

OFFICE OF THE HEARING EXAMINER  
YAKIMA COUNTY

<b>IN THE MATTER OF THE APPLICATION</b>	)	<b>FILE NO. MOD2021-00009</b>
	)	
<b>BY</b>	)	
	)	
<b>LAWRENCE AND BROOKE ARGENTO</b>	)	
	)	<b>HEARING EXAMINER RECOMMENDATION</b>
<b>FOR TYPE 4 REVIEW OF A MAJOR</b>	)	
<b>MODIFICATION TO A MASTER PLANNED</b>	)	
<b>RESORT /AGRICULTURAL TOURIST</b>	)	
<b>OPERATION AT 2410 NACHES HEIGHTS</b>	)	
<b>ROAD</b>	)	

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**I. INTRODUCTION.**

On July 12, 2021, Yakima County Public Services Department: Planning Division received a Type 4 Major Modification application from Lawrence and Brooke Argento to modify an existing Master Planned Resort/Agricultural Tourist Operation approved under ZON2012-00006. The Argentos propose to relocate the parking located on parcel 181307-42409 to parcel 181307-42411 and to remove parcel 181307-42409 from the Master Planned Resort/Agricultural Tourist Operation. The current proposal includes twelve (12) new improved parking spaces on parcel 181307-42411, forty-five (45) grass spaces, and twenty-two (22) overflow parking spaces on grass plus two (2) existing ADU spaces for a total of eighty-one (81) spaces. The Winery operation would be removed from the project, and replaced with an Agricultural Market to sell a variety of produce grown on site, including production from a pumpkin patch. This modification also proposes the removal of Glamping and the use of the 2580 square foot shop from the ATO.

Yakima County Planning staff prepared a staff report with attachments and hearing exhibits prior to the October 28, 2021, open record hearing on the application. The hearing was conducted both in person and in an on-line streaming format. No members of the public attended the hearing in person, but several people attended on line and provided comment on the proposal. One person also offered e-mailed comments after the close of the public comment portion of the hearing. The Argentos appeared at the hearing in person on their own behalf, and Yakima County was represented by Senior Planner Dinah Reed. During the hearing, one member of the public sought to provide remarks after the close of the public comment period during the closing remarks being provided by the Planning staff and the applicants and

was invited to offer written closing remarks since the public comment portion of the hearing had been closed.

## II. SUMMARY OF RECOMMENDATION.

The Hearing Examiner recommends APPROVAL of Lawrence and Brooke Argento's application for a modification, subject to pertinent existing conditions and additional conditions to assure compliance with **Horizon 2040** and applicable development criteria, standards and regulation.

## III. FINDINGS.

Based on the application, comments received during the comment period and at the hearing, and a review of the pertinent provisions of **Horizon 2040** (The Yakima County Comprehensive Plan) and the Yakima County Code, including the Unified Land Development Code (Title 19 YCC, referred to as the "ULDC"), the Administrative Official makes the Findings set out in this Section III. Any finding more properly determined to be a conclusion is deemed to be such.

### 1. Project Information.

Property Owners/Applicant:	Lawrence and Brooke Argento
Mailing Address:	2410 Naches Heights Road, Yakima, WA 98908
Property Location:	Located on the south side of Naches Heights Road, 300 feet west of the intersection of Schuller Grade Road and Naches Heights Road, and 2.25 miles northwest of the City of Yakima.
Property Acreage:	11.15 acres
Subject Parcel Number(s):	181307-42401, 181307-42411 and 181307-42409
Future Land Use Designation:	Agricultural Resource
Zoning Designation:	Agriculture

### 2. Project History.

On June 30, 2011, the Hearing Examiner approved a Destination Agricultural Tourist Operation on the subject property with conditions(CUP2010-00086). Under Title 19 YCC now in effect, "Agricultural tourist operation" (or ATO) refers to a working farm, including an approved winery, distillery or brewery (domestic or micro) or any agricultural, horticultural, or agribusiness operation that is open to the public for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation. These activities must be related to the agricultural products grown or produced on site and incidental to the primary operation on the site. This term includes farm tours, hayrides, corn mazes, pumpkin patches, classes related to agricultural products or skills, picnic and party facilities offered in conjunction with the above

and similar uses. The retail sales of agricultural related products is considered accessory and subordinate to the agricultural operation when the products sold are grown or produced on site. The approved 2011 project elements included:

- A 1620 square foot tasting room with 1400 square feet of outdoor space (patio and lawn space).
- The conversion of an existing residence into an office and storage space.
- The construction of a new residence on the northwest corner of the property which would require the submission of a change of use application for the then-existing residence prior to application for a building permit for the new residence since only one residence was allowed on the parcel under zoning ordinance then in effect.
- The approved hours of operation were seven days a week, 10:00 am to 8:00 pm, with an average of 30 customers per day. There would be one part-time and two full-time employees. No events were proposed as part of this approval.
- Twenty-eight parking spaces were required.

On January 9, 2012, the applicant applied for a modification (CUP2012-00004) of the project to build a pergola. The modification was approved with conditions on February 23, 2012.

On May 15, 2012, the applicants applied for a Type II modification to the project which included the proposal for “glamping.” The modification was determined to be more appropriately processed as a Resort Agricultural Tourist Application reviewed under Master Planned Resort Criteria. The then-applicants duly applied for a Resort Agricultural Tourist Operation (ZON2012-00006 and SEP2012-00032) on November 2, 2012, and included the following project elements:

- Winery/Tasting room;
- Restaurant (located in the Tasting Room);
- Event and meeting facility;
- Ten seasonal camp (glamping) sites;
- Office/Storage Building;
- Bride’s preparation quarters;
- Greenhouse;
- New parking facility;
- Annual regional wine events; and,
- Outdoor space for various activities (ex., weddings, seminars, meetings, music performances, bazaars, movie nights, and outdoor recreation activities).

The Resort Agricultural Tourist Operation was approved by the Board of Yakima County Commissioner’s on July 2, 2013, based on the Hearing Examiner’s Findings and Recommendations dated May 23, 2013. In current terms, A “Resort Agricultural Tourist Operation” is one that consists of an assortment of uses over and above any uses associated with retail or destination level operation. These accessory uses can be anything related to the

agricultural operation that enhances the tourist related experience, with a dedicated area for seminars, weddings and other social gatherings, and RV park.

Finally, October 16, 2013, the project proponents submitted an application for a modification for a 840 square foot cover addition to house farm and maintenance equipment (CUP2013-00082). The modification was approved with conditions on October 31, 2013.

### **3. Current Project Proposal Description.**

The applicants seek to move the parking to parcel no. 181307-42411 and remove parcel 181307-42409 (owned by Edward and Adrienne Simond) from the previously approved Resort ATO. The proposal includes a modification to the required 79 improved parking spaces (gravel/rural standards as required with ZON2012-00006) to a total of 81 spaces: 12 parking spaces that are improved with a finished gravel surface in accordance with YCC 19.22.070(1)(b) for rural standards as described in the associated Environmental Checklist under SEP2021-00029, 2 ADA spaces (already located on parcel no. 181307-42401), and a total of 67 spaces located on grass near the improved spaces to be clearly marked with posts and rope outlining the parking area.

Additionally, the applicants propose to eliminate the Winery and glamping from the ATO, and to add an Agricultural Market operation to it. "Agricultural market" [or AG Market] means a use primarily engaged in the retail sale of fresh, regionally grown agricultural products. An Agricultural Market may include as incidental and accessory to the principal use, the sale of factory sealed or prepackaged food products such as boxes of apples or other fruit, jams, jellies and baked goods and other value-added products using produce grown regionally, and limited non-food items. This definition does not include the sale of livestock. YCC 19.01.070.

The 2580 square foot shop located on site will not be used as an event space, but only used for storage of building equipment and personal use for the agricultural operation of the owner. The location for the AG Market will be in the covered patio area of the event/party room (formally tasting room). Agricultural products grown on site will be sold during harvest, as well as other packaged goods from the region. The agricultural operation will include a pumpkin patch. The agricultural operation will be located on a portion of the 8.40 acre parcel to the south of the ATO as depicted on the site plan.

The continued use of the subject parcels as approved under ZON2012-00006 includes uses on parcel no. 181307-42401, which is 2.75 acres of residential and commercially developed land with extensive landscaping. There is a private residence (2469 sf), shop used for house and farming storage equipment (2580 sf), event room (1620 sf) for private parties, corporate events and as staging for catering set-up for large outdoor events with gazebo (440 sf). A small storage/office space (675 sf) is to be used as office, storage, and occasional bridal preparation room during wedding events. Two ADA approved parking spaces are located next to the personal shop on parcel no. 181307-42401. Food to be provided for project activities or events

(other than produce grown on site) is proposed to be pre-packaged or provided by catering or a food truck.

Potable water is supplied by an on-site Group A well. Crops and landscaping have water supplied by Yakima-Tieton Irrigation District. The residence and office space are serviced by an on-site septic system. The indoor event space has its own commercially rated septic system permitted under HOS2012-00067 for up to 250 guests.

The majority of the 8.40 acres in parcel no. 181307-42411 would be planted in a variety of agricultural crops, such as a pumpkin patch and vegetables for selling at the AG Market on site during harvest. The AG Market will occupy the covered patio of the event facility and the days and hours of operation will be seasonal: Monday-Friday, Noon – 6 pm. During the pumpkin/fall season, the hours may extend to 9 pm on weekends; however, the hours of operation for the Resort ATO other than those pertaining to the eliminated glamping and the winery and tasting room operations will continue to be subject to the conditions in the ZON2012-00006 approval.

#### **4. Hearing Examiner Jurisdiction.**

This proposal is being reviewed as a Type 4 Major Modification application, in accordance with YCC 19.35.050(2). Section 19.30.100(1) YCC allows the Reviewing Official to impose conditions of approval on any development to ensure the proposal meets the standards and criteria for approval. The Examiner's written decision constitutes a recommendation to the Board of County Commissioners. The Board will conduct a closed record hearing on the application following the issuance of the Hearing Examiner's recommendation.

#### **5. Comprehensive Plan, Zoning, and Land Use.**

The site is within the Agriculture (AG) zoning district, and within the Agriculture Resource designation of the Yakima County Comprehensive Plan (Horizon 2040). "The purpose of the AG district is to preserve and maintain areas for the continued practice of agriculture by limiting the creation of small lots, permitting only those new uses that are compatible with agricultural activities, protection of agricultural lands of long-term commercial significance, and providing measures to notify and separate especially sensitive land uses from customary and innovative agricultural land management practices. The AG district implements the Comprehensive Plan that calls for the preservation of agricultural lands."

All surrounding parcels are within the AG zoning district. To the north is a 78.8 acre orchard, and to the west is a 9.48 acre parcel in AG production. The lot to the east is a small residential lot. The existing Wilridge Winery and tasting room is located about 1,700 feet to the south on Ehler Road.

#### **6. Public Notice / Environmental Review**

This application is subject to review under the State Environmental Policy Act (SEPA). The original ATO application (ZON2012-00006) was approved in conjunction with SEP2012-00032; however, since the parking area was moved to a new parcel, the applicant was required to submit an updated SEPA checklist. A SEPA review was submitted in conjunction with this proposal under SEP2021-00029 with a Final Determination of Non-Significance issued on September 20, 2021. In addition, after the application was submitted, an internal notice of project review was accessible via the County database system to representatives of the Transportation Division, the Building and Fire Safety Division, the Water Resources Division, the Utilities Division, and the Yakima Health District.

The SEPA Preliminary Threshold Determination was noticed to adjoining property owners on August 23, 2021, with a comment period ending September 7, 2021. The Final Threshold Determination was mailed to Parties of Record, and a Notice of Open Record Hearing was published in the Yakima-Herald on September 23, 2021.

Public notice is summarized as follows:

- Notice of SEPA Preliminary Threshold August 23, 2021
- Final SEPA Threshold Determination mailed September 23, 2021
- Notice of Open Record Hearing/published in Yakima-Herald September 23, 2021
- Property Posted October 12, 2021
- Open Record Hearing October 28, 2021

Comments were received from the State of WA Department of Ecology and neighboring property owners, as provided below.

a) State of WA Department of Ecology –

Toxics Clean-up: In summary, the subject parcel was historically used in agricultural production as an orchard. As a result, lead arsenate was applied as a pesticide often resulting in shallow soil contamination. Ecology requires soil sampling under Chapter 173-340 WAC to address lead arsenate contamination. Any development work will be required to comply with the WAC testing requirements.

Water Quality: In summary, if the project anticipates disturbing ground for stormwater off-site, application for an NPDES Construction Stormwater General Permit is recommended.

The staff report recommended that if the applicant has questions, it should contact the experts listed in the comment letter dated August 16, 2021, which was included in the staff report as Attachment E.

b) Neighboring Property Owners (In summary) –

Two neighboring property owners submitted comment letters with issues of concern summarized below. An additional email comment was provided after the close of the public comment portion of the hearing. The comment letters are included in the staff report as Attachments C & D. Summarized neighbor comments and staff report responses are set out as follows

1) *Noise* – Neighboring property owners commented that they were concerned about the noise levels and for events lasting until midnight. Condition 23 of the Hearing Examiner’s Findings and Recommendation issued on May 23, 2013, and later adopted by the Board of Yakima County Commissioners on July 2, 2013, for the existing operation states that

Hours of operation shall be between 10:00 A.M. to 10:00 PM seven days a week, year round, with occasional scheduled events running to midnight (12:00 A.M.). Extended hours of operation for scheduled events will not alter limitation on audible music provided in SEP12-032. ...

Mitigation measures identified in the SEPA Mitigated Determinations of Non-significance for the existing use and project proposal constitute conditions of project approval.<sup>1</sup> Mitigation Measure 7A in the Final Mitigated Determination of Non-Signification (SEP2012-00032) issued on March 28, 2013, states:

A. *Noise*. The project has the potential to create significant adverse environmental impacts related to noise. Likely noise impacts to surrounding residences and land owners include loud music associated with large gatherings or events. Adequate measures must be taken to mitigate these noise impacts and protect, promote, and preserve the public health, safety and welfare. (Plan 2015 Goal NS 5: Policies NS 5.1, & NS 5.4. YCC Chapter 6.28)

Mitigation Measure A1: To address noise issues associated with music and events that will occur at the Master Planned Resort, no music shall be played outdoors or be audible off-site after 10:00 p.m. on weekends (Friday or Saturday) and 8:00 p.m. on all other days.

Complaints occasionally disclose impacts that have not been adequately mitigated or those that have not yet been identified. A complaint management plan is needed to effectively receive complaints, identify impacts and mitigate accordingly. The applicant must designate a responsible party authorized to represent the Master Planned Resort on a 24-hour basis regarding such complaints.

Mitigation A2: A complaint management system must be established to deal with complaints from adjoining property owners and provide a reasonable and

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<sup>1</sup> See YCC 16.04.230(5) and Attachment H to the Staff Report at p. 17.

timely response by the operators of the Master Planned Resort to such concerns. The applicant has designated Barbara Cline as the responsible party authorized to represent the Master Planned Resort on a 24-hour basis regarding such complaints; she can be reached at (509)425-0609.

The designated contact person in Mitigation A2 is no longer associated with the subject project/parcels; the applicant is properly assigned the complaint management responsibilities.

2) *Light* – One property owner expressed concerns regarding lighting during events, that the general area is rural and a treasured aspect is the clear night sky. Condition 24 adopted by the July 2, 2013, Board of Yakima County Commissioners decision on the ATO on states:

Exterior lighting shall be directed downward and otherwise arranged, shaded, screened, shielded, and of a design that results in the light being direct onto the site and of an intensity or brightness that does not reflect or cause glare into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles on nearby roads.

The applicant has not proposed any changes to the exterior lighting, however future exterior lighting shall be installed to meet the requirements as conditioned under ZON2012-00006.

3) *Parking/Traffic* – One neighbor expressed concerns regarding the number of parking spaces and that a large parking lot with 80+ spaces would not be appropriate in an agricultural area. Other comments raised questions about dangers imposed by employee parking off of Naches Heights Road.

Condition 19 adopted by the July 2, 2013, Board of Yakima County Commissioners decision states:

Parking: A minimum of 79 parking spaces shall be provided. Parking areas shall be surfaced with a minimum of screened gravel or crushed rock, or better. Parking areas shall be graded and drained so all surface water is disposed of on-site and shall be designed according to accepted engineering standards. Handicapped parking shall be provided in accordance with RCW 19.27.031.5.

According to the current proposal's site plan, the applicant is proposing to relocate the parking area to parcel 181307-42411 and has requested that the parking requirements be modified to require only a total of 12 parking spaces that will be improved to rural standards with gravel/crushed rock surfacing. Additional spaces will be maintained in a grassy area near the improved spaces. There are two existing paved ADA accessible spaces adjacent to the shop. Keeping the overflow parking on a cut grass field is in keeping with the aesthetics of the Agriculture zoning district – in the case that area, in the future, could still be plowed for crops.



4) *Aquifer Impact* – One neighbor expressed concerns that the Argento’s well may impact their water source. The existing community well was approved for the event facility under Aecetia Water System, ID# AC430 K, but was deemed inactive by the WA State Department of Health until the new owners purchased the property. The applicant submitted a letter from State of WA Department of Health (DOH) dated September 9, 2021, transferring the ownership of the Group A well (ID# AC4390K) to Lawrence Argento. The necessary documentation was provided to DOH so that the water system could be activated.

## **7. Project Review Criteria and Analysis**

Review for Major Modifications to MPRs (YCC 19.35.050(2)). Modifications such as, but not limited to: changes to approved land uses, phasing, time limits and density within the MPR, shall be considered as major modifications and shall be reviewed under the Type 4 Review process in Chapter 19.30 and YCC Chapter 16B.03. The applicants’ proposal includes a change in land use in that it is removing parcel no. 181307-42409 (owned by the successors to the original 2012 co-applicants for the ATO/MPR) from the approved ZON2012-00006 and moving the parking to parcel no. 181307-42411. Further, the modification seeks to establish the AG Market, which is not included in the previous uses authorized for the property. The application therefore properly seeks Type 4 Review.

For Type 4 reviews, the Reviewing Official prepares written findings and conclusions stating the specific reasons upon which the decision or recommendation to approve, approve with conditions or deny the application is based. Per YCC 19.30.080(7), this part of the Findings addresses the analysis of the application based on required decision criteria as follows:

(a) *The present and future needs of the community will be adequately served by the proposed development and that the community as a whole will be benefited rather than injured.* The proposal reduces the acreage of the project and relocates parking to support an AG Market and events of up to 50 people. The new aspects of the project do not materially change the potential effects of the existing development that have already been determined by the Board of County Commissioners to meet the purposes of *Horizon 2040* and, consequently, the public interest. The conversion of parking from graveled parking for 81 vehicles to a combination of graveled and grass parking is a major aspect of the modification. The Staff Report provides that the applicants must 25 improved parking spaces to YCC 19.22.070 Rural Standards. Minus the two ADA parking spaces, the remaining 54 parking spaces may be allowed as parking on grass. Keeping the additional parking area in grass supports the AG zoning district because it will not have the impact that would result from several acres of land being covered in gravel, and since the area is very flat, can be mowed and watered to keep dust down versus a large, graveled parking area. More detailed analysis of the parking requirements is included in III.7(a)(4).

Public comments noted problems with the previous operator's compliance with noise and lighting requirements and hours of operation. However, in 2019, the County adopted a new code enforcement ordinance<sup>2</sup> that provides a clearer avenue for assuring compliance with permit requirements. Therefore, these enforcement provisions taken together with the permit conditions provide a reasonable basis for protecting against the issues of which the neighbors complained.

(b) *The proposed use is compatible with neighborhood land uses, the goals, objectives and policies of the Comprehensive Plan, and the legislative intent of the zoning district.* The neighboring land uses include a combination of rural density residential uses and agricultural operations. The principle focus of the AG zoning district is on protecting agricultural production. The modification proposal, as conditioned, does not appear to present any additional substantial interference with surrounding land uses.

Horizon 2040 Policy LU-ER-AG 1.5 seeks to “[allow] for accessory uses, including non-agricultural uses that support, promote, or sustain agricultural operations and production. Such accessory uses may include bed & breakfasts, boarding houses, restaurants, event facilities and other amenities that are determined to support agriculturally related entrepreneurial efforts.” So long as the proposal facilities promote such entrepreneurial effort at a working farm (including actual agricultural production on the south parcel of the project), the purpose of the policy is served.

The legislative intent of the AG district is to preserve and maintain areas for the continued practice of agriculture by limiting the creation of small lots, permitting only those new uses that are compatible with agricultural activities, protection of agricultural lands of long-term commercial significance, and providing measures to notify and separate especially sensitive land uses from customary and innovative agricultural land management practices. The AG district implements the Comprehensive Plan that calls for the preservation of agricultural lands. YCC 19.11.010(1)(b). There is no indication that the proposed reconfiguration or AG market operation would conflict with this intent.

(c) *The site of the proposed use is adequate in size and shape to accommodate the proposed use.* Except for the changed configuration of the parking areas, the proposal relies on the existing footprint of the ATO, less the property immediately to the east that was originally included in the ATO. There is no indication that there is any issue with the commodiousness of size and shape of the property that cannot be addressed through noise, lighting, and hours of operation conditions. In addition, the acreage for glamping use that would be eliminated under the modification, which also will increase areas available for the proposed uses and configuration changes.

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<sup>2</sup> Title 21 YCC.

(d) *All setbacks, spaces, walls and fences, parking, loading, sitescreening, landscaping, and other features required by Title 19 YCC.* The AG Market, event uses, elimination of other uses, and parking reconfiguration require reevaluation of parking conditions provided in the 2013 ATO approval. The following analysis is adopted from the Staff Report, with minor additions:

In accordance with YCC Table 19.22-1 for off-street parking calculations, eating and drinking establishments require 1 space/250 square feet of floor area. The following uses are considered for the required parking spaces:

- 1,620 indoor event facility      7 spaces
- 754 square foot patio            3 spaces
- 440 square foot gazebo          2 spaces
- Total spaces                            12 spaces

The above calculations only take into consideration the number of spaces required based on square footage of structures used for events. In addition, there will be a pumpkin patch and an AG Market. The applicant states in their narrative that the most intensive use of the event facility will be approximately 150 guests for larger special events, and this type of event would be sporadic. The anticipated number of guests for most private events would most likely be 50 guests. The seasonal pumpkin patch anticipates up to 20 vehicles per day during peak weekends in the fall.

The applicant states that there is adequate space in the front of the residence on Naches Heights Road for parking spaces for any part-time employees needed for events. According to aerial photos from April 2021, there is over 1,400 sf of improved area in front of the residence supporting this justification for part-time employee parking.

There are two existing ADA compliant parking spaces next to the indoor event space.

Staff Finding: The original application, ZON2012-00006 proposed a greater indoor area space, glamping sites, and 8 employees with a total of 79 parking spaces. Yakima County code at the time (Ch. 15.64 YCC) required a total of 48 improved parking spaces.

The application reviewed under ZON2012-00006 proposed a grass field for the parking area, which was denied by the Yakima County Planning Official based on the justification that the property would be an ATO with large events. The applicant's Modification narrative proposes a total of 82 parking spaces; however, the site plan shows a total of 81. The Modification reduces the indoor/outdoor area to 2814 square feet and eliminates glamping and winery operations or wine tasting, which eliminates the need for 8 employees. The employees proposed with the Modification will be up to 5 part-time temporary employees, as needed, for larger events.

According to current code, YCC 19.22.070, the applicant shall provide at least twelve parking spaces, based on square footage of structures used for the ATO, and shall be constructed to Rural Standards – parking facilities within all rural zones and shall be surfaced with a minimum of screened gravel or crushed road, or better. Each space shall be designed to be 9' wide and 20' deep.

However, the intensity of the use implies that for most events, there is an expectation of approximately 50 guests. The typical ratio of guests to vehicles is two guests per vehicle, equating to at least 25 vehicles at any given event. The Yakima County Planning Division requires that the applicant provide 25 improved parking spaces to YCC 19.22.070 Rural Standards. Minus the two ADA parking spaces, the remaining 54 parking spaces may be allowed as parking on grass. Keeping the additional parking area in grass supports the AG zoning district because it will not have the impact that would arise from several acres of land being covered in gravel, and since the area is very flat, can be mowed and watered to keep dust down versus a large gravel environment that will cause dust.

The parking area shall be setback 10 feet from the existing drain field as required by the Yakima County Health District.

(e) *The proposed use complies with other development and performance standards of the zoning district and Title 19 YCC.* Other relevant standards and analyses in the Staff Report include the following, which are adopted as Findings with minor adjustments:

(1) Drainage: The Yakima County Water Resources Division has made the following revised comments:

Ongoing 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.
- General drainage - 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.

Staff Finding: The applicants shall comply with the requirements of the Yakima County Water Resources Division.

(2) Potable Water Supplies: Potable water is supplied by an onsite well.

The Yakima Health District provided the following comments:

“This facility, as proposed, will require a group A community water supply. The water system serving this facility was once an approved community water supply but is now marked "inactive". the name of the water system was Aecetia Water System and the ID# is AC430 K. Contact Andy Cervantes with the Washington State Department of Health Drinking Water Division for more details on this process.”

Staff Finding: On October 7, 2021, an e-mail was received from Joel Freudenthal with the Yakima County Water Resources Division indicating that the existing well is not required to apply for a Yakima County Water Resource Service (YCWRS) permit, but that the applicant should update their claim with the State of WA Department of Ecology. Additionally, the applicant submitted a letter from State of WA Department of Health (DOH) dated September 9, 2021, transferring the ownership of the Group A well (ID# AC4390K) to Lawrence Argento. The necessary documentation was provided to DOH so that the water system could be activated. The applicant has met the verification necessary for the activation of the Group A well. See State of WA Department of Health letter as Attachment G.

(3) Sanitary Disposal: The existing residence is served by an existing onsite septic system, and the event space has its own commercially rated septic system permitted under HOS2012-00067. The Yakima Health District provided the following comments:

“The existing septic system serving this property was sized for 200 guests and should be adequate for the project as proposed. Yakima Health District requires a 10-foot setback from the edge of the parking lot to the septic drainfield.”

Staff Finding: Per YHD comments, the septic systems have been approved and no further permits are required at this time, however any future changes to the septic systems may require new permits and the applicant will need to contact YHD.

(4) Fire Prevention Services: The Yakima County Fire Marshal’s Office provided the following comments:

“Fire Flow may 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.”

A site visit to the subject property was conducted by the Fire Marshall on October 13, 2021, and subsequent comments were made as follows:

“The only things they will need to do is have a monitored fire alarm and knock box installed in the event building. FAAR access is approved.”

Staff Finding: The applicant shall install a monitored fire alarm system and a knock box for the event building prior to commencement of use[.]

(5) Lighting: For all outdoor lighting fixtures on buildings, in the parking area and in general throughout the project site.

Staff Finding: In accordance with YCC 19.10.040(10) Exterior lighting is regulated to minimize light pollution to neighboring properties and encourage true-color, full-spectrum light rendition in projects. Exterior lighting for all uses and signs shall be directed downward and otherwise arranged, fully shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles.

Additionally, condition 24 of the Hearing Examiner's Findings and Recommendation issued on May 23, 2013, and later adopted by the Board of Yakima County Commissioners on July 2, 2013, states:

Exterior lighting shall be directed downward and otherwise arranged, shaded, screened, shielded, and of a design that results in the light being direct onto the site and of an intensity or brightness that does not reflect or cause glare into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles on nearby roads.

The applicant has not proposed any changes to the exterior lighting; however, any future exterior lighting installed shall meet this requirement as approved under ZON2012-00006.

(6) Signage: In accordance with YCC 19.20.030 all on-premises signs are accessory to the principal use. The applicant stated in their narrative that signage will be limited to temporary/portable sandwich board type signs on days of events placed at the corner of Schuller Grade Road and Naches Heights Road.

Staff Finding: YCC 19.20.040(14) Non-reviewed signs includes sandwich boards – 'Portable sandwich board signs not to exceed 12 square feet per face up to 1 sign per frontage.' The applicant shall comply with this standard.

(f) *The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.* The applicant proposes that the property will have access to Naches Heights Road via Schuller Grade Road (County gravel road) into the back entrance of the subject parcel. The Yakima County Transportation Division provided the following comment in relevant part:

"Previously permitted access:... RAP2011-080 is the 30' commercial access which was a conditional requirement of ZON2012-00006.

...The approved conditional land use and the proposed land use will not have a significant change in expected traffic volumes. This portion of Schuller Grade Road is considered a low-volume gravel road that when designed to AASHTO standards for low-volume gravel roads can support the potential traffic of this proposal. With proper maintenance the roadway should support this land use proposal.

Off-site Improvements. Off-site improvements will only be required if a significant deficiency affecting roadway capacity or safety has been identified by the County Engineer. Note: Capacity should not be an issue as only 4 residential properties are currently utilizing Schuller Grade Road as their access roadway.”

The access leading into the subject parcels off Schuller Grade Road is a private driveway that serves only the subject parcels, and is required to meet the private driveway standards of Yakima Fire & Life Safety Division, including but not limited to an approved turnaround with all-weather surface. Based on a review of aerial photography from 2021, the Staff Report notes that the subject parcels show an adequate paved turnaround area.

Public comments raised concerns about traffic safety effects of the modification, but in absence of specific evidence showing County transportation officials to be in error in their professional determination that the modification will present no transportation issues, there is no basis for denying the application or requiring additional conditions.

(7) *The proposed use will have no substantial adverse effect on abutting property or the permitted use thereof.* There does not appear to be a potential additional effect on abutting properties from the parking reconfiguration or AG Market/event operations beyond those previously approved by the Board of County Commissioners. Neighbors have raised concerns about the interference of the past use of the property with the quiet enjoyment of their property. The proposal does not seek any relief from the noise-related approval conditions originally imposed on the project now proposed to be modified. The applicant has not proposed any changes to the approved hours of operation in association with the Resort ATO and is obliged to adhere to the hours as approved under ZON2012-00006 and SEP2012-00032 for remaining uses within the scope of that approval. The applicant is proposing that the hours of operation for the AG Market be Monday-Friday, Noon – 6 pm. During the pumpkin/fall season, the hours may extend to 9 pm on weekends. These hours of operation and related noise requirements will be within the envelope of the conditions of approval applicable to the ZON2012-00006 ATO. As noted in III.7.a, above, effective enforcement of the permit conditions related to noise, lighting, and hours of operation will promote compatibility of the proposed market and related events with neighborhood residential uses.

#### IV. CONCLUSIONS

1. The Administrative Official is responsible interpreting and applying Title 19 YCC. The Administrative Official has determined that the Argentos’ application should be processed as a major modification to a previously approved Master Planned Resort under current provisions of YCC 19.35.050.



2. The Hearing Examiner has jurisdiction to conduct an open record hearing and issue a recommendation to the Board of County Commissioners on an application for a major modification of an existing Master Planned Resort under Type 4 Review procedures.

3. Based on the Staff Report, all conditions of approval for ZON2012-00006 and CUP2013-00082 have either been met or are no longer applicable except for the following conditions which still apply to the approved use of the property:

- All mitigation measures in SEP2012-00032 are adopted as conditions of this [2013] decision.
- All applicable permits shall be obtained from the Washington State Liquor Control Board. Documentation of permits shall be provided to the Yakima County Planning Division.
- Exterior lighting shall be directed downward and otherwise arranged, shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles on nearby roads.
- The owners, their grantees and assignees in interest hereby agree to the terms of the Compliance, Extension, Expiration and reinstatement requirements as outlined YCC 16B.07.050.

4. Based on the hearing record, and the preceding Findings and analysis

a) the present and future needs of the community will be adequately served by the proposed modification to the existing Resort Agricultural Tourist Operation, and that the community as a whole will be benefited rather than injured through the support of a working farm in the AG zoning district;

b) the proposed use is compatible with neighborhood land uses, the goals, objectives and policies of the Comprehensive Plan, and the legislative intent of the zoning district;

c) the site of the proposed use is adequate in size and shape to accommodate the proposed modification;

d) the modification of the existing ATO complies with setbacks, parking, and other features required by Title 19 YCC;

e) the uses proposed by the modification comply with other development and performance standards of the zoning district and Title 19 YCC;

f) the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the modified use as described in the application materials and site plan based on comments from Yakima County transportation staff; and

g) based on additional conditions of approval enforceable pursuant to Title 21 YCC and other provisions of the Yakima County Code, the proposed uses included in the modification will have no substantial adverse effect on abutting property or the permitted use thereof.

5. The preceding consideration of the decision criteria in YCC 19.30.080(7) satisfies the consistency requirements set out in RCW 36.70B.040 and YCC 16B.06.020.

#### **V. RECOMMENDATION**

The application by Lawrence and Brooke Argento for the major modification of an existing Resort Agricultural Tourism Operation (File No. MOD2021-00009) should be APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant shall comply with conditions of approval imposed under previous application reviews, including without limitation ZON2012-00006 and CUP2013-00082, unless those conditions have been previously satisfied or are otherwise modified by this decision.

2. All mitigation measures in SEP2012-00032 are adopted as conditions of this decision. The applicant shall be responsible for implementation of the complaint management system set out in the mitigation measures, and failure to comply with the mitigation measures shall be subject to enforcement actions in accordance with Title 21 YCC.

3. All applicable permits shall be obtained from the Washington State Liquor Control Board. Documentation of permits shall be provided to the Yakima County Planning Division.

4. Exterior lighting shall be directed downward and otherwise arranged, shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles on nearby roads.

5. The owners, their grantees and assignees in interest hereby agree to the terms of the Compliance, Extension, Expiration and reinstatement requirements as outlined YCC 16B.07.050.

6. The applicant shall improve twenty-five (25) parking spaces to meet YCC 19.22.070(1)(b) Rural Standards, which provides that parking facilities within all rural zones shall be surfaced with a minimum of screened gravel or crushed road, or better. Each space shall be designed to be 9' wide and 20' deep. The applicant shall also provide fifty-four (54) parking spaces in a designated grassy area near the improved parking spaces.

7. All parking areas shall be setback 10 feet from the existing drain field as required by the Yakima County Health District.

8. The proposed agricultural use associated with the AG Market shall be established for the harvest season in 2022. If the AG Market is ever discontinued, or if the working farm operation is discontinued, the applicant shall contact the Yakima County Planning Division for modification of the permit or immediately discontinue the Destination Agricultural Tourist Operation.

9. Hours of operation for the Resort ATO shall be between 10:00 A.M. to 10:00 PM seven days a week, year round, with occasional scheduled events running to midnight (12:00 A.M.). Extended hours of operation for scheduled events will not alter limitation on audible music provided in SEP12-032. Additionally, the hours of operation for the AG Market shall be Monday-Friday, Noon – 6 pm. During the pumpkin/fall season, the hours may extend to 9 pm on weekends.

10. The applicant shall install a monitored fire alarm system and a knox box for the event building prior to commencement of use.

11. Portable sandwich board signs shall not exceed 12 square feet per face, and up to 1 sign per frontage.


12. The owners shall assure that all surface water generated on-site is retained on site. Any natural drainageways may not be altered or impeded.

13. Failure to comply with these conditions of approval is subject to enforcement actions set out Title 21 YCC and elsewhere in the Yakima County Code.

14. All development and uses on the property shall substantially conform to the site plan and narrative included in the application materials except to the extent those materials are superseded by this decision.

15. Nothing in this decision constitutes a waiver of the applicants' obligation to comply with County Ordinances or other applicable law.

DATED THIS 17<sup>TH</sup> DAY OF NOVEMBER 2021

DocuSigned by:  
  
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PATRICK D. SPURGIN  
HEARING EXAMINER PRO TEMPORE