

**COUNTY OF YAKIMA, WASHINGTON
OFFICE OF THE HEARING EXAMINER**

**In the Matter of Applications by PLSA) File Nos. ZON2022-00001 & CUP2022-00023
Engineering & Surveying on Behalf of)
Garner & Garner Construction, LLC for)
a Minor Rezone from Single-Family) HEARING EXAMINER RECOMMENDATION
Residential (R-1) to Two-Family)
Residential (R-2) and a Conditional Use)
Permit (CUP) for a 16 Muti-Family)
Dwelling Unit (Townhouse) Development)**

I. INTRODUCTION

On April 27, 2022, the Yakima County Public Services Department Planning Division received applications from Tom Durant of PLSA Engineering and Surveying (hereafter “PLSA”) on behalf of Garner & Garner Construction, LLC., (hereafter “Garner”) for consolidated review of a minor rezone of property at the intersection of State Highway 823 and Taylor Loop Road from Single-Family Residential (R-1) to Two-Family Residential (R-2) and the associated development of a 16-unit townhouse on the rezoned property. An open record hearing on the consolidated applications was held on September 22, 2022, at the Yakima County Conference Center after due public notice. The Planning Division provided a staff report on the applications prior to the hearing. Tua Vang appeared on behalf of Yakima County, and Tom Durant appeared on behalf of Garner. No public comment was offered at the hearing. The Hearing Examiner viewed the project site immediately following the hearing.

Based on a review of the application materials, the staff report, the Unified Land Development Code (Title 19 YCC) requirements pertaining to both minor rezones and multi-family residential development in the R-2 zoning district, the relevant goals and policies of the Yakima County Comprehensive Plan (*Horizon 2040*), the viewing of the project site, and the statements made at the public hearing, the Hearing Examiner makes this Recommendation based on the Findings included in Section III, below, and the Conclusions in Section IV, below.

II. SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends approval of the proposed minor rezone and the 16-unit townhouse development, subject to conditions to assure compliance with the Yakima County Comprehensive Plan – *Horizon 2040* and pertinent development criteria, standards, and regulations.

III. FINDINGS

A. Applicant/Property Owner. The application was filed by PLSA on behalf of Garner. Garner is the landowner of record of the subject property.

B. Location and Parcel Number. The subject property is located approximately 480 feet north of the Selah city limits and within the Selah Urban Growth Area (UGA) (Parcel Number: 181425-43001).

C. Project Proposal. Garner proposes to rezone the subject parcel from Single-Family Residential (R-1) to Two-Family Residential (R-2), which would allow an density of 13-18 dwelling units per acre. The proposal also includes the construction of four 4-unit townhouses for a total of 16 units if the rezoning is approved. Access is proposed from Taylor Loop Road. The proposed development will be served by the City of Selah water and sewer.

D. Jurisdiction of the Hearing Examiner. The Hearing Examiner's jurisdiction in this matter is summarized as follows:

1. The proposal is subject to Title 19 YCC. According to YCC 19.36.030, rezone applications that are consistent with Table 19.36-1 and not dependent upon a comprehensive plan or sub-area plan amendment are considered minor rezones. Site-specific minor rezones may be processed under Type 4 review pursuant to YCC 16B.03.030. That section provides that Type 4 Project permit applications require an open record hearing before the Hearing Examiner. The Examiner's written decision constitutes a recommendation to the Board of County Commissioners. The Board of County Commissioners conducts a closed record hearing to act on the Examiner's recommendation.

2. Proposals for multi-family dwellings, 13-18 dwellings per acre in the R-2 zoning district are typically processed at Type 3 level of review, but YCC 16B.03.060 allows two or more project permits relating to a proposed project action to be processed collectively under the highest numbered category of project permit required for any part of the proposal. The applicant is choosing to process the ZON and CUP cases collectively and considered collectively by the Hearing Examiner as a Type 4. The Hearing Examiner makes a recommendation on the CUP accordingly.

3. According to YCC 19.30.100(2), conditions of approval may be imposed in application review

- to assure compliance with any development standard or criterion for approval set forth in YCC Title 19 or other relevant provisions of the Yakima County Code;
- to mitigate material impacts of the development, whether environmental or

otherwise;

- to ensure compatibility of the development with existing neighboring land uses;
- to assure consistency with the intent and character of the zoning district involved;
- to ensure that the structures and areas proposed are surfaced, arranged and screened in such a manner that they are compatible with and not detrimental to existing or reasonable expected future development of the neighborhood, or resource uses, consistent with the Comprehensive Plan; and
- to achieve and further the intent, goals, objectives, and policies of the Comprehensive Plan and Title 19 YCC.

Section YCC 19.30.100(3) also allows the imposition of enumerated additional special conditions to further the objectives set forth in YCC 19.30.100(2).

E. Zoning and Land Use. The subject property is within the Single-Family Residential (R-1) zoning district and designated Urban Residential by *Horizon 2040*. The surrounding parcels to the northwest and south/southeast are zoned Single-Family Residential (R-1) and the parcels to the northeast and west/southwest are zoned Two-Family Residential (R-2). The current R-2 zoning district is also designated Urban Residential.

The intent of the Urban Residential land use category, adopted as part of the future land use map, is to provide for a full range of urban housing types, from single and multi - family development to high density family housing. The Urban Residential land use designation is a general designation intended to accommodate all the urban residential land use designations listed in each of the fourteen cities' and towns' future land use maps" (*Horizon 2040 – Land Use Element, Chapter 5, page 23*).

The subject property currently contains a single-family residence, garage, and shed. The adjacent property to the north is vacant and properties to the east and south contain single-family residences. A manufactured home park is located to the west across N. Wenas Road/Highway 823.

F. Notice.

1. A combined Notice of Application, Notice of Completeness, and Notice of Future Hearing was mailed to property owners within 300 feet of the subject property and agencies with interest on May 31, 2022, with a comment period ending on June 14, 2022. The applicant requested a clarification notice be sent out with information about the future hearing and such a clarification notice was mailed out on June 6, 2022 to the previous recipients.

2. The dates of notice provided in accordance with YCC 16B.05.030 as follows:

- Notice of Application/Completeness/Future Hearing May 31, 2022
- Notice of Future Hearing June 6, 2022
- Posting of Property September 2, 2022
- Publishing Notice of Hearing in Yakima Herald-Republic September 7, 2022
- Notice of Open Record Public Hearing mailing September 7, 2022

G. Environmental Review. The minor rezone proposal (ZON2022-00001) and 16-unit townhouse proposal (CUP2022-00023) are exempt from review under the State Environmental Policy Act (SEPA) through WAC 197-11-800(6)(c) and YCC 16.04.100(1)(a).

H. Minor Rezone Review Criteria. YCC 19.36.030(4) entitled “Minor Rezones – Map Amendment” outlines the review criteria for minor rezones. The review criteria are addressed in the findings below:

1. **The testimony at the public hearing (19.36.030(4)(a)):** No public testimony was provided at the hearing.
2. **The suitability of the property in question for uses permitted under the proposed zoning (19.36.030(4)(b)):**

“The R-2 district is intended to establish buildings that are typically single-family dwellings, duplexes and other compatible uses in areas served by local access streets and collectors. The purpose of the two-family residential district is to establish and preserve residential neighborhoods for land uses compatible with the intent of this district; locate residential development with a maximum density of 12 dwelling units per acre for duplexes, and a maximum density of 18 dwelling units per acre for multi-family dwellings under Chapter 19.14, in areas receiving a full range of public services including area-wide public water supply, regional public sewer, and police and fire protection; provide for an orderly, phased transition from rural to urban uses within Urban Growth Areas; facilitate coordinated and collaborative public infrastructure investment; prevent conversion of land in the R-2 district to uses/densities that cannot be urbanized; require connection to public water and sewer systems where available; and require full urban standards for developments within Urban Growth Areas, meeting the County’s minimum urban standards or

the respective city's standards, whichever are higher" (YCC 19.12.020(1)(a)).

The property has access to, and applicant is proposing to connect to the City of Selah's water and sewer systems. Police, fire, and other urban services are available. Access is proposed from Taylor Loop Road, a County Urban Access road, to SR 823 (Wenas Road). Lastly, the primary use of the surrounding area is a residential mixed-use to include single-family residences, a mobile home park, and two-unit condominium development. No evidence has been introduced into the record to indicate the property is unsuitable for uses allowed in the R-2 zoning district.

3. The recommendation from interested agencies and departments (19.36.030(4)(c)):

The Washington State Department of Transportation (WSDOT) noted that the subject property is adjacent to State Route 823 and supported the applicant restricting access to the property via Taylor Loop Road, which is consistent with the requirements outlined in WAC 468-52-040. The comment called for existing access to SR 823 to be removed. Any work inside WSDOT right-of-way is required to conform to WSDOT's Standard Plans and Specifications and will require a WSDOT General Permit. Any recommendation for approval of the rezone is appropriately conditioned on compliance with the WSDOT requirements and changes to the point of access to the property.

Yakima County Public Services and Roads departmental comments concerning the development review are addressed at appropriate locations within this recommendation.

4. The extent to which the proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Comprehensive Plan, adopted neighborhood plans and the intent of this Title (19.36.030(4)(d)):

The following *Horizon 2040* and City of Selah *Comprehensive Plan 2017* goals, objectives, and policies were identified in the staff report as relevant to the rezone application.

Horizon 2040 LAND USE ELEMENT GOALS AND POLICIES

Chapter 5, Subsection 5.8.2 Urban Lands – Growth Management Act Requirements.

The first goal of Growth Management Act (GMA) directly relates to urban land use:

- (1) Urban Growth. Encourage development in areas where adequate public facilities and services exist or can be provided in an efficient manner.

Goal LU-U 1: Encourage urban growth within designated urban growth areas.

Policy LU-U 1.2: Urban growth should occur within urban growth areas only and not be permitted outside of an adopted urban growth area except for new fully contained communities, master planned resorts, and major industrial sites. (RCW 36.70A.350)

Policy LU-U 1.7: Infill development, higher density zoning and small lot sizes should be encouraged where services have already been provided and sufficient capacity exists.

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

Policy LU-U 2.6: Encourage full urban standards for developments within the Urban Growth Area, meeting the County's minimum urban standards or the respective city's standards, whichever is preferred. Improvements must be installed in accordance with approved plans.

Horizon 2040 HOUSING ELEMENT GOALS AND POLICIES

Goal H1: Sufficient housing should be available to meet the needs of the existing and projected population, including a diversity in the type, density and location of housing within the County.

Policy H 1.1: Allow for a variety of housing types in appropriate areas of the County. Encourage a variety of housing types that allow high densities and creative use of land within the urban area.

Policy H 1.2: Encourage development of new housing within the Urban Growth Areas where facilities and services exist or are planned. Increase density in communities with existing infrastructure. Allow for alternative housing options, such as accessory dwelling units. Redevelop properties and encourage infill where infrastructure exists.

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

City of Selah Comprehensive Plan 2017 GOALS, OBJECTIVES, AND POLICIES.

Goal 2.2: Develop within natural drainage basins. As the Selah UGA continues to develop, expansion of urban services will become increasingly difficult and costly. Consequently, policies should be implemented to improve efficiency and cost effectiveness.

Objective 2.2.2: Encourage economic growth while maintaining quality development and controlling the cost of public improvements in Selah's UGA.

Policy 2: Encourage development to areas where infrastructure (water, sewer, stormwater, and streets) is either present, can be easily extended, or is planned to be extended.

Goal 5.2: Promote a variety of residential densities and housing types and encourage the preservation of existing housing stock.

Objective 5.2.1: Maintain and upgrade the character of existing residential neighborhoods.

Objective 5.2.3: Minimize the negative impacts for medium and high-density residential projects on adjacent low-density areas but encourage mixed-use/density projects.

Policy 1: Encourage multi-family dwellings to locate in areas where increased density can be used as a tool to discourage urban sprawl.

Policy 2: Require high-density multi-family residential projects to meet minimum site design criteria including:

1. Adequate traffic access
2. Landscaping
3. Off-street parking
4. A suburban character

The proposed rezone is generally consistent with these goals and objectives. With the except of Policy 2 within Goal 5.2 of the *Selah Comprehensive Plan*, the foregoing goals and objectives are aspirational rather than prescriptive. Compliance with minimum site design criteria are address in III.I and III.J, below.

5. The adequacy and availability of public facilities, such as roads, sewer, water and other required public services (19.36.030(4)(e)):

All urban public facilities and services are available and adequate for the proposal. The applicant provided a confirmation email from Rocky Wallace, the City of Selah Public Works Director, on June 28, 2022, that the proposed site can be served with city water and sewer (see Attachment F). The access from the proposed development is onto a county maintained public road. Urban facilities such as schools, libraries and services including public transportation, police, and fire are available in the city's urban growth area.

6. The compatibility of the proposed zone change and associated uses with neighboring land uses (19.36.030(4)(f)):

No evidence has been offered through public or agency comment to indicate that the rezone or generally allowable uses in the R-2 zoning district would produce incompatibility with neighboring uses. This consolidated application review includes the development of a multi-family residential project, and there is no indication that the project would result in incompatibility. For other uses or structures that would require Type 3 project review, compatibility would be evaluated for the particular application.

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

- i. **Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate; and,**
- ii. **Whether the timing is appropriate to provide additional land for a particular use (19.36.030(4)(g));**

As noted earlier, the proposed rezone conforms to *Horizon 2040* goals and objectives related to housing stock, including diversity of housing types and the need for infilling. Infill opportunities for multi-family residential purposes are necessarily constrained by the predominance of R-1 zoning in urban residential areas, though this need was not quantitatively describes in the application materials or the staff report. The rezone would make possible the proposed townhouse development, which will provide a middle income housing stock to meet the needs of the population. There is no evidence that this change would be untimely in some manner. Other considerations include:

1. High density development supports the goal to eliminate urban sprawl and infill development will maximize the best use of the property.
2. The developer will be responsible for the extension of public water and sewer which will not create unnecessary costs to the public.

3. The proposal will complement and not conflict with the surrounding residential uses if the conditions of the recommendation are met.

8. Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone (19.36.030(4)(h)):

The subject property was zoned One-Family Residential (R-1) prior to adoption of Yakima County Comprehensive Plan in 1997, which designated the subject property High Density Residential. In February 2000, the subject property zoning remained One-Family Residential (R-1) to be consistent with and implement the Comprehensive Plan. The adjacent parcels to the west and north were rezoned to (R-2) to be consistent with the City of Selah's 1997 Urban Growth Area Comprehensive Plan. When the new Yakima County Code (YCC) Title 19 (Unified Land Development Code) was adopted in May 2015, the subject property zoning remained R-1. Ordinance 8-2015 assigned "Urban" designations to Yakima County Urban Growth Areas, which redesignated the subject property from Urban to Urban Residential (UR). This proposed rezone from Single-Family (R-1) to Two-Family Residential (R-2) does not change the underlying Urban Residential (UR) land use designation of the County's comprehensive plan or require an amendment. The intent of the UR designation is to provide for a full range of residential uses from single-family to multi-family to high density.

As previously noted, the actual development pattern in the area reflects a mix of housing types and zoning districts. The applicant reports that, in the last five years, an already tight rental market has become more acute due to factors such as the high cost of owner-occupied housing resulting in first time homebuyers having to delay purchase. Also factors such as the Covid pandemic, more people working remotely allowing them greater flexibility in where they can live and higher cost of building materials. This has effectively resulted in a 100 percent occupancy rate for rental units. All are substantial changes in circumstances that do not result from the actions of the proponent. This along with already existing circumstances including a shortage of property zoned for multiple family residential development in the Selah area.

I. Review Criteria for the Multi-family Dwelling Conditional Use. The decision criteria for Type 4 review are set out in YCC 19.30.080(7). Many of the criteria concern compliance with development standards and requirements set out elsewhere in Title 19 YCC. Any development, structure, or part shall conform to all of the regulations specified in this Title for the situation and zoning district in which they are located in order to be authorized, erected, constructed, reconstructed, moved or structurally altered. YCC 19.10.040(1). Therefore, compliance with the generally applicable Title 19 YCC standards is analyzed first in this Section I.

- 1. Access Required (YCC 19.10.040(3)):** “All new development shall have a minimum of 20 feet of lot frontage upon a public road or be served by an access easement conforming to the dimensional requirements of Sections 19.23.040 and 19.23.050 to provide for access to the development. The approach location shall be reviewed by the County Engineer for compliance with YCC Chapter 10.08. Approach connections to other public roads are subject to review by the applicable agency. Verification of legal access and a valid road approach permit shall be required prior to final approval of any permit granted under this Title.”

The Yakima County Transportation Division provided the following comments:

Parcel 181425-43001 has frontage to SR-823/Wenas RD which is a state roadway. Additional access or modifications to the existing access needs to be approved by WSDOT. Historically WSDOT has not approved additional access to roadways in their jurisdiction. If the proposed changes are not approved by WSDOT, this parcel also has frontage to Taylor Loop Road. If accessing Taylor Loop Rd for this project, there is inadequate right-of-way and the roadway is substandard for its zoning. Applicant will be required to dedicate an additional 10' of R/W from the Center alignment and construct an RS-3 Standard Local Access Road (Approximately 250' of improvements).”

Typically, roads are constructed so that the center alignment falls on the section line, half section line or quarter section line. This roadway is not. Therefore, the center alignment needs to be determined by the surveyor (what is the actual physical center of the constructed roadway). The existing R/W is 40' per the long plat “North Selah Tracts”. They would need to ensure that there was a total of 30' of R/W north of the center alignment of the existing roadway as determined by the applicant’s surveyor. It could be an additional 10' or it could be 9.5',10.5',11', etc. Without the center alignment being determined by the surveyor, I cannot give you a specific number.”

In order to construct the roadway to standard, additional R/W is required -the R/W requirements also fall under 19.23.045. To do this, the easiest process would be to work with the Yakima County R/W division to quit claim deed the underlying property necessary to facilitate the construction of the required roadway. For processing the

quit claim deed, it will require a survey to establish the extent of the dedicated area.”

The public roadway standards for developments is found in YCC 19.23.045, this project would fall under “local streets.” The RS-3 Plan matches the 19.23.045 standards for local streets (local access road). I cannot tell you what exactly needs to be done to go from what it is now, to what it needs to be - most notably for meeting the 20 year design. At this point, I can tell you that the road does not meet the standards for width, or having urban amenities (curb, gutter sidewalk and lighting). Yakima County has a tiered sidewalk program. Public roads serving 10-30 residential units requires sidewalks on one side of the roadway. The number of illumination poles is determined by the unit used and how the light spreads (this will be determined during the engineering review). Part of the roadway improvements will require the applicant to hire an engineering firm to establish what is there and what needs to be done to bring it up to the RS-3 Standards. They will propose the improvements with 30% design, which will get reviewed until it approved. Then 90% design will get reviewed prior to construction approval. We will do a pre-con to establish what is required for acceptance (materials testing, inspections, etc.). Once the road is fully constructed to meet said standard, we will do a final walk through of the site, establish anything that needs to be done. Once complete, their engineer will submit final 100% plans to be approved by the County Engineer. When the County Engineer approves the final plan submittal, we will push to get the roadway improvements accepted by the County via a resolution.

The applicant is proposing to access the site via Taylor Loop Road, an existing paved Local Access/Urban Access road, which connects to SR 823/Wenas Road, a WSDOT Class 3 Managed Access highway. Conditions and verifications of approval for the dedication and RS-3 road improvements have been added to this recommendation. Please see Attachment I for the RS-3 cross section road requirements.

- 2. Building and Fire Safety Permits Required (YCC 19.10.040(5)):** “No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Building Official under RCW 19.27 and YCC Title 13. No building permit shall be issued except in conformity with this Title.”

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

Based upon the information submitted, all new construction and modifications to existing structures require building permits. All construction is required to comply with all applicable provisions of the current adopted International Building Codes with Washington State Amendments and the current adopted Washington State Energy Codes if the proposed contains conditioned space. Building permits and Building Codes are based upon the buildings use and construction type.”

Buildings will be built under the IRC. If built under the IBC automatic fire sprinklers will be required. If built under the IBC a monitored fire alarm may be required. If built under the IBC fire flow will be required.”

Based on the applicant’s proposal and the agency comments, building and fire safety permits are required for development.

- 3. Setbacks, Easements and Right-of-Way (YCC 19.10.040(6)):** “Chapters 19.11 through 19.18 list standard minimum setbacks for buildings or other structures and uses. Exceptions to certain setbacks are listed in Subsection 19.10.040(6)(b)...”: YCC Table 19.12.020-2 (Setbacks, Lot Coverage and Building Height) lists the standard minimum setbacks for buildings or other structures and uses in the R-2 zoning district. The site plan indicates that all setbacks will be met.
- 4. Vision Clearance Triangles at Intersections and Driveways (YCC 19.10.040(7)):** The project will require vision clearance triangles where the Taylor Loop Road accesses onto SR 823/Wenas Road as described in YCC 19.10.040(7)(a) and where the development accesses onto Taylor Loop Road as described in YCC 19.10.041(7)(b).
- 5. Maximum Lot Coverage and Building Height (YCC 19.10.040(8)(a) & Table 19.12.020-2):** According to YCC Table 19.12.020-2, the maximum lot coverage in the R-2 zoning district is 60%. Based on the site plan, the proposed lot coverage is 59.5% and meets this requirement. According to YCC Table 19.12.020-2, the maximum building height in the R-2 zoning district is 35 feet. shall not exceed the lot coverage and building height

standards unless an administrative adjustment is applied for and approved. The proposed building heights are 26 feet high and meets this requirement.

- 6. Fences, Walls and Recreational Screens (YCC 19.10.040(9)):** The provisions of YCC 19.10.040(9) “shall govern the location and height of fences and walls, to allow access to properties by utility employees and emergency response personnel and to maintain good appearance of residential areas and visual access along residential streets and between lots.” According to the CUP application, the existing 6-foot wooden fence will be replaced with a 6-foot slatted chain link fence. According to YCC 19.10.040(9), fences can be placed on or behind the property line. The maximum fence height in the R-2 zoning district for all uses is four feet within the required front yard setback, and six feet behind the required setback. The new fence will be required to meet YCC 19.10.040(9), otherwise an administrative adjustment will need to be applied for and must be approved prior to the release of building permits; unless the applicant submits a proposal that meets the fencing requirements of this section. Any new fencing, walls, and recreational screens installed in the future shall also meet the requirements of YCC 19.10.040(9). The staff report recommends a condition of approval to inform the applicant of this section of code and address the applicant’s proposed fencing height.
- 7. Exterior Lighting (YCC 19.10.040(10)):** 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. The applicant is proposing the typical residential lighting during the hours of darkness. Such lighting and any future new exterior lighting shall comply with the standards set forth in YCC 19.10.040(10).
- 8. Floodplain Development (YCC 19.10.040(11)):** Project floodplain development review provides for minimizing and mitigating potential adverse impacts to property and infrastructure while reducing risks to public health and safety. The Yakima County Building and Fire Safety Division commented that, based on current FEMA mapping and GIS overlays, the entire parcel is outside the 100-year floodplain/floodway.
- 9. Stormwater Requirements (YCC 19.10.040(12)):** The stormwater ordinance is intended to ensure public and private development projects comply with the National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act (CWA) where applicable. According to the application materials, the

applicant is proposing four swales and on-site stormwater retention. The Water Resources Division did not provide comments on the proposal, and no other evidence in the record indicates that the project cannot comply with stormwater requirements.

10. Signs (YCC 19.20.030(1)): The applicant is not proposing any signage. Future sign proposals shall comply with the standards set forth in YCC 19.20.030 to the existing or approved use.

11. SITESCREENING AND LANDSCAPING: SITESCREENING and landscaping consistent with the requirements of Chapter 19.21 must be provided for any proposed new use, which includes modifications to existing uses being reviewed under this title. According to 19.21.020(1), the applicant is required to submit a sitescreening and landscaping plan depicting the location, height, size, and type of all plantings and fences under the requirements of this chapter.

- a. Property Perimeters along Street Frontages (YCC 19.21.030(2)(b)(i)(A)):** Along the street frontage, a minimum six-foot wide planting area of Standard A (Open Area Landscaping with Trees) is required. If a fence is provided, landscaping must be placed on the exterior (street side) of the fence. Fences and landscaping also must comply with the vision clearance triangle standards of Subsection 19.10.040(7). Trees must be located within the landscaping plan, outside of easements for underground utilities, aside from underground utilities, and away from streetlights to avoid conflicts with their maintenance and functions.
- b. Property Perimeters Not Along Street Frontages (YCC 19.21.030(2)(c)):** Planting strips as specified by Table 19.21-1 shall be provided along all property lines that abut other parcels, except where adjacent to railroads or where buildings are lawfully built with no setback from the property line. *The property to the north is zoned R-2 and the property to the east is zoned R-1.* A Standard C planting along these property perimeters are required unless the applicant provides additional sight obscuring/fencing options to the proposed fencing as allowed in Alternative C-1 as set out in the ordinance.
- c. Landscaping in Other Areas of Sites (YCC 19.21.030(2)(d)):** According to Table 19.21-1, R-2 zoned lots adjacent to R-1 and R-2 lots require Standard C sitescreening and landscaping to be provided on a total maximum of 15% of the development project area that is not covered by structures, hard surfaces, or other prescribed plantings. A condition to this effect is appropriate for any approval.

d. Landscaping of Parking Lot (YCC 19.21.030(2)(e)):

- i. Parking lots shall be landscaped a minimum of ten percent of total area used for parking spaces and maneuvering to and from those spaces. This landscaping area may be included to satisfy the lot coverage (impermeable surface) requirements (YCC 19.21.030(2)(e)(i)).
- ii. A standard of one shade tree from an approved list in the landscaping guidelines authorized by YCC 19.21.030(2)(i) shall be planted for every 14 parking stalls within Urban Growth Areas, RS, HTC, and RT zones. Such shade trees shall be provided in-between parking stalls such that no more than 14 continuous single-row parking stalls or 28 continuous double-row parking stalls will exist within the parking lot (YCC 19.21.030(2)(e)(ii)).
- iii. Landscaping shall consist of combinations of trees, shrubs, and groundcover with careful consideration to eventual size and spread, susceptibility to disease and pests, durability, and adaptability to existing soil and climatic conditions (YCC 19.21.030(2)(e)(iii)).
- iv. Landscaping shall be located within the parking area, such as in-between parking spaces or in parking “islands,” or around the perimeter of the parking lot (YCC 19.21.030(2)(e)(iv)).
- v. Parking lots are subject to the perimeter landscaping standards listed in Subsections 19.21.030(2)(b) and 19.21.030(2)(c). However, for each additional shade tree provided within the parking area that exceeds the minimum number of shade trees required by Subsection [YCC 19.21.030(2)(e)](ii) above, the required number of perimeter trees shall be reduced by 1.5 trees, rounded down to the next whole number (YCC 19.21.030(2)(e)(v)).
- vi. Every parking lot that abuts property zoned R-1, R-2, R-3, RS or RT and serves a Type 2 use, a Type 3 use, a commercial use, or an industrial use shall be separated from such property by a solid wall, or view-obscuring fence, or landscaped berm at least six feet in height, or landscaped with a 3-foot width of Standard C sitescreening. The Reviewing Official may increase the height, depth and content of said screening, fencing and/or landscaping as necessary to adequately protect adjacent single-family residential development. The screening shall be provided and maintained along the property line of such lot. Ingress and egress locations shall meet the vision clearance triangle standards of Subsection 19.10.040(7) (YCC 19.21.030(2)(e)(vi)).

The applicant must be required to meet the landscaping requirements for the parking lot as described above.

12. Parking and Loading: According to Table 19.22-2 “multi-family dwelling containing more than 10 units” require two spaces per dwelling unit. The applicant is proposing a total of 34 parking spaces which meets this requirement.

- a. *Construction and Maintenance requirements.* The applicant is required to use YCC 19.22.070 Construction and Maintenance requirements when constructing all off-street parking lots, driveways, travel ways, and parking aisles. Pertinent standards include the following:
 - i. *Surfacing.* All parking and loading spaces and related access drives, maneuvering, and vehicle storage areas shall be built to standards approved by the Reviewing Official as follows:
 - (a) *Urban Standards.* Parking facilities within Urban Growth Areas, Rural Settlements shall be paved with two inches thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the Reviewing Official, to eliminate dust and/or mud.
 - (b) The Reviewing Official may consider using alternative surfacing materials, such as gravel, for portions of parking facilities primarily used by heavy equipment where maintenance and repair of paved surfaces would be located.
 - ii. *Grading and Drainage.* Parking areas shall be graded and drained so all surface water is disposed of on-site. Grading and drainage facilities shall be designed according to accepted engineering standards, YCC Title 12.10 and the Stormwater Management Manual for Eastern Washington, which will require review by the Public Services Director or designee.
 - iii. *Wheel Stops and Curbs.*
 - (a) The front of a parking space with a curb that is improved with groundcover landscape material, instead of asphalt or concrete pavement; may be counted toward landscape or open space area requirements.
 - (b) The perimeter of a parking or loading area and access and maneuvering drives associated with them shall be improved with a curb, rail or equivalent so vehicles do not extend over a property line, sidewalk or public or private street.
 - iv. *Markings.* All paved parking spaces (except motor vehicle sales areas) shall be marked by durable painted lines at least four inches wide and extending the length of the stall or by curbs or other means approved by

the Reviewing Official to indicate individual parking stalls. Signs or markers located on the parking lot surface shall be used as necessary to ensure safe and efficient use of the parking lot. All accessible parking spaces shall be marked and signed in compliance with the currently adopted International Building Code. Wheel stops may be required by the Administrative Official as needed on graveled surfaces to designate spaces in parking and loading areas.

- b. *Lighting.* Lighting shall be provided to illuminate any off-street parking or loading space used at night. When provided, lighting shall be directed to reflect away from adjacent and abutting properties and comply with Subsection 19.10.040(10). Parking lots adjacent to residential districts or uses shall be designed with down-shielding and luminaries creating no lighting pollution upon those properties. A Photometric Lighting Plan may be required if the parking lot is located adjacent or abutting residential properties. Further requirements and restriction are required when the property is located within the Airport Safety Overlay District. See Chapter 19.17.
- c. *Landscaping of Parking Areas.* Parking facilities must be landscaped under the standards listed in Chapter 19.21.
- d. *Maintenance.* The owner or lessee of a required parking area shall maintain the paved surface, drainage facilities, landscaping and irrigation facilities in conformance with the standards of this Chapter and the approved site plan.

13. Sewer and Water: According to YCC Table 19.25-1 and YCC Table 19.25-2, new structures in the R-2 zoning district require connection to either an area-wide public water system, existing public water system, Yakima County or Nob Hill Water SMA, or other state-approved SMA and a municipal, county, or other state approved operator system. The applicant provided a confirmation email from Rocky Wallace, the City of Selah Public Works Director, on June 28, 2022, that the proposed site can be served with city water and sewer.

J. Type 4 Decision Criteria Applicable the proposed multi-family residential

development. The decision criteria for Type 4 decisions under YCC 19.30.080(7) are set out and analyzed in turn below, including cross referencing to generally applicable standards and analysis included in Section III.I, above.

- 1. 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 (19.30.080(7)(a)).** As noted earlier, the intent of the Urban Residential land use category, adopted as part of the future land use map, is to provide for a full range of urban housing types, from single and multi - family development to high density family

housing. The proposed project is consistent with the Urban Residential purposes. In addition, the applicant notes the relatively small inventory of multi-family residences in the vicinity. The project also is an infill project that will further help avoid sprawling development in the area. Furthermore, the project is appropriately conditioned on the implementation of urban development standards at the applicant's expense. On this basis, the project serves and benefits the community on balance.

2. **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 (19.30.080(7)(b)).** The proposed project is consistent with and supports *Horizon 2040* and City of Selah Comprehensive Plan goals, objectives, and policies as discussed above. As conditioned, the character of the development will be consistent and compatible with neighboring land uses and the intent of the R-2 zoning district and underlying Urban Residential land use designation. See the analysis in III.I, above
3. **The site of the proposed use is adequate in size and shape to accommodate the proposed use (19.30.080(7)(c));** According to the site plan, the proposed development is an adequate lot size to accommodate setbacks, height, and lot coverage as discussed above.
4. **All setbacks, spaces, walls and fences, parking, loading, sitescreening, landscaping, and other features required by this Title (19.30.080(7)(d)).** As discussed in III.I, above, the project meets the requirements of the YCC 19.10.040 General Development Regulations, provided that conditions of approval are met.
5. **The proposed use complies with other development and performance standards of the zoning district and this Title (19.30.080(7)(e)).** Again, as conditioned, the proposed complies with the development and performances standards of the zoning district Title 19 YCC as analyzed in III.I.
6. **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 (19.30.080(7)(f)).** The Yakima County Transportation Division's requirements to mitigate for road improvements to Taylor Loop Road as incorporated in conditions of approval will support adequacy of the street providing access to the property and otherwise serving the area.
7. **The proposed use will have no substantial adverse effect on abutting property or the permitted use thereof (19.30.080(7)(g)).** Based on the preceding III.H and III.I analyses and appropriate conditions of approval. The proposal will not have any substantial adverse effects on abutting properties or permitted uses.

8. In the case of residential uses, the housing density of the development is consistent with the existing zoning densities, or the Comprehensive Plan, and that all other aspects of the development are consistent with the public health, safety, and general welfare for the development and for adjacent properties (19.30.080(7)(h)). If the minor rezone is approved pursuant to the III.H analysis, the proposed 16-unit development will be subject to the R-2 zoning density, *Horizon 2040, City of Selah Comprehensive Plan*, and YCC 19.10.040 development standards. Compliance with the standards is assessed in III.H and III.I, above.

K. Consistency Analysis of the Proposed Use with Development Regulations and Comprehensive Plan (YCC 16B.06.020 and RCW 36.70B.040): As part of project review, the reviewing official is charged with determining if a proposed project is consistent with Yakima County’s applicable development regulations or, in the absence of applicable regulations, the adopted Yakima County Comprehensive Plan. Consistency should be determined in the project review process by considering four factors found in applicable plans and regulations (RCW 36.70B.040). The four factors are

- a. The type of land use;
- b. The level of development, such as units per acre or other measures of density;
- c. Infrastructure, including public facilities and services needed to serve the development; and
- d. The characteristics of the development, such as development standards.

These factors are all built into the decision criteria for a minor rezone and CUP project, so if the project satisfies the decision criteria, then it will duly address the consistency analysis requirements.

From the foregoing Findings, the Hearing Examiner makes the following

IV. CONCLUSIONS.

1. The Hearing Examiner has jurisdiction to conduct a consolidated review of the applications for the minor rezone and CUP under Type 4 decision criteria and make a recommendation to the Board of County Commissioners.
2. The Hearing Examiner’s recommendation can include conditions designed to achieve the purposes of YCC 19.30.100. The conditions recommended in the staff report generally meet the purposes of YCC 19.30.100.
3. As conditioned based on the review set forth in this recommendation to reasonably ensure compatibility, compliance, and consistency with the provisions of the Minor Rezone review criteria, *Horizon 2040* goals and policies, Yakima County Code, YCC 16B.06.020 and RCW

36.70B.040 in compliance with all applicable Yakima County and State of Washington law requirements, the applications warrant a recommendation of approval.

V. RECOMMENDATION

The Hearing Examiner recommends APPROVAL of the Minor Rezone from R-1 to R-2 (ZON2022-00001) and the 16-unit townhouse development (CUP2022-00023), entitled Garner, SUBJECT TO CONDITIONS SPECIFIC TO THE DEVELOPMENT OF THE TOWNHOUSE PROJECT.

Please note that the decision and time limit pertain to conditional authorization for the subject land use only and failure to comply with all conditions will result in the revocation of this permit. The Final Decision should include the following conditions and the findings as described.

Compliance with the following conditions 1 through 15 must be achieved within three years of the date of the final Yakima County Board of County Commissioners decision.

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

2. The applicant may be required to obtain a grading permit prior to the construction of the site preparation and/or internal driveway. A State Environmental Policy Act (SEPA) environmental review will be required in conjunction with the Grading Permit, if “a maximum of 500 cubic yards throughout the total lifetime of the fill or excavation in all Zoning Districts both within and outside Urban Growth Areas” (YCC 16.04.100(5)). Contact the Building and Fire Safety Division at (509) 574-2300 for the necessary applications.

3. The applicant shall eliminate the existing access onto SR 823 from the subject property and obtain a General Permit from the Washington State Department of Transportation (WSDOT) for any proposed work inside the SR 823 right-of way. Please contact Jacob Prilucik at (509) 577-1635 for questions regarding these requirements. Verification from WSDOT that their requirements have been met must be submitted to the Yakima County Planning Division prior to the release of building permits.

4. The applicant shall obtain at its sole expense a survey of the center alignment of Taylor Loop Road and dedicate sufficient right of way along the entire frontage of Taylor Loop Road from the surveyed center alignment to provide a total of 30 feet of right-of-way from the center alignment as determined by the applicant’s surveyor. The center alignment as defined by the Yakima County Transportation Division is “the actual physical center of the constructed roadway.” Please contact Jamie West from the Yakima County Transportation Division at (509)

574-2300 to coordinate these efforts to ensure their requirements have been met. Verification of a recorded quit claim deed with the Yakima County Auditor for the dedication must be submitted to the Yakima County Planning Division prior to the release of building permits.

5. The applicant shall improve approximately 250 feet of Taylor Loop Road, the entire length of the subject property from the eastern property line to the intersection of the Taylor Loop Road and SR 823/Wenas Road, meeting the requirements of the RS-3 Urban Access Road Standards. Please contact Jamie West from the Yakima County Transportation Division at (509) 574-2300 for road design process and procedural requirements prior to construction approval. Verification that the road was constructed to meet the requirements of the Transportation Division must be submitted to the Yakima County Planning Division prior to the issuance of the Certificate of Occupancy. See Attachment I for RS-3 road standard details.

6. The applicant shall ensure that any fencing installed meets the requirements as outlined in YCC 19.10.040(9). The maximum fence height in the R-2 zoning district for all uses is four feet within the required front yard setback of SR 823/Wenas Road and Taylor Loop Road, and six feet behind the required front yard setbacks. If applicant wants to exceed these height standards, the applicant is required to apply for an administrative adjustment, which must be approved prior to the release of building permits. Verification that this requirement has been met shall be submitted to the Yakima County Planning Division prior to the release of building permits. For further information please contact the Yakima County Planning Division at 509-574-2300.

7. The applicant shall submit a final sitescreening and landscaping plan depicting the location, height, size and type of all plantings meeting the requirements of YCC Chapter 19.21. This plan must be approved by the Yakima County Planning Division prior to the issuance of building permits and installation of the sitescreening and landscaping as required.

8. The applicant shall landscape “Property Perimeters along Street Frontages” – the exterior side of the fence that abuts SR 823/Wenas Road and Taylor Loop Road with Standard A landscaping standards as outlined in Finding (I)(1)(n)(i) above. Verification that this requirement has been met must be submitted to the Yakima County Planning Division prior to the issuance of the Certificate of Occupancy.

9. The applicant shall site screen “Property Perimeters Not Along Street Frontages” – the north and east property lines with Standard C sitescreening standards as outlined in Finding (I)(1)(n)(ii) above. Verification that this requirement has been met must be submitted to the Yakima County Planning Division prior to the issuance of the Certificate of Occupancy.

10. The applicant shall site screen and landscape a 15% percent maximum of the total development project area that is not covered by structures, hard surfaces, or other prescribed

plantings with Standard C sitescreening and landscaping standards as required by Table 19.21-1 in Title 19 of the Yakima County Code. Verification that this requirement has been met must be submitted to the Yakima County Planning Division prior to the issuance of the Certificate of Occupancy.

11. The applicant shall landscape the parking lot to meet the requirements of YCC 19.21.030(2). Verification that this requirement has been met must be submitted to the Yakima County Planning Division prior to the issuance of the Certificate of Occupancy.

12. The applicant shall provide and construct a minimum of 32 required parking spaces to include travel ways, and parking aisles to meet the YCC 19.22.070 Construction and Maintenance requirements with urban surfacing standards. Parking facilities shall be paved with two inches thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the Reviewing Official, to eliminate dust and/or mud. These areas shall include all parking, related access drives, and maneuvering. Verification that this requirement has been met must be submitted to the Yakima County Planning Division prior to the issuance of the Certificate of Occupancy.

13. This project is required to connect to the City of Selah Water System. Any applicable fees must be paid, easements provided, and lines installed according to the requirements of the water purveyor. Verification from the City of Selah that the water connections were installed to meet their requirements must be submitted to the Yakima County Planning Division prior to the issuance of the Certificate of Occupancy.

14. This project will be required to connect to the City of Selah Sewer System. Any applicable fees must be paid, easements provided, and lines installed according to the requirements of the provider. Verification from the City of Selah that the sewer connections were installed to meet their requirements must be submitted to the Yakima County Planning Division prior to the issuance of the Certificate of Occupancy.

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

The following are ongoing conditions that apply to the project for the life of the permitted use. Failure at any time to comply with these conditions can result in the revocation of this permit.

16. The applicant shall ensure that vision clearance triangles at the access points of the development to Taylor Loop Road and Taylor Loop Road to SR 823/Wenas Road are maintained in accordance with YCC 19.10.040(7)(a) and (b).

17. The applicant is limited to a 60% maximum lot coverage in the R-2 zoning district as required by YCC Table 19.12.020-2. An administrative adjustment is required if the applicant proposes to exceed this maximum lot coverage and must be approved prior to the release of building permits.

18. The applicant shall ensure that any exterior lighting installed meets the requirements as outlined in 19.10.040(10). In accordance with YCC 19.0.040(10), exterior lighting for all uses 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. For further information please contact the Yakima County Planning Division at 509-574-2300.

DATED THIS 11TH DAY OF OCTOBER 2022.



PATRICK D. SPURGIN
HEARING EXAMINER *PRO TEM*