

**COUNTY OF YAKIMA, WASHINGTON
HEARING EXAMINER'S DECISION**

September 16, 2022

In the Matter of an Application)	
For a Type 3 Preliminary)	
Amended Plat Submitted by:)	
)	LSP2022-00001
The Martinez Subdivision Owners)	ESP2022-00004
Van Boven Holding Co., LLC and)	
Sagebrush Ranch Enterprises, LLC)	
)	
For a Preliminary Amended Plat of the)	
Martinez Subdivision in the Agriculture)	
(AG) Zoning District at 1101 Glade Road)	
South of the City Limits of Mabton)	

A. Introduction. The preliminary background findings relative to the open record public hearing process conducted for this application are as follows:

(1) The Hearing Examiner conducted an open record public hearing regarding this application on September 1, 2022.

(2) Julia Loudon, Yakima County Senior Project Planner – Zoning and Subdivision, presented her detailed and thorough staff report recommending approval of the application subject to conditions.

(3) The representative of Van Boven Holding Co., LLC, Thomas Durant who is the Planning Manager of PLSA Engineering and Surveying, testified in favor of the application and requested revisions to several of the recommended conditions.

(4) The Stormwater Lead for the Yakima County Water Resources Division, Jack Wells, answered questions regarding stormwater drainage requirements.

(5) No one else testified at the hearing and no written public comments or comments

from outside agencies were submitted at the hearing or prior to the hearing.

(6) Some of Mr. Durant's requested revisions to recommended conditions were accepted during the hearing. The record was kept open to include more information that was needed to decide whether revisions should be made to recommended conditions #15 and #21.

As to condition #15, Mr. Durant asked whether an email of August 2, 2022, from Yakima County Water Resources Strategic Manager Joel Freudenthal could be interpreted to leave room for an exemption from the requirement to obtain a Yakima County Water Resource System (YCWRS) domestic well permit. Mr. Freudenthal clarified his prior email by an additional email dated September 6, 2022, stating that even if a Group B well were required for the amended plat, it would be necessary to either sign up with the County or purchase water rights to supply the water. That email will be made an additional exhibit in the record.

As to condition #21, Mr. Durant contended that the amended subdivision was not creating new lots so as to require a Stormwater Plan for the lots. He requested that the qualification "if required by YCC 12.10.210" be added to the condition #21 requirement to submit a Stormwater Plan. Rather than merely postpone the administrative official's interpretation of YCC 12.10.210, more information was requested as to how YCC 12.10.210 is being interpreted by the administrative official. An email dated September 14, 2022, was received wherein Yakima County Public Services Planning Official Tommy Carroll stated in part that the Hearing Examiner needs to understand that the plat needs to have a stormwater site plan approved, especially in light of the large unpermitted CAFO right next door. That email contained an attachment as to a revised recommended condition #21 to that effect drafted by Yakima County Water Resources Supervisor Nate Paris. That email with its attachment will also be made an additional exhibit in the record.

(7) Taking into account the Labor Day holiday on Monday, September 5, 2022, this Decision has been issued within ten business days of the September 1, 2022, open record public hearing.

B. Summary of Decision. This application is approved subject to conditions.

C. Basis for Decision. Based on a view of the site with no one else present on August 30, 2022; consideration of the staff report, exhibits and testimony presented at the public

hearing on September 1, 2022, and the exhibits submitted thereafter; and a review of Section 58.17.215 of the Revised Code of Washington, the Yakima County Comprehensive Plan and the Yakima County Unified Land Development Code, Title 19 of the Yakima County Code (YCC); the Hearing Examiner makes the following findings and conclusions. Any findings more properly considered to be conclusions shall be deemed to be such.

FINDINGS

I. Applicants/Property Owners/Representative. The applicants and property owners of the lots within the Plat of Martinez Subdivision are Steve Van Boven for Van Boven Holding Co., LLC, P.O. Box 8, Mabton, WA 98935 and Jacob Veldhuis for Sagebrush Ranch Enterprises, LLC, 650 Hornby Road, Grandview, WA 98930 which is purchasing Lot 1 and Lot 7 of the Plat by means of a Real Estate Contract from Van Boven Holding Co., LLC. The representative of the applicant/property owner Van Boven Holding Co., LLC for this Plat Amendment application is Thomas Durant, Planning Manager of PLSA Engineering and Surveying, 521 North 20th Avenue, Suite 3, Yakima, Washington 98902.

II. Location. The 116.78-acre Plat of Martinez Subdivision is located at 1101 Glade Road along the east side of the road about one mile south of the city limits of Mabton and of the intersection of Glade Road with Maple Street. The Yakima County Assessor's Parcel Numbers for the eight residential lots 2, 3, 4, 5, 6, 8, 9 and 10 that would be reconfigured by this Plat Amendment are 220812-42006, 220812-42007, 220812-42008, 220812-42009, 220812-42010, 220812-42011, 220812-42012, 220812-42013 respectively. The Yakima

County Assessor's Parcel Numbers for the two large agricultural lots 1 and 7 within the Plat are 220812-41001 and 220812-43005 respectively.

III. Hearing Examiner's Jurisdiction. The details regarding the Hearing Examiner's jurisdiction in this matter may be summarized as follows:

(1) The proposal is subject to the Yakima County Unified Land Development Code, Title 19 of the Yakima County Code (YCC). Amendments to Final Subdivision regulations are contained within YCC 19.34.070(7) of Title 19. According to YCC 19.34.070(7), once a plat has been recorded with the County Auditor, it shall remain as the official plat covering the land and if a person proposes to alter or vacate the plat in whole or in part, the procedures in Chapter 58.17 RCW shall be followed.

(2) RCW 58.17.215 states that, upon receipt of an application to alter a plat, the legislative body (Yakima County) shall provide notice of the application to all owners of property within the subdivision. The notice shall also either establish a date for public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice. YCC 19.30.030(3)(b)(iii) provides that plat alterations under Chapter 58.17 RCW are subject to a Type 3 review.

(3) YCC §16B.03.030 provides that Type 3 applications are quasi-judicial actions that require public notice and an open record hearing by the Hearing Examiner. The Hearing Examiner's written Decision constitutes the final decision which is appealable to Yakima County Superior Court. Public notice is provided for Type 3 review.

IV. Application. The main aspects of this proposed amendment to the Plat of Martinez Subdivision may be summarized in the following manner:

(1) On May 17, 2022, the Yakima County Public Services Department: Planning Division received a Plat Amendment application from Thomas Durant with PLSA Engineering and Surveying who represents Steve Van Boven d/b/a Van Boven Holding Co., LLC which owns the eight residential lots located in the subdivision that would be re-configured in shape and size to all have access to and from Glade Road. The application was also signed by Jacob Veldhuis d/b/a Sagebrush Ranch Enterprises, LLC which is purchasing

the two large lots in the subdivision, Lot 1 and Lot 7, on a Real Estate Contract. They are used for agricultural purposes and would not be reconfigured in shape and size. Unnecessary access easements and utility easements are proposed to be vacated with new easements to be established at better suited locations. The especially sensitive resource setbacks are also proposed to be reduced on the south and west sides of the residential cluster lots.

(2) The existing Plat of Martinez Subdivision which is within the Agriculture (AG) zoning district was approved under file Plat #463 and was recorded under Auditor's File Number 7288130 on August 19, 2002. The intent was to provide eight small residential cluster lots in the northwest corner of the site and two large agricultural lots to the east and south. The small residential Lots 2, 3, 4, 5, 6, 8, 9 and 10 of the subdivision range in size from 1.61 acres to 3.28 acres in size. Parcel number 220812-42008 (Lot 4) contains an existing residence that was built in the 1920s. This lot also contains a shed and a barn. Parcel number 220812-42009 (Lot 5) contains a smaller barn. Parcel numbers 220812-43001 (Lot 1) and 220812-41005 (Lot 7) are 60.14 acres and 40.15 acres in size respectively. They are part of a larger calf ranch operation that covers the neighboring parcels to the east, southeast and south of the subdivision. Agricultural buildings associated with the calf ranch are located on Lot 1. Previous building permits on the lot describe them as a shop and feed shed. Two private roadways in 60-foot-wide access easements were provided through the small residential lots from Glade Road to the large agricultural Lot 7 to the east. Four 2-party shared wells and their associated easements were established to provide the residential lots with domestic water. The two large agricultural Lots 1 and 2 are served by their own separate wells.

(3) The proposed plat amendment would rearrange the parcel lines of the existing small residential Lots 2, 3, 4, 5, 6, 8, 9 and 10. This would result in each small lot having frontage onto Glade Road. This reorientation would also provide a larger buffer between the ranch activity on Lot 7 and the future residential uses on the cluster lots.

(4) The two 60-foot-wide access easements and several interior utility easements are proposed to be vacated. Two new 35-foot-wide access easements are proposed to be dedicated to serve the residential lots. Three existing and previously approved approaches onto Glade Road would be utilized. A new 30-foot-wide access and utility easement is proposed through the agricultural Lot 1 to provide access to the agricultural Lot 7.

(5) The residential lots would still be served by the four 2-party shared wells, but the well access and distribution easements would be relocated.

(6) A resource setback reduction for the reconfigured small lots other than Lot 4 is also requested from the AG-zoned parcels to the west and from the AG-zoned Lot 1 to the south of Lot 2. The 150-foot resource setback is proposed to be reduced to 110 feet from the AG-zoned property to the west other than for Lot 4. The 150-foot setback is proposed to be reduced to 60 feet from the AG-zoned Lot 1 to the south of residential cluster Lot 2.

(7) The existing and proposed lot sizes and the land uses are as follows:

Lot #	Existing Lot Size	Proposed Lot Size	Land Use
1	60.14 acres	60.14 acres	Agricultural (Calf Ranch)
2	1.75 acres	1.88 acres	Future Residential
3	2.00 acres	1.90 acres	Future Residential
4	3.28 acres	3.24 acres	Residential
5	1.88 acres	1.93 acres	Future Residential
6	1.82 acres	1.49 acres	Future Residential
7	40.15 acres	40.15 acres	Agricultural (Calf Ranch)
8	1.97 acres	1.72 acres	Future Residential
9	1.61 acres	1.72 acres	Future Residential
10	2.18 acres	2.64 acres	Future Residential

V. Notices. Notices of the application and of the open record public hearing were provided in the following manners:

(1) After the application was submitted, an internal notice of project review was emailed to representatives of the Building and Fire Safety Division, the Code Enforcement Division, the Long Range Planning Section, the Water Resources Division, the Transportation Division, and the Yakima Health District. Comments are addressed in the findings below.

(2) After the application was determined to be complete, a combined Notice of Application, Notice of Completeness, and Notice of Future Hearing was mailed to adjoining property owners within 300 feet of the property and to agencies having jurisdiction or interest in the proposal on June 22, 2022, with the comment period ending on July 6, 2022.

(3) The notices for the September 1, 2022, open record public hearing were provided in accordance with the applicable ordinance requirements in the following ways:

Mailing of Hearing Notice to property owners within 300 feet and to agencies having jurisdiction or interest:	August 17, 2022
Publishing of Hearing Notice in the Yakima Herald-Republic:	August 17, 2022
Posting of Hearing Notice on the property:	August 17, 2022

VI. Environmental Review. YCC 16.04.100 establishes flexible thresholds for categorical exemptions from the State Environmental Policy Act (SEPA). A maximum of twenty residential dwelling units outside of Urban Growth Areas is considered exempt under YCC 16.04.100(1). A SEPA review was conducted for the original subdivision under file ER 1997-5. A Determination of Nonsignificance (DNS) was issued for the project on April 28, 1997. The proposed plat amendment does not increase the number of dwelling units from the eight original dwelling units in the plat or increase the number of lots from the ten original number of lots in the plat. For these reasons, it was determined that a new SEPA review for the current proposal was not required.

VII. Critical Areas/Shoreline Review. The Yakima County Critical Areas maps indicate that there are no Critical Areas or Shorelines on the subject property.

VIII. Comprehensive Plan, Zoning and Land Uses. Comprehensive Plan, zoning and land use characteristics of the Plat of Martinez Subdivision are as follows:

(1) The plat is located within the Agricultural Resource Future Land Use Map designation of the Yakima County Comprehensive Plan (*Horizon 2040*), is within the Agriculture (AG) zoning district, and is mostly undeveloped except for a few residential buildings and except for agricultural uses on the two large lots.

(2) YCC 19.11.010(1)(b) provides that the purpose of the Agriculture (AG) zoning district is to preserve and maintain areas for the continued practice of agriculture by limiting

the creation of small lots; to permit only those new uses that are compatible with agricultural activities; to protect agricultural lands of long-term commercial significance; and to provide measures to notify and separate especially sensitive land uses from customary and innovative agricultural land management practices. The AG zoning district implements the Comprehensive Plan that calls for the preservation of agricultural lands.

(3) Surrounding parcels are also within the Agriculture (AG) zoning district and vary in size from 581.02 acres to 2.06 acres in size. The area is primarily in agricultural production with a small number of residential lots. The Yakima County Comprehensive Plan (*Horizon 2040*) Goal and Policies with additional Planning Staff and Hearing Examiner findings in italics that support approval of the Plat Amendment are as follows:

(a) GOAL LU-ER-AG 1: Maintain and enhance productive agricultural lands and discourage uses that are incompatible with farming activities.

(b) POLICY LU-ER-AG 1.12: Where parcelization has already occurred, encourage reconfiguration that allows the same number of lots with a design that will have less impact on agricultural use.

(c) POLICY LU-ER-AG 1.7: Non-farm residences and uses within or adjacent to agricultural lands of long-term commercial significance shall be located, designed and subject to special setbacks and other appropriate buffers to minimize conflicts with agricultural practices and other activities associated with agricultural lands. A 150-foot setback from the adjoining agricultural activity shall be required for all non-farm related uses, except where it can be demonstrated that a smaller setback will not interfere with accepted farm practices. Considerations in reducing the setback may include the size or shape of the parcel, historic use, natural features, physical barriers, crop type and structures on the adjoining resource parcel, location of structures on adjoining properties, proposed site design, and use of screening, berms, barriers and landscaping.

(d) POLICY LU-ER-AG 1.8: Require as part of development approval a declarative covenant or plat note to disclose the presence of agricultural activities in the area when property is within 500 feet of an existing agricultural zone. The notification shall disclose that the property is nearby or adjacent to land where farm operations and generally accepted agricultural and management practices are present (as defined under YCC Chapter 6.22, Right-to-Farm) and will be subject to a variety of activities that may not be compatible with non-farm or residential development.

The Long Range Planning Section stated that there are no long range planning issues with the proposed Plat Amendment. The proposed amendment is not increasing the number of lots of the original subdivision. The proposal instead involves reconfiguring the previously created small lots to allow for more of a separation from Lot 7 which is a large lot in agricultural production. New residences on the reconfigured small lots would be able to better meet the required 150-foot resource setback from Lot 7. The proposal also involves eliminating the two access easements through the residential lots for the agricultural Lot 7. Both measures will help to reduce potential conflicts between residential uses and the neighboring calf ranch use. Under the current code for cluster developments, residential lots are to be 1-3 acres in size (YCC Table 19.11.010-1). This is an existing cluster development, not a new cluster. The small lots that were already between 1 and 3 acres in size will remain between 1 and 3 acres in size. The small lot that is already over 3 acres in size will only change in size slightly from 3.28 acres in size to 3.24 acres in size. When adjusting the size and dimension of nonconforming lots, the divisibility of the final lots cannot be increased and, when in the AG zoning district, must be shown to benefit existing long-term commercial resource use. The proposed 3.24-acre lot size will not increase divisibility. Part of the proposal also involves reducing the 150-foot agricultural resource setbacks. This can be accomplished using the Type 1 exceptions of YCC 19.35.020(6)(d) and will require a declarative covenant or plat note in accordance with YCC 19.18.205(4).

IX. Comments Received. There were no written comments received relative to this proposal from members of the public or from outside agencies.

X. Type 3 Review Criteria for Subdivision Amendments. There are no specific standards for plat alteration review in YCC Title 19. YCC 19.30.030(3)(b)(iii) states that plat alterations are subject to Type 3 review. YCC 19.34.070(7) provides that if a person proposes to alter or vacate the plat in whole or in part, the procedures in Chapter 58.17 RCW shall be followed. RCW 58.17.215 sets forth the following requirements for approval of subdivision alterations: (1) an application which contains the signatures of the majority of

those persons having an ownership interest of the lots in the subject subdivision to be altered; (2) public notice and a hearing; (3) a determination that the alteration is in the public use and interest; and (4) a revised drawing of the approved alteration of the final plat which is to be filed to become the lawful plat of the property. Findings relative to the proposed Preliminary Amended Plat of Martinez Subdivision with additional more specific Planning Staff and Hearing Examiner findings set forth in italics are as follows:

(1) **Application Containing the Signatures of the Majority of Persons.** The lots are currently owned by Van Boven Holding Co., LLC. The agricultural Lots 1 and 7 are being purchased from that entity by applicant Sagebrush Ranch Enterprises, LLC by means of a Real Estate Contract. The plat alteration application has been signed by Steve Van Boven for owner Van Boven Holding Co., LLC and by Jacob Veldhuis for purchaser Sagebrush Ranch Enterprises, LLC.

(2) **Public Notice and Hearing.** This plat alteration application is being reviewed under the Type 3 review process which includes public notice which was given on August 17, 2022, and a hearing which was held on September 1, 2022.

(3) **A Determination Whether the Proposed Plat Alteration is in the Public Use and Interest by Consideration of the Roads per RCW 58.17.110 and YCC 19.34.050(5)(a).** A description of the proposed alteration of road easements, comments submitted relative to the proposed roads within the Preliminary Amended Plat of Martinez Subdivision and additional Planning Staff and Hearing Examiner findings relative to the proposed roads within the proposed amended plat set forth in italics are as follows:

(a) Road Easement Alterations: The applicants are proposing to vacate two 60-foot-wide access easements that run through the clustered residential lots. Two new 35-foot-wide access easements are proposed to run parallel to the public road. The southern easement would provide access for Lots 2, 3, 4, and 5. The northern easement would provide access for Lots 6, 8, 9 and 10. Access to Lot 7 would be through Lot 1 and the adjacent parcel number 220813-11001 to the south via a proposed 30-foot-wide access and utility easement.

(b) Transportation Division: The proposal to eliminate the existing 60-foot easements and limit access is fine. Per the EAC Discussion, with the reconfiguring of

lot lines, the access locations will be modified; no access will be approved that does not meet the driveway location regulations outlined in YCC 19.23.060; as part of the development, the developer will be required to utilize shared accesses on a collector roadway; all accesses will require a minimum of 75 feet of separation; per chapter 10.08 a road approach permit (RAP) is required prior to the construction of an access; and due to the related nature of the road approach requirements and easements being shifted, all proposed access locations must be permitted prior to recording the long plat.

(c) Building Division: The proposed land use does not appear to require any building permits based on proposal of project at this time. Grading permits are required if site preparation and/or road development is proposed.

(d) Fire Safety Division: Must meet fire apparatus access requirements including but not limited to width, turnouts, turnarounds, all weather surface and grade of no greater than 10% (2018 IFC, Section 503.1 as amended by Washington State and Yakima County Code and 2018 IFC, Appendix D, Section D103.2). The proposal would need an easement of 20 feet wide and built out for fire apparatus access. (2018 International Fire Code, Section 503).

(e) To determine if the proposed accesses to Glade Road can be considered private shared driveways under Title 19, the Reviewing Official must determine the following: that the driveways will not serve more than four lots (or have the possibility of being extended to serve more than four lots); that there is no conflict with an existing public road, the County's road circulation plan, or with connectivity; and that the development minimizes the number of access points to the roadway (YCC 19.23.060). The Transportation Division did not indicate that there was an issue with the existing public road, with road circulation plans, or connectivity. As for the number of lots served, the proposed driveways are not likely to serve more than four lots due to the subdivision restrictions of the AG zoning district. These proposed driveways will reduce the number of approaches onto the public road system. Based on these factors, the Reviewing Official has determined that the accesses are considered private shared driveways.

(f) Per YCC 19.23.060(2)(a), each private shared driveway must be improved from Glade Road to the respective lots served and must meet the minimum travel

surface and standards as required by the Building and Fire Safety Division. This may require a grading permit from the Yakima County Building Division.

(g) Updated road agreements shall be provided that bind the owners of the residential cluster lots to financially participate in the perpetual maintenance of the private shared driveways that serve their respective residential cluster lots (YCC 19.23.060(1)(d)). A road agreement between the owners of Lots 1 and 7 for the perpetual maintenance of the new easement that provides Lots 1 and 7 with access to Glade Road shall also be provided. These agreements must meet the requirements for being recorded with the Yakima County Auditor.

(h) The survey shall show all road grants, deeds, and dedications of right-of-way. The applicants shall obtain a Road Approval Permit from the Transportation Division for the proposed accesses to the County roadway system. The applicants shall modify plat note "a" of the original subdivision to read as follows:

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

(i) The applicants shall modify plat note "i" of the original subdivision to read as follows:

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

(4) A Determination Whether the Proposed Plat Alteration is in the Public Use and Interest by Consideration of the Drainage per RCW 58.17.110 and YCC 19.34.050(5)(a). A description of County drainage requirements and additional Planning Staff and Hearing Examiner findings relative to the proposed drainage within the proposed amended plat set forth in italics are as follows:

(a) Conditions Required Prior to Land Disturbance: A Stormwater Plan is required to be submitted to the Yakima County Public Services Division in

accordance with criteria found at YCC 12.10.250 and 12.10.260. Approval of the Stormwater Plan by Yakima County Public Services is required prior to issuance of building permits and/or land disturbance. The Stormwater Plan is required to include an Operation and Maintenance plan and ongoing inspection requirements for any permanent Stormwater facilities in accordance with criteria found at YCC 12.10.330 and 12.10.340. A Stormwater Pollution Prevention Plan (SWPPP) for construction is required for more than one acre of disturbed ground. An Erosivity Waiver in lieu of a construction SWPPP may satisfy this requirement for those qualifying projects.

(b) Plat note: 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. Any natural drainageways must not be altered or impeded.

(c) All stormwater generated within the plat shall be retained on site and natural drainages must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found in YCC Chapter 12.10. The applicants shall ensure that the above plat note remains on the face of the final amended plat map.

(d) The reasons for the position taken by the County Planning Official as to the requirement of a Stormwater Site Plan for this amended plat were described as follows in County Water Resources Supervisor Nate Paris' attachment to the September 14, 2022, email in the record. Given the proximity of future residential uses to a large livestock facility in which the County has no official record of existing stormwater controls or other water quality protection measures in place to ensure there are no detrimental effects to residential uses as a result of stormwater runoff, and the fact that this division of land involves the creation of more than 4 lots, the Water Resources Division recommends conditional approval of this proposal provided the following condition is met prior to the issuance of building permits and/or land disturbances on Lots 2, 3, 4, 5, 6, 8, 9 and 10: Per YCC 12.10.210(c), a Stormwater Site Plan for the residential lots (Lots 2, 3, 4, 5, 6, 8, 9 and 10) shall be submitted to the Yakima County Public Services Division in accordance with criteria found in the following sections of YCC Title 12, Chapter 10 - Stormwater and Drainage Authority: 12.10.240, 12.10.250, and 12.10.260. The Stormwater Site Plan is required to include an Operation & Maintenance Plan and ongoing inspection requirements for any permanent stormwater facilities in accordance with criteria

found at YCC 12.10.330 and 12.10.340. Furthermore, stormwater management controls for Lot 1 and Lot 7 should be covered under a Confined Animal Feeding Operation (CAFO) permit issued by the Washington State Department of Ecology. If so, the owner/applicant shall provide Yakima County Public Services with authentication or copy of an approved CAFO permit demonstrating Lots 1 and 7 do not pose a risk to water quality on the residential lots. If Lot 1 and Lot 7 are not covered by an existing CAFO permit, a Stormwater Site Plan (and Operation & Maintenance Plan) addressing stormwater management and water quality for Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 is required prior to issuance of building permits and/or land disturbances. Contact the Water Resources Division at (509) 574-2300 for more information regarding surface water run-off and stormwater plans.

(e) Since the Administrative Official as defined by YCC 19.01.070(1) interprets YCC 12.10.210(1)(c) as the authority to require a Stormwater Site Plan for the residential lots and since Mr. Durant contends on the other hand that the proposed Preliminary Amended Plat of Martinez Subdivision does not create any lots so as to trigger the Stormwater Site Plan requirement under YCC 12.10.210(1)(c), a question of interpretation of that subsection is presented by this application. That subsection when read with the introductory language in YCC 12.10.210(1) provides: "The approval of applications for land development or redevelopment projects (projects) that are submitted pursuant to Yakima County Codes 12, 13, 19, 16C, and 16D that meet the following criteria shall be subject to the approval of a stormwater plan by the Public Services Director: ... (c) Projects where the division of land creates more than 4 lots."

(f) This is an application submitted pursuant to Yakima County Code 19, specifically YCC 19.34.070(7) which requires the procedures of RCW Chapter 58.17 be utilized and YCC 19.30.030(3)(b)(iii) which provides that applications for plat alterations under Chapter 58.17 RCW are subject to Type 3 review.

(g) As to whether the proposed amended preliminary plat creates any lots, the question in this context is whether YCC 12.10.210(1)(c) is intended to require a Stormwater Plan only if it creates more than 4 additional lots in an existing plat or also if it creates more than 4 lots that are different in size and shape from the original lots. YCC 19.01.070(3) does not define the word "create." YCC 19.01.070 provides in part that where words are not defined, they shall have the ordinary accepted meaning within the context with which they are used and lists the Webster's Ninth

New Collegiate Dictionary as the first source to use to determine the ordinary accepted meaning. The Webster's Ninth New Collegiate Dictionary definitions of the word "create" most applicable to this context are "to invest with a new form" or "to make or bring into existence something new." This word is used in the context of either "development or redevelopment projects" per the first part of YCC 12.10.210. YCC 19.01.070(18) likewise does not define the word "redevelopment," but the Webster's Ninth New Collegiate Dictionary definition of "redevelop" is "to develop again; esp. redesign, rebuild." In that context the ordinary accepted meaning of the language in YCC 12.10.210(1)(c) would appear to require a Stormwater Plan for any application involving a redesign of an existing plat that results in a new form or something new relative to more than 4 of the lots in the plat. This application would redesign the existing plat in a way that would result in a new form or something new relative to all 10 lots not only as to the size and shape of eight of the lots, but also as to the road and utility easements on more than 4 of the lots. The size and shape of the lots within a plat or amended plat, as well as the access and utility easements on the lots, are important features to be considered in fashioning an effective Stormwater Plan for a plat or for an amended plat.

(h) YCC 19.31.025 states that all questions of interpretation shall first be presented to the Administrative Official. The request for more information relative to Mr. Durant's suggestion that a Stormwater Plan may not be required by YCC 12.10.210 has resulted in an interpretation otherwise. The Administrative Official's interpretation of YCC 12.10.210(1)(c) so as to require a Stormwater Plan for the Amended Plat of Martinez Subdivision is consistent with the ordinary accepted meaning of the language when considered in its context. The Hearing Examiner is unable to conclude that the Administrative Official's interpretation is incorrect. Even though reasonable minds can differ, the reconfiguration in size and shape of more than 4 lots in a redesigned plat can reasonably be considered to be equivalent to the creation of more than 4 lots in the plat because more than 4 lots that are different from the original lots are thereby created even though no additional lots are created.

(5) A Determination Whether the Proposed Plat Alteration is in the Public Use and Interest by Consideration of the Potable Water Supplies per RCW 58.17.110 and YCC 19.34.050(5)(a). A description of County potable water supply requirements and additional Planning Staff and Hearing Examiner findings relative to the wells, water systems and water rights within the proposed amended plat set forth in italics are as follows:

(a) Wells: Lots 2, 3, 4, 5, 6, 8, 9 and 10 were approved to be served domestic water by four 2-party shared wells. Lots 1 and 7 were approved to be served domestic water by individual wells.

(b) Water Systems: According to YCC Table 19.25-1, subdivisions in the Agriculture (AG) zoning district have three options for domestic water, in order of priority: (i) an existing public water system; (ii) a new public water system; and (iii) individual wells.

(c) The proposed plat amendment is not modifying the previously approved potable water supplies. The four 2-party shared wells will still serve the reconfigured residential cluster lots. The well on Lot 2 will serve Lots 2 and 3. The well on Lot 4 will serve Lots 4 and 5. The well on Lot 6 will serve Lots 6 and 8. The well on Lot 10 will serve Lots 9 and 10. Lots 1 and 7 are still proposed to use individual wells as previously approved. The applicants shall provide verification of the shared well approvals or of an exemption from approval of the 2-party shared wells from the Yakima Health District prior to finalization of the plat amendment.

(d) Water Right: YCC 12.08.050 states that “All applicants for a building permit or other development permit requiring potable water must provide evidence of an adequate water supply to the County prior to the issuance of the permit. Applicants for a building permit to improve, repair, or replace a residential structure permitted prior to January 1, 2018 that is served by an existing permit exempt well are exempt from this requirement.”

(e) The applicants will have to purchase water rights to supply adequate domestic water for the amended plat or use a Yakima County Water Resource System (YCWRS) domestic well permit as the legal source of domestic water. Proof of a water right will be required at the time of development on the lots. If they purchase water rights, the plat notes regarding YCWRS will not be required.

(f) In accordance with YCC 12.08.390 “An applicant for a building permit or land use permit necessitating an adequate water supply determination where potable water is not available from an approved water purveyor may obtain a YCWRS domestic well permit for a permit exempt well as evidence of the legal availability of water up to 5,000 gallons per day, provided the applicant’s property is an eligible property as defined in 12.08.400 and further provided that the well is an eligible well as defined in 12.08.410.”

(g) According to information from the Water Availability and Well Depth Review under file WRS2022-00105, the area is eligible with the following provision: "No standard, the deeper the better where adequate water supply is found. Some danger of water level declines in the future." When the lots are developed, the owners shall obtain a YCWRS domestic well permit or purchase water rights. Please contact the Yakima County Utility Division at (509) 574-2300 for the necessary applications.

(h) RCW 90.44.050 governs the limits of the exemptions from the need to obtain a well permit from the Department of Ecology. Mr. Durant's application narrative states that since the water right exemption for stock watering purposes under RCW 90.44.050 may apply for use of the calf ranch on Lots 1 and 7 and owners of the reconfigured lots may also provide water for livestock, it is requested that the normally required plat note limiting water usage to 5,000 gallons per day take into account the stock watering exemption since it does not have this limitation. Since the wording of RCW 90.44.050 is more clear in that regard than the normally required plat note, the plat note required for this amended plat will utilize the statutory language to read as follows: The development of this land limits the owner(s) of Lots 1-10, as well as future divisions of these lots, to the withdrawal of public groundwaters from any existing and future wells for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding 5,000 gallons a day as prescribed by RCW 90.44.050. Any ground water withdrawals which are not exempted from permit requirements by RCW 90.44.050 require a permit from the Washington State Department of Ecology.

(i) Utility Easements: YCC Chapter 19.25 relative to Water and Sewer is intended to, in part, provide a framework for the future location of facilities to assist developers and property owners in design of their projects (YCC 19.25.010). Proper utility easement placement can assist with this.

(j) Part of the plat amendment involves the removal of utility easements that will become unnecessary. The applicants shall ensure that utility easements in accordance with YCC 19.25.050 are still shown on the face of the plat. Easements shall be reserved for and granted to all utilities and to their respective successors and assigns for serving all lots within a subdivision and other property with utility services and granting the right to enter upon the lots at all times to install, lay,

construct, renew, operate, and maintain underground conduit, cables, pipe, and wires with necessary facilities and other equipment.

(k) Per YCC 19.25.050(1)(b)(i), utility easements are to be located outside the private access easements and dedicated road rights-of-way unless the County Engineer does not object to different proposed utility easement locations. New or expanded utility easements shall serve each interior lot along the property boundary and be located along those lot frontages within the subdivision and development proposal that abuts private and public roads to minimize the burden of the easement on the servient landowners.

(l) Utility easements along lot frontages adjacent to public rights-of-way shall have a minimum width of eight feet and utility easements not located adjacent to public rights-of-way shall have a minimum width of 16 feet, unless modified by the Reviewing Official as necessary. The applicants have proposed to establish a 30-foot-wide access and utility easement to serve Lot 7 of this subdivision. Also proposed is an 8-foot-wide public utility easement along Glade Road right-of-way, within the proposed 35-foot-wide access easements for the residential lots. The Transportation Division did not provide any adverse comments regarding these proposals.

(m) Well access easements for the 2-party shared wells shall be established and have a minimum width of 16 feet. The Reviewing Official has determined that easements extending to adjacent properties, as noted under YCC 19.25.050(1)(d), are not required at this time.

(6) A Determination Whether the Proposed Plat Alteration is in the Public Use and Interest by Consideration of the Sanitary Disposal per RCW 58.17.110 and YCC 19.34.050(5)(a). A description of the proposed type of sanitary disposal, a sanitary disposal requirement and additional Planning Staff and Hearing Examiner findings relative to the sanitary disposal within the proposed amended plat set forth in italics are as follows:

(a) Sanitary Disposal: The applicants are still proposing to have each lot of the amended plat be served by individual on-site septic systems.

(b) The Yakima Health District: Existing lot 4 (#220812-42008) has a home on it. There is no record of the septic system location for this home. The septic system needs to be located so that it can be confirmed that it remains on the lot with the

house or so that an easement can be added to this project that allows the septic system to be on an adjacent lot. No other concerns.

(c) According to YCC Table 19.25-2, subdivisions in the Agriculture (AG) zoning district are to connect to either a County sewer system or individual on-site septic systems. Connection to a County system is required if the lots are located within the service area of a County sewer system. The proposed amendment will not affect the previous individual septic system requirement.

(d) According to the application, Lots 2, 3, 5, 6, 8 and 9 are less than 2.5 acres in size. The applicants shall provide written verification from the Yakima Health District to the Planning Division demonstrating that the lots can accommodate an on-site sewage system and reserve area outside of any water supply protection zone (YCC 19.34.060(5)). If the Yakima Health District waives this requirement for written verification, the following notice shall be placed on the final plat:

Notice to Public: The Yakima Health District has waived the requirement to provide written verification that lots herein can accommodate an on-site sewage system.

(e) The applicants shall confirm the location of the septic system on proposed Lot 4. In accordance with YCC 19.25.040(1)(c), an individual septic system "shall be entirely contained on the same lot as the proposed dwelling that it is intended to serve or on another parcel on which the lot owner possesses an easement interest for that purpose".

(7) A Determination Whether the Proposed Plat Alteration is in the Public Use and Interest by Consideration of the Agricultural Resource Setbacks per RCW 58.17.110 and YCC 19.34.050(5)(a). A description of the purpose and the proposed distances of the agricultural resource setbacks, as well as the additional Planning Staff and Hearing Examiner findings relative to the agricultural resource setbacks within the proposed amended plat set forth in italics are as follows:

(a) Purpose of Agricultural Resource Setbacks: To provide a buffer between resource lands and especially sensitive land uses (ESLUs), a 150-foot resource setback is required from Agriculture (AG)-zoned lots in accordance with YCC 19.18.205(2)(a). On the reconfigured small lots, the applicants are proposing to reduce the resource setback to be 60 feet for Lot 2 from the AG-zoned Lot 1 to the

south and to be 110 feet for the residential cluster lots from the AG-zoned property to the west across Glade Road. The applicants are not proposing a reduction to the requisite 150-foot setback for the residential cluster lots from the AG-zoned Lot 7 to the east. Lot 4 which contains a residence was excluded from the proposed reduction.

(b) Regarding proposed lines that will be adjacent to the existing residence on Lot 4, YCC 19.18.205(2)(a)(ii) states that the setback is 150 feet “unless the application is to establish a lot line adjacent to a legally existing especially sensitive land use, in which case the building setback will be the standard structural setback along the line adjacent to the existing ESLU”. YCC 19.35.020(6) then contains the methods for reducing resource setbacks that would apply to future ESLU development on this lot and on the other residential lots.

(c) The original plat essentially clustered these small residential lots. YCC 19.35.020(6)(d) states that the setbacks may be reduced under Type 1 review in certain cases. In the case of a cluster development, YCC 19.35.020(6)(d)(vii) can apply to the interior lines of the residential lots that neighbor each other because it provides that if the adjoining lot was approved as a special exception lot, under the small lot provision or a cluster development, the resource setback shall not apply from the adjoining established special exception, small lot or clustered lot.

(d) The resource setback does not apply from neighboring parcel #220812-42005 as it is a 2.06-acre lot with an existing residence. YCC 19.35.020(6)(d)(vi) which provides that if part of a property line of the lot proposed to contain a new or expanded especially sensitive land use adjoins another parcel equal to or less than three acres in size and contains a lawfully established ESLU, the resource setback shall not apply from the adjoining established ESLU lot.

(e) The resource setback from the AG lot to the south of Lot 2 and the resource setback from the AG property across Glade Road to the west of all of the residential lots may be reduced pursuant to YCC 19.35.020(6)(d)(viii) which provides that if the lot was approved as a special exception lot under the small lot provision or a cluster development, the standard ESLU resource setback reduction under Subsection(c) may exceed 50 percent provided that the ESLU setback is not less than 60 feet.

(f) Using the above provisions, the proposed setback of 60 feet from Lot 1 along the south property line of Lot 2 may be approved. The proposed setback of 110 feet from the AG-zoned property across Glade Road to the west for the proposed

residential cluster lots may also be approved. The 150-foot setback will still apply from the AG-zoned Lot 7 to the east of the residential cluster lots and from the neighboring parcel #220812-41004 to the north of Lot 10.

(g) The following plat notes will be required to be placed on face of the Amended Plat of Martinez Subdivision:

In accordance with YCC 19.18.205(2)(a), Lots 2, 3, 4, 5, 6, 8, 9 and 10 border on the Agriculture (AG) zoning district. New residences and other “Especially Sensitive Land Uses” are subject to a 150-foot setback from the adjoining Agriculture (AG) zoned lots to the east and northeast, unless reduced as provided by the Yakima County Code.

Lots 2, 3, 5, 6, 8, 9 and 10 are considered clustered lots. In accordance with YCC 19.35.020(6)(d)(viii), the 150-foot setback from the Agriculture (AG) zoned lots to the west has been reduced to 110 feet. The setback from Lot 1 to the south has been reduced to 60 feet. As such, the occupants of said lots may be subject to increased levels of noise, dust, smoke, odors, traffic, spray drift, and other undesirable effects resulting from normal practices and activities carried out on the nearby Agriculture (AG) zoned property. In consideration of granting a setback reduction to allow for future construction of single-family residences within resource setbacks, the owners do hereby forever waive on behalf of themselves and their grantees and assignees all rights to seek redress for any adverse effects to said property, or its occupants, due to the reduced setbacks.

In accordance with YCC 19.18.205(4) and YCC 19.30.020(4), Lots 1-10 are located within 500 feet of agriculture designated land and may be subject to noise, dust, smoke, odors, traffic and the application of chemicals resulting from commonly accepted practices associated with nearby agricultural uses. Agricultural activities performed in accordance with County, state and federal laws are not subject to legal action as public nuisances.

(8) A Determination Whether the Proposed Plat Alteration is in the Public Use and Interest per RCW 58.17.110 and YCC 19.34.050(5)(a). A determination that the proposed plat alteration is in the public use and interest per RCW 58.17.110 and YCC 19.34.050(5)(a) is supported and established by a consideration of the roads, drainage, potable water supply, utility easements, sanitary disposal and agricultural resource setbacks

proposed for the Amended Plat of Martinez Subdivision.

(9) **Revised Drawing of the Amended Plat.** RCW 58.17.215 requires a revised drawing of the approved alteration of the final plat which is to be filed to become the final lawful plat of the property. A final Amended Plat of Martinez Subdivision which is in substantial compliance with this Decision may be approved by the Administrative Official or other authorized representative of the Yakima County Planning Division so as to authorize it to be recorded with the Yakima County Auditor.

XI. Consistency of the Preliminary Amended Plat of Martinez Subdivision (YCC §16B.06.020). The proposed Preliminary Amended Plat of Martinez Subdivision will be consistent with development regulations and also with the provisions of the Yakima County Comprehensive Plan (*Horizon 2040*) in the following ways:

(1) **The types of land uses permitted at the site:** The area in which the proposed preliminary amended plat is located is zoned as Agriculture (AG). According to Policy LU-ER-AG 1.12 of **Horizon 2040**, reconfiguration of existing lots that allows for the same number of lots with a design that has less impact on agricultural use is encouraged. The application indicates that single-family residences are proposed to be constructed on the reconfigured small lots. Single-family residences are considered Type 1 allowed uses in the AG zoning district (YCC Table 19.14-1). According to YCC 19.30.030(1)(d), single-family residences are generally not subject to project review by the Administrative Official, provided all applicable standards of Title 19 are met and/or when categorically exempt from environmental review. The proposed Plat Amendment will help to reduce conflict between future residences and the existing higher intensity agricultural use on Lots 1 and 7. As conditioned, the proposed Preliminary Amended Plat of Martinez Subdivision will satisfy applicable criteria necessary for final approval and comply with the requirements of the Yakima County Code Title 19.

(2) **The level of development, such as units per acre, density of residential development or other measures of density:** This proposal is a reconfiguration of existing lots and does not involve increasing residential density. As proposed, the plat amendment will remain within the bounds of the original subdivision and meet current development standards.

(3) **The availability and the adequacy of public facilities:** Public facilities will be available and adequate to serve the amended plat. For example, Glade Road along the frontage of the amended plat is a paved road which will provide adequate access to the private access easements within the amended plat.

(4) **The proposal's consistency with applicable development standards and the Comprehensive Plan:** The character of the proposal as conditioned will be consistent and compatible with applicable development standards and the purpose and intent of the AG zoning district.

CONCLUSIONS

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

(1) The Hearing Examiner has jurisdiction to approve an amended or altered plat by means of Type 3 review under the circumstances prescribed by the zoning ordinance, which circumstances warrant approval of this application subject to conditions.

(2) SEPA environmental review that was conducted in connection with the original Plat of Martinez Subdivision which resulted in the issuance of a Determination of Nonsignificance did not require further environmental review in view of the exemption for up to 20 residential dwelling units outside of Urban Growth Areas that is set forth in YCC 16.04.100(1).

(3) All public notice requirements for the open record public hearing have been satisfied.

(4) All of the testimony and evidence presented at the public hearing that was held on September 1, 2022, favored approval of this proposal subject to conditions.

(5) This proposal is adequately conditioned by the conditions set forth below so as to comply with the development standards and criteria for approval set forth in YCC Title 19, RCW 58.17.215 and other applicable local and state regulations.

(6) The application materials, the comments received, the staff report, the testimony at the hearing and the information provided during and following the hearing include evidence and analysis that support a conclusion that the proposed Preliminary Amended Plat

of Martinez Subdivision, if appropriately conditioned, is consistent with YCC 19.34.070(7) and the general development standards in YCC Title 19.

(7) Except as otherwise expressly provided, a Reviewing Official is authorized by YCC 19.30.100 to impose conditions on an approval to assure compliance with YCC Title 19 and other relevant provisions of the Yakima County Code. This Decision contains a set of conditions that largely serve this purpose.

(8) The Findings above and these Conclusions support a Decision approving the LSP2022-00001 and ESP2022-00004 Preliminary Amended Plat of Martinez Subdivision with a reduction of the resource setback to 60 feet for Lot 2 from the agricultural Lot 1 to the south and a reduction of the resource setback to 110 feet for the residential cluster lots from the agricultural property to the west across Glade Road with the exception of Lot 4 which is excluded from the request because it contains an existing residence.

(9) YCC §16B.03.030(1)(c) and YCC Table 3-1 in YCC §16B.03.030(4) provide that the Hearing Examiner’s written Decision relative to a Type 3 process involving an open record public hearing constitutes the final Decision which is not subject to an administrative appeal and which is therefore subject to appeal to the Yakima County Superior Court within the timeframe and subject to the statutory requirements of the Land Use Petition Act (LUPA) set forth in Chapter 36.70C of the Revised Code of Washington.

DECISION

The Preliminary Amended Plat of Martinez Subdivision located about one mile south of the Mabton city limits which is shown on the PLSA submittal dated January 10, 2022, and which is described in the staff report, this Decision and the documentation in the record submitted for application LSP2022-00001 and ESP2022-00004 is **APPROVED** with reductions of the resource setback to 60 feet for Lot 2 from the agricultural Lot 1 to the south and to 110 feet for the residential cluster lots from the agricultural property to the west across

across Glade Road with the exception of Lot 4 which is excluded from the request, and is **APPROVED** subject to the following conditions:

(1) Time Limit: The conditions of approval must be completed within three (3) years of the date of the Hearing Examiner's decision. Please note that this decision, including the findings, conditions and time limit, pertains to this conditional use action authorized for this plat amendment only, and does not include timelines associated with other permits (for example building permits). Failure to comply with all conditions will result in the revocation of this permit. The Hearing Examiner's Final Decision includes the above findings and the following conditions.

(2) Prior to the recording of the final amended plat, a 35-foot-wide private shared driveway access easement shall be established to provide Lots 2, 3, 4 and 5 access to Glade Road. This access easement shall be improved to meet the minimum travel surface and standards as required by the Building and Fire Safety Division. Drainage facilities shall be sufficient to prevent discharge onto any public roadway. Contact the Building and Fire Safety Division at (509) 574-2300 for specifications of the travel surface standards.

(3) Prior to the recording of the final amended plat, a 35-foot-wide private shared driveway access easement shall be established to provide Lots 6, 8, 9 and 10 access to Glade Road. This access easement shall be improved to meet the minimum travel surface and standards as required by the Building and Fire Safety Division. Drainage facilities shall be sufficient to prevent discharge onto any public roadway. Contact the Building and Fire Safety Division at (509) 574-2300 for specifications of the travel surface standards.

(4) Prior to the recording of the final amended plat, a minimum 30-foot-wide private shared driveway access easement shall be established to provide Lots 1 and 7 access to Glade Road. The applicants shall ensure that the roadway within this access easement meets the minimum travel surface and standards as required by the Building and Fire Safety Division. Drainage facilities shall be sufficient to prevent discharge onto any public roadway. Contact the Building and Fire Safety Division at (509) 574-2300 for specifications of the travel surface standards.

(5) The applicant or property owner shall apply for a grading permit and obtain the permit, if required, prior to the construction of the private shared driveways. If the total amount of fill or excavation exceeds 500 cubic yards, then an Environmental Review

(SEPA) may be required. Contact the Building and Fire Safety Division at (509) 574-2300 for the necessary applications.

(6) Updated covenants meeting the recording requirements of the Yakima County Auditor's Office shall be provided for the perpetual maintenance of the cluster lot private shared driveways and shall be submitted to the Planning Division prior to finalization of the amended plat. The covenants shall bind the owners within the development to financially participate in the perpetual maintenance of the private shared driveway that they share.

(7) A covenant between the owners of Lots 1 and 7 meeting the recording requirements of the Yakima County Auditor's Office shall be provided for the perpetual maintenance of the private shared driveway to Lot 7 and shall be submitted to the Planning Division prior to finalization of the amended plat. The covenant shall bind the owners of Lots 1 and 7 within the development to financially participate in the perpetual maintenance of the private shared driveway serving those two lots.

(8) The Private Shared Driveway Certification attached to the staff report which can be obtained from the Planning Division shall be submitted to the Planning Division prior to the recording of the final amended plat certifying that the private shared driveways have been constructed and completed. An inspection of the roads will be made upon submittal of the Certification.

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

(10) Prior to the recording of the amended plat, the applicants shall obtain a Road Approach Permit (RAP) from the Yakima County Transportation Division for the proposed accesses to the County roadway system. Please contact the Transportation Division at (509) 574-2300.

(11) Since Lots 1, 4, 7 and 10 will be larger than 2.5 acres in size, a Yakima Health District septic review is not required prior to final plat approval. (YCC 19.34.060(5)).

(12) Since Lots 2, 3, 5, 6, 8 and 9 will be less than 2.5 acres in size, they shall be reviewed and approved by the Yakima Health District prior to final plat approval to verify that each lot is adequate to accommodate an on-site sewage system and reserve area outside of any water supply protection zone. Proper certification of that fact shall be submitted to the Planning Division prior to final plat approval. If the Yakima Health District waives this requirement for written verification, the following notice shall be placed on the final plat:

Notice to Public: The Yakima Health District has waived the requirement to provide written verification that lots herein can accommodate an on-site sewage system.

(13) The applicants shall confirm the location of the septic system on proposed Lot 4. If the septic system will be partially on a neighboring lot, an easement shall be established in accordance with YCC 19.25.040(1)(c).

(14) The applicants shall provide verification of Yakima Health District approval for the 2-party shared wells, or of an exemption from the approval requirement, to the Planning Division prior to finalization of the plat amendment.

(15) Unless water rights are purchased to supply an adequate potable water supply for the amended subdivision, the applicants shall apply for a Yakima County Water Resource System (YCWRS) domestic well permit with the Yakima County Utility Division at the time of development pursuant to YCC 12.08.390. The wells shall meet all requirements of the YCWRS domestic well permit to a well depth as indicated in the Water Availability and Well Depth Review which was attached to the staff report and can be obtained from the Planning Division or as may be indicated at the time of building permits.

(16) Shared well easements must be established in accordance with YCC 19.25.050 and must be a minimum of 16 feet in width. The applicants will need to coordinate easement placement with their surveyor, the Yakima Health District, and any other agency with jurisdiction.

(17) The development of this land limits the owner(s) of Lots 1-10, as well as future divisions of these lots, to the withdrawal of public groundwaters from any existing and future wells for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding 5,000 gallons a day as prescribed by RCW 90.44.050. Any groundwater withdrawals which are not exempted from permit requirements by RCW 90.44.050 require a permit from the Washington State Department of Ecology.

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

(19) New or expanded utility easements shall serve each interior lot along the property boundary and be located along those lot frontages within the subdivision and

development proposal that abuts private and public roads to minimize the burden of the easement on the servient landowners.

(20) Utility easements are to be located outside the private access easements and dedicated road rights-of-way unless the County Engineer does not object to different proposed utility easement locations. Utility easements along lot frontages adjacent to public rights-of-way shall have a minimum width of 8 feet, and utility easements not located adjacent to public rights-of-way shall have a minimum width of 16 feet.

(21) Prior to the issuance of building permits and/or land disturbances on Lots 2, 3, 4, 5, 6, 8, 9 and 10, a Stormwater Site Plan for the residential lots (Lots 2, 3, 4, 5, 6, 8, 9 and 10) shall be submitted to the Yakima County Public Services Division per YCC 12.10.210(c) in accordance with criteria found in the following sections of YCC Title 12, Chapter 10 - Stormwater and Drainage Authority: 12.10.240, 12.10.250, and 12.10.260. The Stormwater Site Plan is required to include an Operation & Maintenance Plan and ongoing inspection requirements for any permanent stormwater facilities in accordance with criteria found at YCC 12.10.330 and 12.10.340. Furthermore, stormwater management controls for Lot 1 and Lot 7 should be covered under a Confined Animal Feeding Operation (CAFO) permit issued by the Washington State Department of Ecology. If so, the owner/applicant shall provide Yakima County Public Services with authentication or copy of an approved CAFO permit demonstrating Lots 1 and 7 do not pose a risk to water quality on the residential lots. If Lot 1 and Lot 7 are not covered by an existing CAFO permit, a Stormwater Site Plan (and Operation & Maintenance Plan) addressing stormwater management and water quality for Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 is required prior to issuance of building permits and/or land disturbances. Contact the Water Resources Division at (509) 574-2300 for more information regarding surface water run-off and stormwater plans.

(22) A Stormwater Pollution Prevention Plan (SWPPP) for construction is required for more than one acre of disturbed ground. An Erosivity Waiver in lieu of a construction SWPPP may satisfy this requirement for those qualifying projects.

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

(24) Please be aware that all parties with an ownership interest in the property must sign the final amended plat. All required signatures shall be in permanent black ink (YCC 19.34.070(2)(c)). If there are other owners (including contract sellers or purchasers, etc.) the applicants should first verify that they will also be willing to sign the final amended plat.

(25) The Final Subdivision Application for the Amended Plat of Martinez Subdivision shall consist of:

(a) A survey of the final amended plat meeting the requirements of YCC 19.34.070 and consisting of the original Mylar (or equivalent material, paper or other form acceptable to the County Auditor) and five paper copies (YCC19.34.070(4));

(b) A current Subdivision Guarantee (title report), which cannot be more than 60 days old (YCC 19.30.060(8)); and

(c) The final plat recording fee (YCC 19.34.070(4)).

(26) The owners, their grantees and assignees in interest will abide by the Compliance, Extension, Expiration and Reinstatement requirements as outlined in YCC 16B.07.050. The applicants shall complete all required conditions, submit documentation that all conditions were met and request County inspection or review to determine that the requirements have been fulfilled within the timeframe specified in this Decision and in any authorized extensions.

The property is subject to the notes of the original plat, which must be placed on the face of the amended plat, except as amended below. The following notes are to amend the original notes and must be placed on the final plat by the surveyor:

Plat note “a”:

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

Plat note “f”:

Purchasers and lessees are hereby notified that Lots 1, 4, 7 and 10 within this plat are subject to Yakima Health District (YHD) standards for installation of on-site sewage disposal systems. The lots were not evaluated by YHD prior to plat approval. Permits or approvals from YHD must be obtained before sewage system development is begun.

Plat note “g”:
[Deleted].

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

Plat note “l”:
The development of this land limits the owner(s) of Lots 1-10, as well as future divisions of these lots, to the withdrawal of public groundwaters from any existing and future wells for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding 5,000 gallons a day as prescribed by RCW 90.44.050. Any groundwater withdrawals which are not exempted from permit requirements by RCW 90.44.050 require a permit from the Washington State Department of Ecology.

The property will be subject to the following additional notes which must be placed on the final plat by the surveyor:

- (1) In accordance with YCC 19.18.205(2)(a), Lots 2, 3, 4, 5, 6, 8, 9 and 10 border on the Agriculture (AG) zoning district. New residences and other “Especially Sensitive Land Uses” are subject to a 150-foot setback from the adjoining Agriculture (AG) zoned lots to the east and northeast, unless reduced as provided by the Yakima County Code.
- (2) Lots 2, 3, 5, 6, 8, 9 and 10 are considered clustered lots. In accordance with YCC 19.35.020(6)(d)(viii), the 150-foot setback from the Agriculture (AG) zoned property to the west has been reduced to 110 feet. The setback from Lot 1 to the south has been reduced to 60 feet. As such, the occupants of said lots may be subject to increased levels of noise, dust, smoke, odors, traffic, spray drift, and other undesirable effects resulting from normal practices and activities carried out on the nearby Agriculture (AG) zoned property. In consideration of granting a setback reduction to allow for future construction of single-family residences within resource setbacks, the

owners do hereby forever waive on behalf of themselves and their grantees and assignees all rights to seek redress for any adverse effects to said property, or its occupants, due to the reduced setbacks.

- (3) In accordance with YCC 19.18.205(4) and YCC 19.30.020(4), Lots 1-10 are located within 500 feet of agriculture designated land and may be subject to noise, dust, smoke, odors, traffic and the application of chemicals resulting from commonly accepted practices associated with nearby agricultural uses. Agricultural activities performed in accordance with County, state and federal laws are not subject to legal action as public nuisances.
- (4) Lots 2, 3, 4 and 5 are served by a private shared driveway. The owners of Lots 2, 3, 4 and 5 shown hereon, their grantees and assignees in interest, hereby covenant and agree to participate in the maintenance of the private shared driveway serving this amended plat and to join in an owners' or road maintenance association designed to provide for their perpetual maintenance. A maintenance agreement has been filed under Auditor's File Number _____.
- (5) Lots 6, 8, 9 and 10 are served by a private shared driveway. The owners of Lots 6, 8, 9 and 10 shown hereon, their grantees and assignees in interest, hereby covenant and agree to participate in the maintenance of the private shared driveway serving this amended plat and to join in an owners' or road maintenance association designed to provide for their perpetual maintenance. A maintenance agreement has been filed under Auditor's File Number _____.
- (6) Lots 1 and 7 are served by a private shared driveway. The owners of Lots 1 and 7 shown hereon, their grantees and assignees in interest, hereby covenant and agree to participate in the maintenance of the private shared driveway serving this amended plat and to join in an owners' or road maintenance association designed to provide for their perpetual maintenance. A maintenance agreement has been filed under Auditor's File Number _____.
- (7) Lots 1 and 7 of this plat are to use individual wells as permitted by the Yakima County Utility Division for a Yakima County Water Resource System Domestic Well Permit. The owners shown hereon, their grantees and assignees in interest, hereby covenant and agree to adhere to the requirements of the Yakima County Water Resource System Domestic Well Permit.

- (8) Lots 2, 3, 4, 5, 6, 8, 9 and 10 of this plat are required to use two-party shared wells as permitted by the Yakima County Utility Division for a Yakima County Water Resource System Domestic Well Permit. The owners shown hereon, their grantees and assignees in interest, hereby covenant and agree to adhere to the requirements of the YCWRS domestic well permit. Individual wells may not be installed on any of these lots.

DATED this 16th day of September, 2022.



Gary M. Cuillier, Hearing Examiner