (RCW), and in the Yakima County Codes at YCC 16.04 and YCC 16B, the Yakima County SEPA Responsible Official issued a Mitigated Determination of Non-Significance (MDNS) at the conclusion of conducting an environmental review on the proposed action to approve the application; and,

**WHEREAS**, in accordance with the procedural provisions in YCC 15 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 15 and YCC 16B, the Yakima County Hearing Examiner conducted an open record public hearing on the application on August 7, 2014, followed by the issuance of his recommendation on August 21, 2014 to APPROVE the requested rezone, subject to conditions to be contained in an incorporated development agreement; and,

**WHEREAS**, after providing public notices in accordance with YCC 16B, the Board conducted a closed record public hearing on October 14, 2014 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 subject to a development agreement as recommended by 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 August 21, 2014, including its Findings and Conclusions, attached hereto as Attachment A.

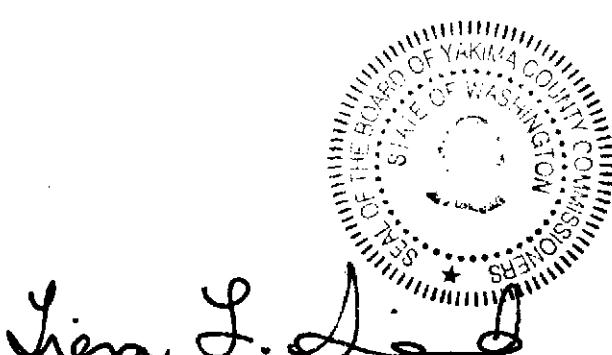
B. State Environmental Policy Act (SEPA). The proposed amendment to Yakima County's official zoning map, adopted by YCC 15, was subject to environmental review under SEPA, codified at RCW 43.21C. Yakima County's SEPA Responsible Official reviewed the proposed amendment in accordance with the provisions of YCC 16.04 and determined that approval of the rezone is not likely to have a probable significant adverse environmental impact provided that certain Mitigation Measures are followed. Accordingly, he issued a Mitigated Determination of Non-Significance on July 16, 2014, which was not appealed to superior court within the prescribed time limits. The Board finds that environmental review is complete and adequate.

**Section 2. YCC Title 15 Official Zoning Map Amendment.** The official zoning map, as adopted by YCC 15.16.010 and subsequently amended, is hereby further amended by rezoning the "Subject Property" depicted on the map attached hereto as Attachment B, from VR (Valley Rural) to I (Industrial).

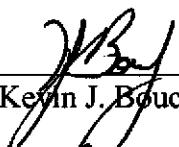
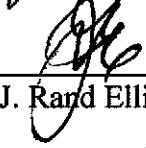
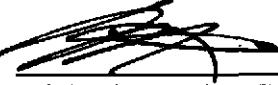
**Section 3. Severability.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity 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 recording of a development agreement as recommended by the Hearing Examiner and that is in substantial conformance with the draft development agreement attached hereto as Attachment C.

DONE this 21<sup>st</sup> day of October, 2014



Attest: Tiera L. Girard  
Clerk of the Board

  
\_\_\_\_\_  
Kevin J. Bouchey, Chairman  
\_\_\_\_\_  
J. Rand Elliott, Commissioner  
\_\_\_\_\_  
Michael D. Leita, Commissioner  
*Constituting the Board of County Commissioners  
for Yakima County, Washington*

Attachments to Ordinance:

Attachment A: *Hearing Examiner's Recommendation*, dated August 21, 2014.  
Attachment B: *Map of Subject Property* (depicting the area hereby rezoned from VR (Valley Rural) to I (Industrial)).  
Attachment C: *Draft Development Agreement*

Attachment A

AUG 21 2014

Vern \_\_\_\_\_ Gary \_\_\_\_\_ Don \_\_\_\_\_ Steve \_\_\_\_\_  
Dave \_\_\_\_\_ Lisa \_\_\_\_\_ Carmen \_\_\_\_\_

**County of Yakima, Washington  
Hearing Examiner's Recommendation**

**August 21, 2014**

<b>In the Matter of a Rezone</b>	<b>)</b>	
<b>Application Submitted by:</b>	<b>)</b>	
	<b>)</b>	<b>ZON2014-003</b>
<b>KR Pendleton, LLC</b>	<b>)</b>	<b>SEP2014-026</b>
	<b>)</b>	<b>PRJ2014-0389</b>
<b>For Rezone of 6.88 Acres at 551</b>	<b>)</b>	
<b>Elton Road East of Selah from the</b>	<b>)</b>	
<b>Valley Rural to the Industrial Zone</b>	<b>)</b>	

**A. Introduction.** The Hearing Examiner conducted a public hearing on August 7, 2014, and this rezone recommendation has been issued within ten business days of the hearing. A comprehensive staff report prepared by Senior Project Coordinator Phil Hoge recommended approval of the rezone application subject to conditions. The applicant's representative, Bill Hordan of Hordan Planning Services, testified in favor of the application and supported the recommendation and recommended development agreement detailing the SEPA Mitigation Measures. No other testimony or written comments from the public were submitted regarding the requested rezone.

**B. Summary of Recommendation.** The Hearing Examiner agrees with the Planning Division's and Mr. Hordan's reasons for recommending approval of this rezone from the

KR Pendleton, LLC  
551 Elton Road east of Selah  
Rezone from VR to I Zone  
ZON2014-003/SEP2014-026

Valley Rural (VR) to the Industrial (I) zoning district and recommends that the Board of Yakima County Commissioners approve same subject to a development agreement detailing the SEPA Mitigation Measures.

**C. Basis for Recommendation.** Based upon a view of the site without anyone else present on August 6, 2014; the information contained in the staff report, the application, the exhibits, the testimony and the other evidence presented at the open record public hearing on August 7, 2014; and a review of both the Yakima County Comprehensive Plan (*Plan 2015*) and the Yakima County Zoning Ordinance which is Title 15 of the Yakima County Code (YCC), the Hearing Examiner makes the following:

## **FINDINGS**

**I. Property Owner/Property Owner's Representative.** The property owner is KR Pendleton, LLC, 1614 East Mead Avenue, Union Gap, Washington and the property owner's representative for this application is Bill Hordan of Hordan Planning Services, 410 North 2<sup>nd</sup> Street, Yakima, Washington.

**II. Location.** The location of the property is east of Selah and I-82 at 551 Elton Road on the east side of the road about three-fourths of a mile north of the intersection of Elton Road and East Selah Road. The parcel numbers are 191431-42006 and 42007.

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

(1) On April 24, 2014, Yakima County Public Services Department - Planning Division received a minor rezone application and Washington State Environmental Policy Act (SEPA) Environmental Checklist from Bill Hordan, who is representing the applicant and property owner KR Pendleton, LLC (Kenneth W. Pendleton). The application was deemed incomplete for processing on May 22, 2014, due to a need to determine whether wetlands exist on the property and to correct soils described in the SEPA checklist. After a site visit which determined that no wetlands were present on the property and an updating of the SEPA environmental checklist, the application was deemed complete for processing on May 27, 2014.

(2) The application requests an amendment to the official zoning map established by the Yakima County Zoning Ordinance (YCC Title 15) to change the zoning of the subject property from Valley Rural (VR) to Industrial (I). The process for considering minor rezones requires the Hearing Examiner to conduct an open record public hearing prior to rendering a recommendation to the Board of Yakima County Commissioners which makes the decision after conducting a closed record hearing.

(3) The subject property consists of two parcels totaling 6.88 acres. The north parcel currently has a 1,400-square-foot single-family house with a well, septic system and pasture. The south parcel is a pasture. The property is generally flat and its soils were formed by the historic meandering of the Yakima River. In the early 1970s, the construction of Interstate 82 severed the property's connection with the surface waters of the river, although the site is within the 100-year floodplain.

(4) No new structures or new uses are proposed with this application. However, the application has been submitted to allow the property owner to establish a heavy equipment storage, maintenance, repair and contracting service on the site. If the rezone is approved, the applicant plans to then apply to relocate Pendleton Excavating & Paving from its current site in Union Gap to the subject property. The application indicates that this future relocation project will consist of a new steel 65-foot by 100-foot combination shop/office (approximately 36 feet in height), a small dirt and gravel stockpile area and an outside gravel storage area for heavy equipment used in the asphalt paving process. The existing residence located on the property would be used as a caretaker's residence for the business. The southern lot comprising the site would initially serve as a yard for the caretaker's house and act as a buffer for the neighboring property to the south until such time as the business needs to expand into that area. Despite these plans, the rezone is considered a nonproject rezone that would potentially allow other Industrial uses and would not involve approval of the property owner's planned use at this time.

**IV. Jurisdiction.** The jurisdictional aspects of this application may be summarized as follows:

(1) According to Table 15.76 of YCC Title 15 entitled “Zoning District Consistency with Comprehensive Plan Future Land Use Designations,” the requested Industrial zoning district is one of the zoning districts that is consistent with and may implement the underlying Rural Self-Sufficient and Mineral Resource Overlay land use designations of the Yakima County Comprehensive Plan (*Plan 2015*). Therefore, this rezone application is classified by YCC 16B (“Project Permit Administration”) as a minor rezone and is processed as a Type IV quasi-judicial application pursuant to YCC Title 16B.

(2) The review process considers those sections of YCC Title 15 that specify the requirements for approval of rezone applications. The Yakima County Hearing Examiner has conducted an open record public hearing, has considered the written evidence and testimony presented and has prepared this written recommendation which will be forwarded to the Board of Yakima County Commissioners (Board). The Board will then consider this recommendation at a closed record public hearing, deliberate in public and conclude with the decision. The records of both public hearings will be open to public inspection (YCC 16B).

**V. Notices.** Notices of the public hearing were provided in accordance with applicable ordinance requirements in the following manner:

Mailing of notice of public hearing:	June 26 & July 16, 2014
Publishing of notice in the Yakima Herald-Republic:	June 29 & July 20, 2014
Posting of notice of public hearing on the property:	July 21, 2014

**VI. State Environmental Policy Act.** SEPA review of this requested rezone resulted in issuance of a Mitigated Determination of Nonsignificance (MDNS) on July 16, 2014, which was not appealed during the appeal period which expired on July 30, 2014. Two agencies responded during the initial comment period. The comments of those agencies and the SEPA Mitigation Measures imposed as a result of their comments may be summarized as follows:

(1) The Bonneville Power Administration (BPA) submitted a letter stating that the proposal will not impact BPA's transmission line corridor in the vicinity, so BPA has no objection to the approval of the request.

(2) The Department of Ecology submitted a letter concerning Water Resources, stating the water purveyor is responsible for ensuring that the proposed uses are within the limitations of its water rights. Ecology's letter also provided comments concerning Hazardous Waste and Toxic Reduction, stating that vehicle repair shops can generate wastes such as used oil, batteries, gasoline, transmission fluid, anti-freeze, brake fluid, fuel and oil filters, hydraulic fluids, windshield washer fluid, CFC refrigerants, oil/water separator sludge, lead parts, mercury auto switches, air bags, tires and contaminated soil. These waste streams are commonly designated as dangerous wastes and have specific requirements for onsite collection, labeling, recycling and disposal. Ecology's letter provided two information sources for handling such waste and also offered a technical assistance visit to discuss proper management of hazardous materials and dangerous waste and provided a contact to request such a visit.

(3) The Department of Ecology submitted a second letter concerning Toxics Clean-up, stating that there is a possibility that the soil contains residual concentrations of pesticides. Ecology recommends that the soils be sampled and analyzed for lead, arsenic and organochlorine pesticides and that potential buyers be notified of any concentrations above the Model Toxics Control Act cleanup levels. Ecology's second letter also provided comments on Water Quality, stating that the NPDES Construction Stormwater General Permit from Ecology is required if there is a potential for stormwater discharge from a construction site with disturbed ground. The letter provided information on the requirements and timelines for the permit, and also provided a website information source for submitting a permit and a contact at Ecology for questions.

(4) Yakima County's SEPA Mitigated Determination of Nonsignificance (MDNS) includes Mitigation Measure A3 requiring all maintenance of heavy equipment to be performed inside of the shop building; all equipment stored outside to be free of any leaks; and substances that are dangerous with respect to water quality to be stored inside of a structure that meets or exceeds flood-proofing requirements, as determined by the Yakima County Chief Building Official.

(5) Yakima County's SEPA MDNS includes Mitigation Measure A1, which requires the proponent to submit a Construction Stormwater General Permit application to Ecology, obtain appropriate reviews or approvals, and provide evidence of Ecology's approval to the County Building Official prior to construction, unless Ecology determines that a permit is not necessary. In addition, Yakima County's SEPA MDNS also includes

Mitigation Measure A2, which requires a Stormwater Management Plan, meeting specified design standards, to be submitted for review by the Yakima County Public Services prior to grading the property, any road development, or approval of building permits.

**VII. Comprehensive Plan.** The Comprehensive Plan considerations relative to this application may be summarized as follows:

(1) According to the Comprehensive Plan (*Plan 2015*), the subject site and all surrounding lands have two plan designations: Rural Self-Sufficient and Mineral Resource Overlay. *Plan 2015* states the intent of these plan designations.

(2) The intent of the Rural Self-Sufficient land use designation is to implement Growth Management Act Planning Goals related to reducing sprawl, protecting the environment and providing adequate facilities and services commensurate with the density of development. The Rural Self-Sufficient category provides a broad choice of areas within rural Yakima County where an independent and private lifestyle can be sustained on acreage homesites. This designation is intended to maintain rural character by establishing lot sizes which will make feasible individual wells and septic systems on each parcel, and by minimizing conflicts with adjoining or nearby resource land uses through buffers and special setbacks that will permit farm, forestry and mineral resource uses to continue. The designation provides density incentives to encourage development where fire protection services and hard-surfaced County Roads or State Routes are available. The Rural Self-Sufficient designation also provides for flexible parcel sizing or clustering to encourage development that more effectively uses the site to reduce infrastructure and service costs. These lands are generally found at the periphery of urban growth areas and rural transitional areas separating designated farm or forest lands and the remote rural and developmentally constrained lands. Lands found at the valley floors, at the periphery of the urban growth areas and rural transitional areas separating designated farm or forest lands and the remote rural and developmentally constrained lands are considered "Valley" areas. Valley areas are closer to the more urbanized retail and commercial centers while still allowing for a rural lifestyle. Lands found above the State Route 410 – Highway 12 "Y", and in the upper Wenas Valley above Wenas Lake are "Mountain" areas. These areas are intended to cater to the traveling public and tourists along the mountain passes and recreation areas. These lands are more isolated from the urban retail centers than the Valley areas, and therefore have limited options for

commercial and retail uses. For this reason, certain uses which are allowed in the Mountain areas are not intended or appropriate in the Valley areas.

(3) The intent of the Mineral Resource Overlay land use designation is to implement the Growth Management Act planning goal related to maintaining and enhancing natural resource-based industries, which includes commercially viable mineral resource industries. This category is intended to identify, preserve and protect the mineral resource land base which is intended to be used for, or offers the greatest potential for, the continued production of aggregate products such as concrete or asphalt, while allowing the underlying land use to provide interim land use direction until such time that mineral extraction is permitted. The Mineral Resource Overlay land use category carries out this goal by establishing a Mining zone, which identifies review criteria, allowed uses, lot sizes, standards of operations and provisions for revisions.

**VIII. Zoning.** The zoning considerations relative to this application may be summarized as follows:

(1) The subject property is currently zoned VR (Valley Rural). The Yakima County Zoning Ordinance states that the VR zoning district is intended to protect and maintain the openness and rural character of outlying areas of the County in the lower Wenas, and the valley floors of the lower Ahtanum, Naches and Yakima Valleys. The Valley Rural zoning district implements the Rural Self-Sufficient Comprehensive Plan goals and policies related to protecting the environment and providing adequate facilities and services commensurate with the density of development. The VR zoning district is generally found at the periphery of urban growth areas and the rural transitional zoning district separating designated resource lands and the remote and developmentally constrained lands. This zoning district is characterized by a wide mixture of parcel sizes and land uses including semi-arid range lands, large and small-scale commercial agriculture, part-time farms, and isolated and scattered very low-density commuter residential development.

(2) This application requests that the subject property be rezoned to Industrial (I). YCC Chapter 15.42 provides that the Industrial zoning district is intended to preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provisions for certain kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of people in these

industrial areas. Industrial districts are located principally, but not exclusively within urban growth areas, and may possess varying levels of public service and utility needs which affect the timing and intensity of development that may be approved. New Industrial zoning districts outside urban growth areas are subject to the criteria of Comprehensive Plan Policy ED 3.14 and zoning ordinance provision YCC § 15.42.040.

(3) YCC Chapter 15.76 includes Table 15.76 entitled “Zoning District Consistency with Comprehensive Plan Future Land Use Designations,” which provides that new Industrial zoning districts are consistent with the Rural Self-Sufficient Comprehensive Plan designation and may only be applied outside of urban growth areas when they meet siting criteria of Comprehensive Plan Policy ED 3.14 and YCC § 15.42.040.

**IX. Nearby Zoning and Land Uses.** There is Valley Rural (VR) zoning to the north and the south, Industrial (I) zoning on WSDOT-owned lands to the east and southeast, and Mining (MIN) zoning on lands to the west (i.e., west of I-82). Adjacent uses are Elton Road, Interstate-82 and reclaimed gravel pits to the west; WSDOT property (consisting of office space, parking areas, a maintenance storage yard, a heavy equipment repair/storage area, a stock pile yard, Big Elton Pond and vacant land) to the east and north; and a single-family home and pasture to the south.

**X. Rezone Review Criteria.** Under YCC § 15.76.050, the recommendation regarding this minor rezone application must be based upon the following criteria specified in YCC 15.76.036(3):

**(1) The extent to which the proposed rezone is consistent with and/or deviates from the goals, objectives, mapping criteria and policies adopted in the Comprehensive Plan and the intent of the zoning ordinance, YCC Title 15.**

(a) The proposed rezone is consistent with Comprehensive Plan Goal ED 1 which is to promote economic growth while maintaining environmental quality and Policy ED 1.1 which is to coordinate economic development with environmental, resource, and other comprehensive land use policies and measures to

maximize the community's overall quality of life. Specifically, the proposal is designed to meet "resource" comprehensive land use policies that promote the use of a mineral resource designated area for a mineral resource use. The site is located in the Mineral Resource Overlay plan designation, and the rezone is intended to allow an industry related to, and in close proximity to, the mineral source and product.

(b) The proposed rezone is consistent with Comprehensive Plan Goal ED 2 which is to encourage economic growth within the capacity of the region's public services and public facilities; Policy ED 2.4 which is to encourage commercial and industrial development to locate in concentrations to promote the most efficient basis and at a level appropriate to the uses of the area through planning and zoning and infrastructure investments; and Policy ED 2.5 which states that sites to be designated for industrial or commercial development should be capable of being served by required utilities and other services on a cost-effective basis and at a level appropriate to uses in the area. This proposal encourages economic growth within the region's public services and public facilities because it is planned for a low-impact use. The property owner's business does not need a high degree of public services and/or facilities because much of the business is conducted off-site. The existing domestic well, on-site septic system, electrical power, telephone service and hard-surfaced roadway will be all that is needed to sustain the property owner's business. Police and fire service is already provided to the site by the Yakima County Sheriff and the local Yakima County Fire Protection District. No new public services or public facilities will be required to accommodate the planned use. In addition, the Rural Self-Sufficient plan designation means that the area will have only minimal services (roads, police protection, fire protection, electricity and telephone in this case) and the property owner will be responsible for providing other needed services (such as water, sewage disposal and stormwater runoff control). Also, this rezone will allow an industrial development to locate "in concentrations" because it will be near to the mineral resource on which it depends.

(c) The proposed rezone is consistent with Comprehensive Plan Goal ED 3 which is to ensure an adequate supply of commercial and industrial sites to provide opportunity for new and expanding firms wishing to locate or remain in Yakima County; Policy ED 3.7 which is to locate commercial and industrial concentrations in those areas most suitable for development on the basis of proximity to existing facilities, accessibility, cost for extension of services, terrain, and other natural and manmade conditions; Policy ED 3.8 which is to locate industrial areas

so that access is functionally convenient to major transportation routes such as truck routes, freeways, railroads and air terminals; and Policy ED 3.14 which is to allow major industrial development to locate outside an urban growth area when it (1) requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (2) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent. The major industrial development shall not be for the purpose of retail commercial development or multi-tenant office parks. Major industrial uses located outside urban growth areas must meet the following criteria specified in RCW 36.70A.365: (1) New infrastructure is provided for and/or applicable impact fees are paid; (2) Transit-oriented site planning and traffic demand management programs are implemented; (3) Buffers are provided between the major industrial development and adjacent nonurban areas to appropriately mitigate and screen impacts of structures and activities including, but not limited to, bulk, light, glare, noise, and parking; (4) Environmental protection including air and water quality has been addressed and provided for; (5) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas; (6) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands and mineral resource lands; (7) The plan for the major industrial development is consistent with the policies and development regulations established for protection of critical areas; and (8) An inventory of developable land has been conducted and findings made that land suitable to site the major industrial development is unavailable within the urban growth area. Priority shall be given to applications for sites that are adjacent to or in close proximity to the urban growth area. In addition, such uses must address and provide for impacts from noise, lighting and other environmental impacts, as well as impacts on neighboring uses. Here the proponents of the planned use have been actively looking for a new site to locate their existing business for over 5 years, having looked at approximately 15 different sites within the upper Yakima Valley to accommodate their business within their market area. To date, they have not found an adequate site. The proposed site will accommodate their needs and will permit them to relocate within the area which their business serves. This site is also suitable because it has the necessary infrastructure to accommodate the business. The site is located near easy highway access, which is a key component of this business, and is located near a mineral resource supply, which this business is dependent on for its product. The proposed rezone is less than seven acres, which is relatively small, and therefore does not constitute a major industrial develop-

ment as contemplated by Policy ED 3.14 and RCW 36.70A.365. The rezone therefore is not subject to the siting criteria of Policy ED 3.14 and RCW 36.70A.365 for new Industrial (I) zones located outside of urban growth areas.

(d) The proposed rezone is consistent with Comprehensive Plan Goal ED 4 which is to preserve and enhance the County's resource-based economy; Policy ED 4.1 which is to encourage resource-based industries which are consistent with resource lands goals and policies; and Policy ED 4.4 which is to discourage incompatible development in resource areas. The proposal lies within a designated Mineral Resource Area. This business is a resource-based industry that is dependent on the use of mineral resources. The business is compatible with other mineral resources uses in the area and preserves and enhances the County's resource-based economy by establishing a compatible use in the designated Mineral Resource area. In addition, the rezone will allow a new industrial use that will be more compatible with the Mineral Resource Overlay than is the single-family home that currently exists on the subject property. The application indicates that the single-family residence on the site will be converted to a "dwelling for occupancy by guards, watchmen, caretakers or owners of a non-residential permitted use," which will also be more compatible with the Mineral Resource Overlay than the existing use.

(e) The proposed rezone is consistent with Comprehensive Plan Goal LU-ER-MR 1 which is to identify and protect long term supplies of commercial aggregate and other mineral resources for economic development; Policy LU-ER-MR 1.7 which is to promote compatible interim land uses for parcels designated for future commercial surface mining; Goal LU-ER-MR 2 which is to recognize that minerals are nonrenewable and a necessary resource that must be protected from incompatible adjacent development; and Policy LU-ER-MR 2.2 which is to protect designated mineral resource sites from incompatible uses within the designated and zoned sites or on surrounding lands that would prevent or seriously hinder resource extraction through Mining zoning district buffering requirements, setbacks and other performance standards, and through property transfer notification procedures and special setbacks on adjacent lands for residential and other especially sensitive uses. The proposal will help protect the long term supply of commercial aggregate and other mineral resources for economic development because the project is a "compatible" interim use that is being established in a designated Mineral Resource Area. This use will act as a buffer between existing land uses and protect the underlying mineral resource from any proposed "incompatible" land uses. The proposal meets the mapping criteria for, and intent

of, RSS lands. It promotes a use that is more compatible with commercial surface mining than the existing single-family home. It also protects the designated mineral resource sites (the Mineral Resource Overlay area) from incompatible uses, which is the overall intent of Policy LU-ER-MR 2.2.

(f) The proposed rezone is consistent with the intent of the Industrial zone, as stated in YCC § 15.42.010, which is to preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provisions for certain kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of people in these industrial areas. Industrial districts are located principally, but not exclusively within urban growth areas, and may possess varying levels of public service and utility needs which affect the timing and intensity of development that may be approved. New industrial zoning districts outside urban growth areas are subject to the criteria of Comprehensive Plan Policy ED 3.14 and zoning provision YCC § 15.42.040.

(g) The proposed rezone is also consistent with the intent of the Industrial zone because the existing Mineral Resource Overlay means that the proposed site and its surrounding area are suited for mining and related intensive uses that are typically incompatible with other kinds of land uses. The Industrial zone exists for a similar purpose, and the proposed use will be compatible with mining and related uses that currently exist in the vicinity. The proposed Industrial zone may be established outside of the urban growth area because it is less than seven acres in size and is therefore considered to be a minor industrial development that is not subject to the criteria applicable to major industrial developments.

(h) The proposed rezone is also consistent with the intent of the Industrial zoning district because it provides the opportunity to locate a commercial use which is appropriately located near an industrial use that serves it. Specifically, the proposed use is a commercial use which is dependent on a mineral resource-based industrial use. The proposed rezone is appropriate at this site due to the limited infrastructure that is needed to support this low-intensity land use.

**(2) The adequacy of public facilities, such as roads, sewer, water and other public services required to meet urban or rural needs.**

(a) The property has adequate public facilities and services. The site is served by Elton Road, a county-maintained hard-surfaced roadway. Elton Road

has easy access to Interstate 82 to the south, which serves the general Yakima Valley market. Access to the north connects with Firing Center Road and ultimately to Harrison Road, which provides access into the Selah/Wenas areas. Other basic facilities available to the site include electricity and telephone service. Domestic water is provided by an on-site well. Sanitary sewer is provided by an on-site septic system. The property is large enough to accommodate both of these on-site systems. Police and fire protection are provided by Yakima County.

(b) In Rural Self-Sufficient areas, property owners are expected to provide their own water, sewer and stormwater runoff facilities. The subject property is located in Fire District #2. It was notified of the proposal, but no comment was received from the fire district.

**(3) The public need for the proposed change. Public need shall mean that a valid public purpose, for which the Comprehensive Plan and Title 15 have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum, document:**

**(i) 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**

**(ii) Whether the timing is appropriate to provide additional land for a particular use.**

(a) There is a need for additional land to be rezoned for this particular purpose. The planned use is a mineral resource-based use that needs to be located near the mineral resource because it is dependent on this resource. The primary use of the property would be a stand-alone business which is not associated with any of the other mineral resource-based businesses in the area. Thus, it needs to be located in a particular zoning district to be established in this area. The only reasonable zoning district in this area to locate this business is in the Industrial zoning district. Currently, there is only a single property zoned Industrial in this area and it is a parcel to the east which is owned by the WSDOT. No other Industrial zoned property exists in this area. The fact that the proponents have spent the last five years looking for a new site to locate their expanding business, without success, indicates that there is a need for additional Industrial-zoned property in this area to accommodate resource-based businesses associated with the mineral resource providers located in the area.

(b) The timing is appropriate because the Mineral Resource land use designation is a relatively new Comprehensive Plan designation. This designation was specifically established to protect mineral resources and the businesses that are dependent on mineral resources. This is the first business that has outgrown its current location and is in need of a larger site to accommodate its growth. Based on this, the timing is appropriate because the planned use requires the Industrial zoning classification in order to meet the necessary Comprehensive Plan goals and policies to locate businesses dependent upon mineral resources near those mineral resources.

(c) While much of the land designated Mineral Resource Overlay in this area is in the Mining zoning district, the only land zoned Industrial in the vicinity is the adjacent WSDOT property. There is a need for additional Industrial-zoned property in this area.

**(4) Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone.**

(a) The official designation of Mineral Resource sites and the zoning of some of those sites in the year 2008 are the main substantial changes that warrant a rezone of the subject property. The original zoning for this property occurred in the year 2000, but it was given the Mineral Resource Overlay designation in the year 2008. The new Mineral Resource Overlay land use designation is a substantial change that now encourages a mineral resource-based business to locate near an established mineral resource. That was not previously the case with Valley Rural zoning. Additionally, all properties abutting the subject property have been designated Mineral Resource Overlay, which indicates that mineral resource-based businesses and mineral extraction are potential land uses which can be expected on and around the subject property.

(b) The subject property was zoned Valley Rural in 2000 to implement the Comprehensive Plan's 1997 designation of the subject property as Rural Self-Sufficient. The fact that the Mineral Resource Overlay was subsequently established on the subject property and on properties in the surrounding area constitutes a substantial change in circumstances that warrants an amendment to the current zoning of the subject property.

**(5) The testimony at the public hearing.** All of the testimony presented at the

open record public hearing favored approval of the requested rezone.

**(6) The compatibility of the proposed zone change and associated uses with neighboring land uses.**

(a) The proposed zone change and associated uses are compatible with neighboring land uses because the property is generally isolated from incompatible uses in the surrounding neighborhood. Even though a single-family residence is located south of the property, the applicant's planned use is designed to place the most potentially incompatible aspects of the business along the north and east sides of the property to buffer that residence from any adverse activities occurring on the property. Specifically, the truck, trailer and equipment parking is planned to be located near the north property line, the east property line and the center of the property. Additionally, all business-related and employee-related vehicle entry will be limited to the northwest corner of the property to keep vehicle activity away from the residence to the south. Even though the entire site is planned to be utilized for eventual outdoor storage, at this time the intent is to leave the existing pasture associated with the caretaker's unit in that pasture use until that area is needed for other purposes.

(b) Property to the west consists of Elton Road, and beyond that Interstate 82 and reclaimed gravel mines. Property to the north and east is owned by WSDOT which consists of an office, maintenance storage yard, heavy equipment repair/storage area, stockpile yard, Big Elton Pond, vacant land and parking areas. These surrounding uses are compatible with the proposed use.

(c) The Industrial zone and planned use will be compatible with adjacent uses to the west, north and east. When the applicant applies for the planned use, appropriate screening or buffering to improve compatibility may be required as allowed by the code. Since single-family dwellings are not allowable uses in the Industrial zone, the existing house on the subject property will automatically become a nonconforming use if the rezone is approved. Submittal and approval of an appropriate land use application will be necessary to change the status of the house to a dwelling for occupancy by guards, watchmen, caretakers or owners of a non-residential permitted use.

**(7) The suitability of the property in question for uses permitted under the proposed zoning.**

(a) The suitability of the property for uses permitted under the proposed zoning code is generally limited to the planned use and other smaller commercial and industrial businesses. The property is not necessarily suitable for all uses permitted in the Industrial zoning district. The site has constraints such as the lack of public water, public sewer and adequate fire protection, which are usually required for industrially-zoned properties. The property is an excellent site for the planned use because the property, and surrounding properties, all have the Mineral Resource Overlay designation. The site can adequately accommodate the planned use because it is a low-impact and low-intensity use that does not require the amount of infrastructure that a typical industrial use would normally require.

(b) A list of the uses allowable in the requested Industrial zone set forth in Table 15.18 entitled "Allowable Land Uses" is provided in Attachment A. Even though the subject property is physically suitable for most of the Type I and II uses in the Industrial zoning district, the subject property's relatively small size and lack of public infrastructure services will limit the uses that will be suitable for the site. The property is suitable for some of the Type III uses in the Industrial zoning district, and those uses that are not suitable for the property could be denied. Under the circumstances, including the lack of any public comments indicating that potential uses should be limited, the Planning Division and Hearing Examiner do not recommend that a use-limiting provision be required in the development agreement as a condition of the rezone.

**(8) The recommendation from interested agencies and departments.** Some of the comments from the Department of Ecology were incorporated into SEPA Mitigating Measures. No interested agencies or departments recommended denial of the requested rezone.

**XI. Consistency of the Rezone with Development Regulations and the Comprehensive Plan under the Criteria Required by Section 16B.06.020 of the Yakima County Code** is to be determined by a consideration of the following factors:

**(1) The types of land uses permitted at the site** through a rezone to the Industrial (I) zone would be consistent with that zone and with the Comprehensive Plan designations of the site.

**(2) The density of residential development or the level of development such as units per acre or other measures of density** is not affected by this application because any use permitted under Industrial (I) zoning will be consistent with the density allowed by the Comprehensive Plan and zoning ordinance.

**(3) The availability and adequacy of infrastructure and public facilities** is not an issue because property owners are responsible for providing a level of service for water, sewer and stormwater drainage that is adequate for the uses they develop in the Comprehensive Plan Rural Self-Sufficient designation.

**(4) The characteristics of any development resulting from this rezone** will be uses prescribed for the Industrial (I) zone which are consistent with the Comprehensive Plan land use designations for the property and will have to be consistent with the applicable development regulations of the zoning ordinance for whatever uses are developed.

## **CONCLUSIONS**

Based on the foregoing Findings, the Hearing Examiner reaches the following Conclusions:

**(1) The Hearing Examiner has jurisdiction to make a recommendation to the Board of Yakima County Commissioners regarding this application for a rezone from the Valley Rural (VR) zoning district to the Industrial (I) zoning district.**

**(2) All of the zoning ordinance public hearing notice requirements have been satisfied.**

**(3) YCC Table 15.76 entitled “Zoning District Consistency with Comprehensive Plan Future Land Use Designations” which is found in YCC Chapter 15.76 provides that the proposed rezone of the property from the Valley Rural (VR) to the Industrial (I) zoning districts would be consistent with the Rural Self-Sufficient and Mineral Resource Overlay Comprehensive Plan designations.**

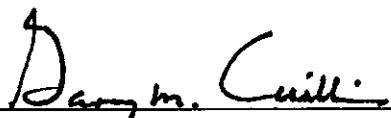
**(4) The requested rezone from the Valley Rural (VR) zoning district to the Industrial (I) zoning district would satisfy all of the requirements for approval of a rezone set forth in YCC § 15.76.036(3) and all of the consistency standards set forth YCC § 16B.06.020.**

## **RECOMMENDATION**

The Hearing Examiner recommends that the Board of Yakima County Commissioners **APPROVE** this proposed minor rezone identified as file number ZON2014-003 and entitled "Pendleton Minor Rezone" from the Valley Rural (VR) zoning district to the Industrial (I) zoning district, subject to the following condition:

Since the County's SEPA Responsible Official issued an MDNS as a result of analyzing the environmental impacts associated with the Pendleton Minor Rezone (SEP2014-026), a development agreement will be needed to implement the mitigating conditions in the MDNS. The development agreement which includes the mitigating conditions of the MDNS must be executed by the property owner(s) and the Board of Yakima County Commissioners and recorded with the Yakima County Auditor before the rezone becomes effective.

**DATED** this 21<sup>st</sup> day of August, 2014.

  
Gary M. Cuillier  
Gary M. Cuillier, Hearing Examiner

**ATTACHMENT A: USES ALLOWED AS EITHER TYPE I, TYPE II OR TYPE III USES IN THE INDUSTRIAL ZONING DISTRICT BY YCC CHAPTER 15.18**  
**(An asterisk denotes a defined term)**

**As Type I Permitted Uses (allowed when they meet standards):**

- Agriculture\*, silviculture, and animal feeding operations\* (Excluding: Concentrated animal feeding operations\*, livestock auction/sale yards, rendering plants and slaughter houses)
- Agricultural Stand\*
- Agriculturally related industry\*
- Basic winery\*
- Brewery, domestic\*
- Brewery, micro\*
- Distillery, craft\*
- Distillery
- Irrigation distribution/drainage facilities\*
- Winery\*
- Aircraft, aircraft parts
- Apparel and accessories
- Bakery products (wholesale)
- Beverage industry, not including wineries
- Canning, preserving, processing and packaging fruits, vegetable, and other foods not within definition of Ag. Related industry
- Confectionary and related products (wholesale)
- General hardware, including hand tools, cutlery, etc.
- Pharmaceutical products
- Electrical transmission and distribution equipment
- Electric components and accessories
- Engineering, medical, optical, dental and scientific instruments
- Fabricated structural metal products
- Furniture and custom cabinet shops
- Glass pottery and related products
- Grain mill products
- Heating apparatus, wood stoves
- Leather products

- Machinery and equipment
- Meat, poultry and dairy products
- Plastic products
- Prefabricated structural wood products and containers
- Printing, publishing and binding
- Printing trade (service industries)
- Sheet metal and welding shops
- Store products (includes finishing of monuments for retail sale)
- Transportation equipment, including camping and recreation vehicles
- Woodworking, not otherwise listed
- Hazardous waste treatment and storage facilities subject to the State siting criteria of Chapter 70.105 RCW: Onsite, and storage of chemicals and empty chemical containers
- Dwelling for occupancy by guards, watchmen, care-takers or owners of a nonresidential permitted use
- Addressing, mailing, and stenographic services
- Agricultural implements, parts, tools and machinery
- Building and trade contractors, not qualifying as home occupations\*
- Dry cleaners, laundries and Laundromats
- Dry cleaning and laundry plants, central
- Heavy equipment storage, maintenance, repair and contracting services
- Printing services, commercial
- Recycling center\*
- Rental: Truck, trailer
- Bus terminals, storage and maintenance facilities
- Transportation brokerage offices\*; with or without truck parking
- Truck service stations, washes and shops
- Air, rail, truck terminals (for short term storage, office, etc.)
- Contract truck hauling, rental of trucks with drivers
- Railroad switch yards, maintenance and repair facilities, etc.
- Taxicab terminals, maintenance and dispatching centers, etc.
- Impoundment of water, including dams and frost ponds
- Utility services\* (substations, reservoirs, etc.), when no building or series of buildings exceeds 120 sq. ft. and the SEPA threshold is not exceeded
- Wholesale trade\*
- Storage facilities: Bulk\* (see also Ag related industry)

- Storage facilities: Commercial\*
- Storage facilities: Residential (mini)\*

**As Type II Administrative Uses (“generally allowed”):**

- Agricultural Market\*
- Aquaculture\*
- Concentrated animal feeding operations\*
- Forest industries\*
- Livestock auction/sales yards
- Adult entertainment facility\*
- Exercise facilities, gymnasiums
- Golf courses, clubhouses, pro shops, golf driving ranges
- Historic landmark allowable use permit
- Outdoor commercial amusements\*
- Parks\*, playgrounds, greenways and other public or private outdoor recreational facilities
- Shooting range, indoor
- Fraternal organizations\*, lodges and clubs
- Grange halls and other ag related clubs and organizations
- Museums, art galleries
- Police stations, fire stations, ambulance service
- Public buildings and uses\*
- Schools, public or private
- School bus storage & maintenance facilities
- Business incubator facilities, single- or multi-tenant
- Metal, plastic or glass containers
- Paperboard containers and boxes
- Rubber products
- (When designated Mineral Resource by the Comprehensive Plan): Mineral processing\*, Mining site/operation\* (Long-term or temporary)
- (When designated Mineral Resource by the Comprehensive Plan): Mineral batching\* (Long-term and Temporary)
- (When designated Mineral Resource by the Comprehensive Plan): Recycled asphalt or concrete, Stockpiling or storage of (when accessory to an approved mining site/operation)

- (When not designated Mineral Resource by the Comprehensive Plan): Mineral processing\*, Mining site/operation\* (Temporary)
- (When not designated Mineral Resource by the Comprehensive Plan): Mineral batching\* (Temporary)
- Extraction of mineral resources as part of a federal or state approved fish or wildlife habitat restoration/enhancement project (Temporary)
- Federal or state approved wetland mitigation projects requiring extraction of mineral resources (Temporary)
- Hazardous waste treatment and storage facilities subject to the State siting criteria of Chapter 70.105 RCW: Offsite
- Refuse landfills\*
- Solid waste transfer stations\*
- Solid waste drop box site\*
- Appliance sales and service
- Auction house/yard, excluding livestock
- Automobile, motorcycle, truck, manufactured home & RV sales
- Automotive: Maintenance and repair shops
- Automotive: Paint and body repair shops
- Automotive: Parts & accessories (tires, batteries, etc.)
- Automotive: Rental agencies
- Automotive: Service stations\*
- Automotive: Specialized repair shops (radiator, etc.)
- Automotive: Towing services\*
- Automotive: Vehicle storage\*
- Automotive: Wrecking & dismantling yard\*
- Bakery, butcher shop, delicatessen, specialty food store
- Boat and marine accessories
- Building and trade retailers (e.g., plumbing, heating, electrical, lumber, painting, glass, wallpaper, etc.)
- Commercial education services and studios
- Convenience\* and general merchandise store
- Drive-thru food and beverage vendor\*, e.g.: espresso stand, juice bar, mobile food vendor
- Employment agencies (private)
- Farm and ranch supplies

- Fuel and oil distributors
- Hardware, garden equipment and supplies
- Heavy construction equipment sales and rental
- Medical and dental laboratories, offices and clinics
- Motorcycle repair
- Nursery, retail
- Pet grooming
- Pet stores, pet supplies
- Photocopy and mail service
- Radio/TV studios (communication towers listed separately)
- Repair services: Small item (small appliances, TV's, business machines, jewelry, shoes, clothing, lock-smiths, gunsmiths, etc.)
- Repair services: Large item (washing machines, golf carts, refrigerators, etc.)
- Repair services: Furniture repair and upholstery
- Repair services: Small engine and garden equipment
- Restaurant, cafe and drive-in eating facilities
- Second hand store\*
- Technical equipment sales\*
- Veterinary clinics (see also AG service)
- Utility services\* (substations, reservoirs, etc.), when the building or series of buildings exceeds 120 sq. ft. or the SEPA threshold is exceeded

**As Type III Conditional Uses (“generally not appropriate throughout the zoning district”):**

- Livestock event facility, with or without permanent spectator facilities
- Community centers, meeting/reception halls
- Correction facilities
- Day care center, child\*
- Chemicals (industrial, agricultural, wood, etc.)
- Concrete, lime, gypsum and plaster
- Drop forge products
- Explosives and ammunition
- Fertilizer, chemical
- Leather tanning and finishing
- Paints, varnishes, lacquers, enamels and allied products

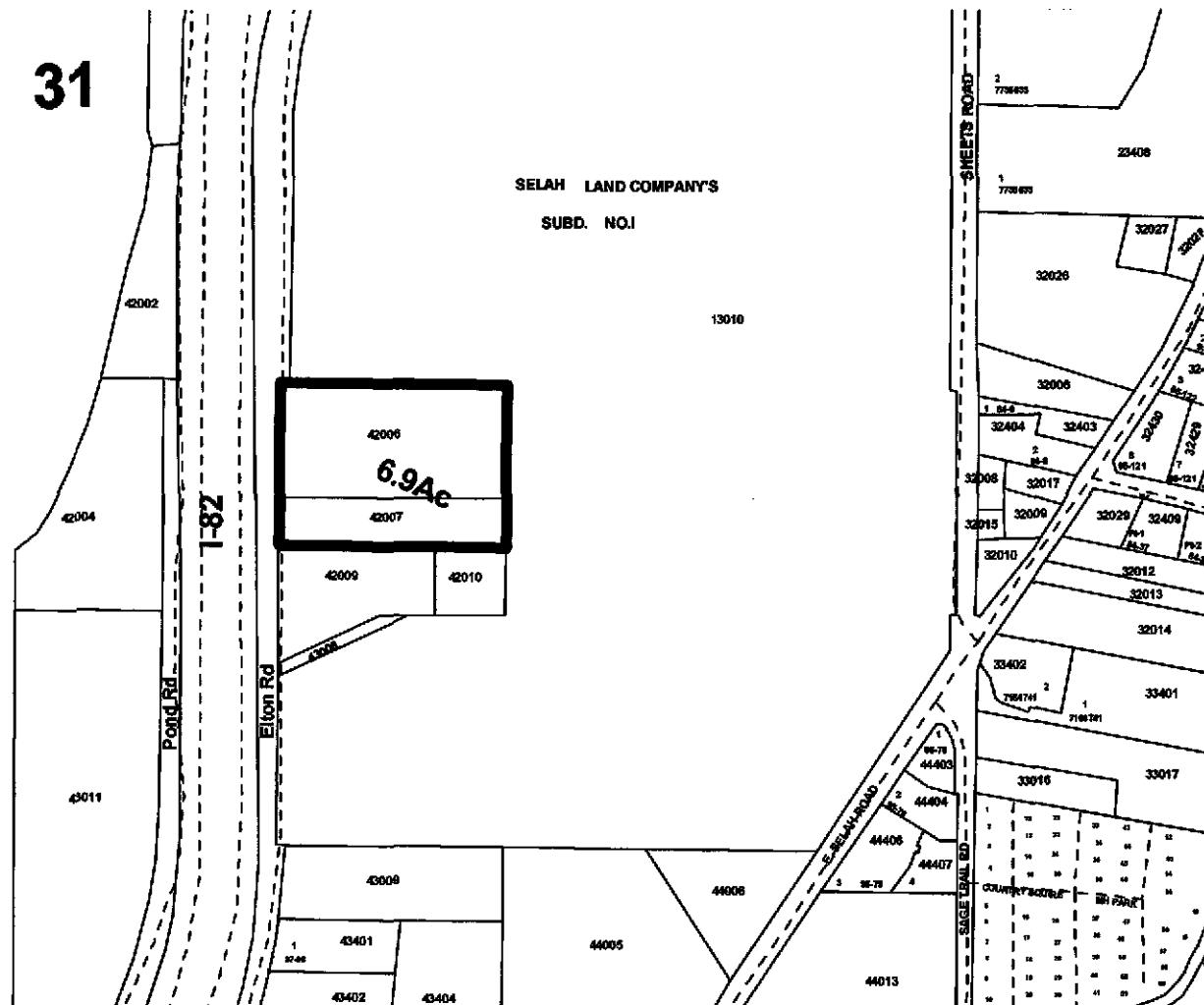
- Petroleum products, refining and manufacture
- Rendering plants, slaughter houses
- Rubber reclaiming
- Sawmills and planning mills (see also forest industries)
- Vehicle assembly (Automobile, truck, farm, heavy equipment, etc.)
- (When designated Mineral Resource by the Comprehensive Plan): chemical washing, blending, or extraction of precious or semi-precious minerals
- (When designated Mineral Resource by the Comprehensive Plan): Manufacture, fabrication and sale of concrete, asphalt, and mineral products
- (When not designated Mineral Resource by the Comprehensive Plan): Mineral processing\*, Mining site/operation\* (Long-term)
- (When not designated Mineral Resource by the Comprehensive Plan): Mineral batching\*, (Long-term)
- (When not designated Mineral Resource by the Comprehensive Plan): Chemical washing, chemical blending, or chemical extraction of precious or semi-precious minerals
- (When not designated Mineral Resource by the Comprehensive Plan): Manufacture, fabrication and sale of concrete, asphalt, and mineral products
- (When not designated Mineral Resource by the Comprehensive Plan): Recycled asphalt or concrete. Stockpiling or storage of
- Administrative offices, not otherwise listed
- Restaurant or cafe serving alcoholic beverages
- Waste material processing and junk handling\*
- Airports & landing fields, personal or restricted use\*
- Airports & landingfields, public use\*
- Power generating facilities
- Sewage treatment plants
- Wastewater lagoons and sprayfields\*

**As Type IV Quasi-Judicial Uses (“Board decision after hearing examiner recommendation”):**

- Resort or AG tourist operation\*

**Attachment B**

## Map of Subject Property



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

**Attachment C**

**DEVELOPMENT AGREEMENT  
BETWEEN KR PENDLETON, LLC and YAKIMA COUNTY, a Washington county**

Grantors(s):	KR Pendleton, LLC and County of Yakima, a Washington county
Grantee(s):	KR Pendleton, LLC and County of Yakima, a Washington county
Abbreviated Legal Description:	PTN OF THE NW 1/4 OF THE SE 1/4 SEC 31, TWP 14N, RGE 19 EWM
Additional Legal Description:	Exhibit A
Assessor's Property Tax Parcel Account Numbers:	191431-42006 191431-42007

**DEVELOPMENT AGREEMENT  
BETWEEN KR PENDLETON, LLC and YAKIMA COUNTY, a Washington county**

THIS DEVELOPMENT AGREEMENT (“Agreement”), entered into between YAKIMA COUNTY, a Washington county, and KR Pendleton, the owner of the property described herein (“Subject Property”), is executed as a condition of amending the Official Zoning Map of the Yakima County Zoning Ordinance with respect to Subject Property in accordance with Yakima County Ordinance No.         -2014. (Yakima County Public Services File Nos. ZON2014-00003 and SEP2014-000026.)

**I. Property Affected**

The property subject to this Agreement (“Subject Property”) is legally described in Exhibit A and depicted by the map in Exhibit B. It lies adjacent to and east of Elton Road, approximately  $\frac{3}{4}$  mile north of the intersection of Elton Road and E. Selah Road, Yakima, WA (551 Elton Road).

## II. Purpose

This Agreement is entered into for the purpose of implementing the Mitigating Measures specified in the Final Mitigated Determination of Non-Significance (MDNS), issued by Yakima County's SEPA Responsible Official on July 16, 2014 concerning the proposed action to rezone Subject Property from VR (Valley Rural) to I (Industrial). This Agreement obviates the need, under RCW 43.21C (State Environmental Policy Act), to conduct an Environmental Impact Statement prior to approving the rezone.

## III. Applicability

The Mitigating Measures provided in said MDNS are incorporated into this Agreement as Exhibit C. Said Mitigating Measures shall apply to any and all future development on any portion of Subject Property that is zoned Industrial by Yakima County.

## IV. Permit Process

In reviewing applications for future development on Subject Property, Yakima County officials shall ensure that the Mitigating Measures in the MDNS are enforced.

## V. General Provisions

This Agreement and/or said Mitigating Measures may be amended upon agreement of the parties after following the public review and comment procedures for a minor rezone established in YCC 15.76 (or its succeeding ordinance) and RCW 43.21C.

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

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

### List of Exhibit:

Exhibit A – Legal Description of Subject Property

Exhibit B – Map of Subject Property

Exhibit C – Final MDNS, dated July 16, 2014 (SEP2014-00026)

BOARD OF YAKIMA COUNTY COMMISSIONERS

---

Kevin J. Bouchey, Chairman

---

J. Rand Elliott, Commissioner

---

Attest: Tiera L. Girard  
Clerk of the Board

---

Michael D. Leita, Commissioner  
*Constituting the Board of County Commissioners  
for Yakima County, Washington*

Approved as to form:

---

Deputy Prosecuting Attorney

KR Pendleton, LLC

---

Kenneth W. Pendleton

STATE OF WASHINGTON )  
                          ) ss.  
COUNTY OF YAKIMA    )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, before me, a Notary Public in and for the State of Washington, personally appeared Kevin J. Bouchey, J. Rand Elliott, and Michael D. Leita, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Board of Commissioners of County of Yakima to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

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

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

STATE OF WASHINGTON    )  
                          ) ss.  
COUNTY OF YAKIMA      )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, before me, a Notary Public in and for the State of Washington, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they executed the instrument as a voluntary act for the uses and purposes mentioned in the instrument.

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

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

**Exhibit A**

**Legal Description of Subject Property**

**PARCEL I:**

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 14 NORTH, RANGE 19, E.W.M.,

EXCEPT THE WEST 20 FEET AND THE NORTH 20 FEET THEREOF FOR ROAD.

**PARCEL II:**

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 14 NORTH, RANGE 19, E.W.M.,

EXCEPT THE SOUTH 3 ACRES THEREOF, AND

EXCEPT THE WEST 20 FEET FOR ROAD.

**EXCEPT:**

ALL THAT PORTION OF THE FOLLOWING DESCRIBED PARCEL "A" LYING WESTERLY OF THE LINE DRAWN PARALLEL WITH AND EASTERLY A DISTANCE OF 60 FEET FROM THE EASTERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY SR 82. SAID EASTERLY RIGHT-OF-WAY LINE IS SHOWN ON SELAH CREEK TO ELTON ROAD, ROAD PLANS, PAGES 7, 8, AND 9 OF 20 AS RECORDED IN VOLUME 886, PAGES 633, 634, AND 637 RESPECTIVELY, RECORDS OF YAKIMA COUNTY WASHINGTON.

**PARCEL "A" DESCRIBED AS FOLLOWS:**

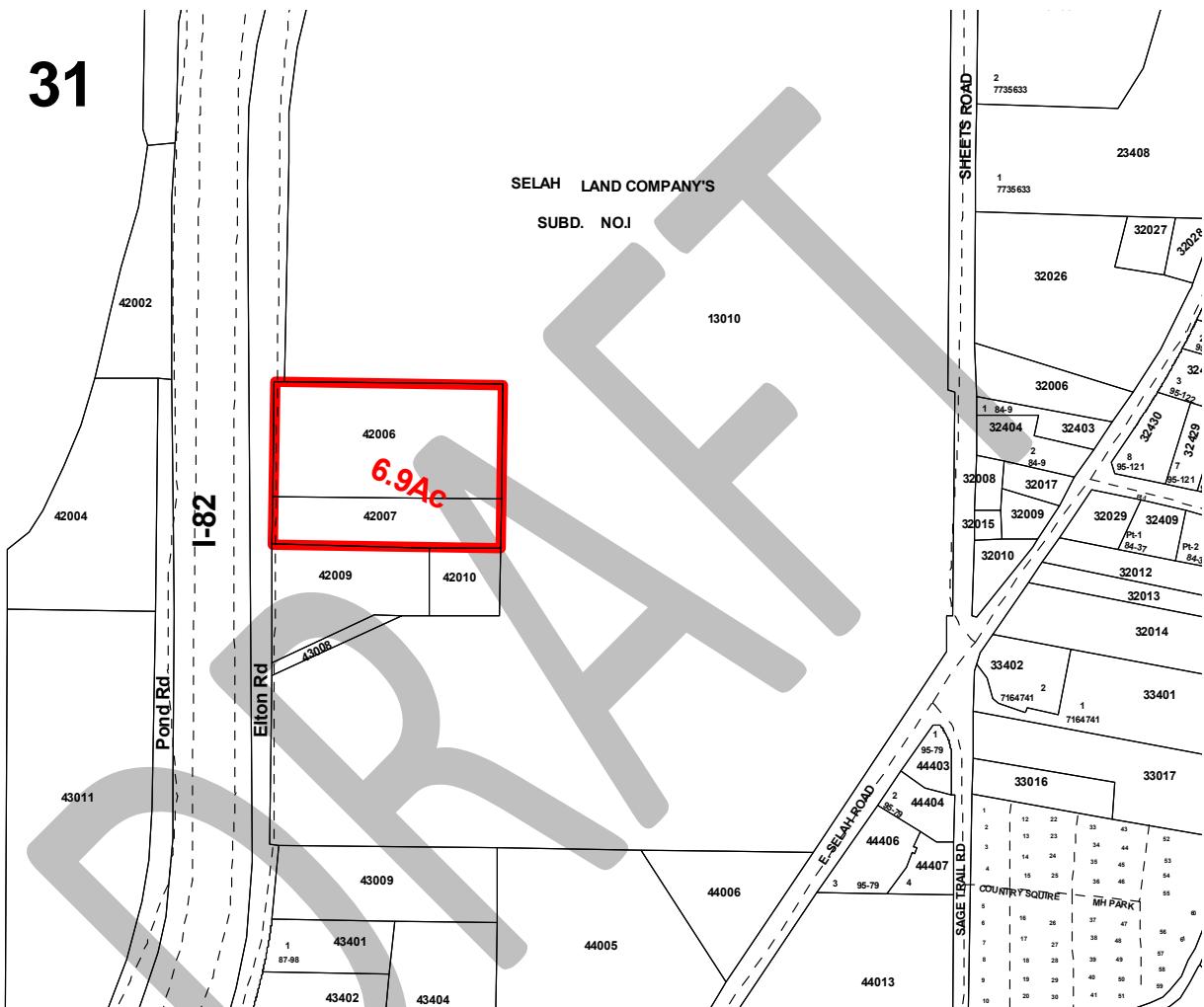
THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 14 NORTH, RANGE 19, E.W.M.; AND

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 14 NORTH, RANGE 19, E.W.M.,

EXCEPT THE SOUTH 3 ACRES THEREOF.

## Exhibit B

Map of Subject Property



**FINAL**  
**MITIGATED DETERMINATION OF NON-SIGNIFICANCE**  
(Notice of Action)

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1. **Description of Proposal:** The Yakima County Planning Division has received a request to rezone the subject property from Valley Rural (VR) to Industrial (I). Contingent upon approval of the rezone, the applicant has submitted intention to develop the subject property for heavy equipment storage, maintenance, repair, and contracting services. The future development will consist of approximately 5,700 cubic yards of fill, a 6,500 square foot combination shop/office, and an outside gravel storage area for heavy equipment. The project area would be enclosed by a 6-foot chain link fence.
2. **File Number:** SEP2014-00026
3. **Owner:**  
RK Pendleton, LLC.  
1614 East Mead Ave.  
Union Gap, WA 98903
4. **Proponent:**  
Hordan Planning Services  
Attn: Bill Hordan  
410 N 2<sup>nd</sup> St.  
Yakima, WA 98901
4. **Location of Proposal:** 551 Elton Road. On the east side of Elton Road; approximately ½ mile north of the intersection of Elton Road and East Selah Road; approximately 1 mile east of the City of Selah. (Parcel Nos. 191431-42006 and 191431-42007)
5. **Lead Agency:** Yakima County Planning Division
6. **Determination:** The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment and an Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c), provided the measures listed below are taken to mitigate potential adverse impacts. This decision was made after a careful review of the completed environmental checklist, and other information on file with the lead agency. This information (including all environmental documentation) is available to the public on request and can be examined in our offices during regular business hours. Environmental documents include the SEPA checklist, this threshold determination, and submittal materials.
7. **Identified Environmental Impacts and Mitigation Measures:**  
Substantive authority to require mitigation for significant and non-significant impacts is derived from WAC 197-11-660, Yakima County Code

Chapter 16.04.230 and, by reference, the policies contained in the Yakima County Comprehensive Plan (**Plan 2015**).

**A. Water (Ground and Surface water)**

The project area has high groundwater, nearby surface water features, and is located within the FEMA 100-year floodplain. There will likely be impacts to drainage facilities, adjacent property owners, adjacent sensitive environments, or groundwater due to construction erosion, increased runoff, and/or stormwater infiltration unless development is properly designed and managed. Adequate site investigation and development planning will mitigate these impacts. (**Plan 2015** Policies NS 9.2, NS 9.3, NS 13.1, NS 13.3, & NS 14.2)

**Mitigation Measure A1:** Because this development exceeds 1 acre of disturbed land, it is likely that stormwater will cause erosion and other surface water problems during the course of construction. To address such issues, the proponent must submit a Construction Stormwater General Permit application to the Washington Department of Ecology (DOE), obtain appropriate reviews or approvals and provide evidence of DOE's approval to the Building Official prior to construction, unless that agency determines that a permit is not necessary.

**Mitigation Measure A2:** To adequately control post-construction surface water runoff, a Stormwater Management Plan, meeting the design standards below, shall be submitted for review by Yakima County Public Services prior to grading the property, any road development, or approval of building permits.

1. A professional engineer registered in the State of Washington shall design all drainage facilities and components using best management practices. Plans, drawings and geotechnical information shall be sealed, signed and dated by a professional engineer.
2. Full retention of runoff for the 25 year design storm event is required.
3. The stormwater management plan shall describe existing conditions, including drainage facilities, surface water features, soil types, geotechnical conditions, infiltration rates and seasonal high groundwater depth.
4. All Underground Injection Control (UIC) devices must be designed in accordance with the Department of Ecology UIC guidelines.

**Mitigation Measure A3:** Storage and maintenance of heavy equipment has the potential to impact water quality from leaks or spills of fuel, hydraulic fluid, etc. To adequately address this potential impact:

1. All required maintenance of heavy equipment shall be performed inside of the shop building.
2. All equipment stored outside shall be free of any leaks.

3. Substances that are dangerous with respect to water quality shall be stored inside of a structure that meets or exceeds flood-proofing requirements, as determined by the Yakima County Chief Building Official.
8. **Comment and Appeal Information:** This Final MDNS is issued under WAC 197-11-340(2). There is no further comment on it. You may appeal this SEPA threshold determination to the Hearing Examiner. You should be prepared to make specific factual objections. The 14-day SEPA appeal period ends at 4:00 p.m. on 7/30, 2014. Agencies and those providing comments will receive a copy of the final decision. A notice of such appeal (with the filing fee) must be filed in writing and delivered to the address below. For information on the comment or appeal processes, or on other issues relating to this proposal, contact Byron Gumz, Senior Project Planner, at (509) 574-2300.
9. **SEPA Responsible Official:** Lynn Deitrick, AICP  


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10. **Designee:** Thomas Carroll
11. **Address:** 128 N. 2nd St.  
4th Floor Courthouse  
Yakima, WA 98901
12. **Date:** 7/16, 2014

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