

Yakima County Planning Commission Findings of Fact and Recommendation November 9, 2022

IN THE MATTER OF CONSIDERING AN) **FINDINGS OF FACT AND**
AMENDMENT TO THE MINERAL) **RECOMMENDATION**
RESOURCE OVERLAY MAP IN THE)
YAKIMA COUNTY COMPREHENSIVE) File Nos: LRN2021-00005/SEP2020-00004
PLAN – **HORIZON 2040**)

WHEREAS, in compliance with the Washington State Growth Management Act (GMA), Chapter 36.70A RCW, the Board of Yakima County Commissioners (Board) adopted the Yakima County Comprehensive Plan – **Horizon 2040** on June 27, 2017, and adopted implementing development regulations – YCC Title 19 on May 5, 2015; **and**,

WHEREAS, RCW 36.70A.130 requires that Yakima County, as a "fully planning" county, shall update its Comprehensive Plan and development regulations as necessary, to reflect local needs, new data, and current laws; **and**,

WHEREAS, under RCW 36.70A.130, the plan and development regulations are subject to continuing review and evaluation, but the plan may be amended no more than one time per year; **and**,

WHEREAS, YCC 16B.10.040(3) establishes that applications for plan amendments, with the exception of Urban Growth Area boundaries (UGA), will be considered on a biennial basis starting in 2013 and must be submitted in writing, to the Planning Division, no later than January 31 in order to be considered for that biennium's amendment process; **and**,

WHEREAS, as part of its Comprehensive Plan and development regulations update process, the County has established a public participation program, YCC 16B.10, which sets forth the minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process; **and**,

WHEREAS, the public was informed in late 2021 of the opportunity to submit formal applications for site-specific map and text amendments to **Horizon 2040** and text amendments to Yakima County's development regulations by January 31, 2022; **and**,

WHEREAS, the Yakima County Planning Division received a site-specific comprehensive plan map amendment (known as "LRN2021-00005/SEP2020-00004 Caton-Strutner MRO") to add the Mineral Resource Overlay (MRO) to 18 parcels (comprising 744 acres) located south of Naches-Wenas Road; **and**,

WHEREAS, LRN2021-00005/SEP2020-00004 was presented to the Planning Commission for a study session and their review on September 14, 2022; **and**,

WHEREAS, a notice of Planning Commission Public Hearing and Invitation for Comments was mailed on October 7, 2022, to interested agencies and to property owners within 300 feet of the parcels comprising the proposed amendment and the contiguous parcels owned by the applicants; **and**,

WHEREAS, a legal notice of said Open Record Public Hearing was published in the Yakima Herald-Republic on October 7, 2022; **and**,

WHEREAS, the applicant for LRN2021-00005/SEP2020-00004 submitted a signed certification and photos verifying that the subject site was posted on October 7, 2022, with the Planning Commission public hearing date and location; **and**,

WHEREAS, on October 14, 2022, Yakima County provided a 60-Day notice to the Department of Commerce, as required by RCW 36.70A.106, on the proposed comprehensive plan map amendment; **and**,

WHEREAS, the Planning Commission conducted a properly advertised and noticed public hearing on October 19, 2022, to hear testimony on the proposed comprehensive plan map amendment; **and**,

WHEREAS, the Planning Commission held their deliberations on October 26, 2022, at a property noticed special meeting; **and**,

WHEREAS, the Planning Commission, having carefully considered the staff recommendations, written comments, and oral testimonies in its deliberations, moved to make the recommendation described below (III. RECOMMENDATION) to the Board of Yakima County Commissioners concerning the proposed map amendment to **Horizon 2040** – Yakima County Comprehensive Plan;

NOW, THEREFORE, the Yakima County Planning Commission hereby makes and enters the following:

I. REASONS FOR ACTION

A proposed comprehensive plan map amendment before the Planning Commission is as follows:

1. A fee-paid site-specific comprehensive plan map amendment that is considered part of the normal Yakima County biennial plan amendment cycle was submitted for review in 2021.
2. Per RCW 36.70.580 and YCC 16B.10.040, the Planning Commission must hold an open record public hearing on any legislative map amendments before providing a recommendation to the Board.
3. Following public testimony and deliberations, the Planning Commission made a recommendation on the proposed amendment.

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2 **II. FINDINGS OF FACT**
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5 Yakima County, in compliance with the Washington State Growth Management Act
6 (GMA), Chapter 36.70A RCW, the Board of Yakima County Commissioners adopted the
7 Yakima County Comprehensive Plan – **Horizon 2040**, on June 27, 2017, and adopted
8 development regulations – Title 19, on May 5, 2015; and
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11 On or around December 3, 2021, a notice of availability of applications to amend the
12 comprehensive plan map & text and development regulations text was published in
13 the Yakima Herald-Republic and Yakima County Public Services webpage, and posted
14 at the Planning Division and County Courthouse. Applications were due to the Planning
15 Division no later than 4:00 p.m. on January 31, 2022, for consideration in the 2022
16 biennial amendment cycle.
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19 On September 14, 2022, the Yakima County Planning Commission held a Study Session
20 on the proposed map change.
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23 On October 7, 2022, a Notice of Planning Commission Public Hearing and Invitation for
24 Comments for said fee-paid site-specific map amendment scheduled for October 19,
25 2022, was published in the Yakima Herald-Republic and mailed to the applicants, to
26 surrounding property owners within 300 feet, and to agencies.
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29 The applicants' agent submitted a signed certification and photos verifying that the
30 subject site for LRN2021-00005/SEP2020-00004 was posted on October 7, 2022, with the
31 Planning Commission public hearing date and location.
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34 Yakima County staff provided a 60-Day notice to the Department of Commerce on
35 October 14, 2022, for the comprehensive plan map amendment LRN2021-
36 00005/SEP2020-00004.
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39 The Planning Commission accepted oral and written comments at a properly
40 advertised public hearing held on October 19, 2022, on the proposed map
41 amendment to **Horizon 2040**.
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44 The hearing was closed to further oral and written public testimony on October 19,
45 2022, after everyone attending had an opportunity to testify and to submit written
46 comments; and the Planning Commission adjourned their meeting to October 26, 2022,
47 for deliberations.
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1 On October 26, 2022, the Planning Commission held their deliberations regarding
2 LRN2021-00005/SEP2020-00004 at a properly noticed special meeting. Michael
3 Shuttleworth, Planning Commission member, provided the following findings during
4 discussion of his motion to recommend denial of the application:

- 5 1. Testimony was presented that this application is about a comp plan map
6 amendment not a permit. I find that the PC can only consider the map
7 amendment.
- 8 2. Testimony was presented that the applicant was proposing to have the 500-foot
9 setback on their property. A comp plan map change is not a permit and cannot
10 be conditioned. I find that the PC cannot consider the 500 feet.
- 11 3. The growth management act defines minerals as: "include gravel, sand, and
12 valuable metallic substances." I find this definition does not include topsoil.
- 13 4. Section 5.6.1.7 of **Horizon 2040** provides for mining in the comprehensive plan:
14 "All of the surface mining activities permitted by Yakima County are rock, sand
15 and gravel operations." I find that this definition does not include topsoil.
- 16 5. Testimony was presented that the area of the site was considered under the
17 process for originally designating mineral resources and it was determined it
18 should not be included.
- 19 6. Testimony was presented that the area of the site was not considered under the
20 original process.
- 21 7. Testimony was presented that an application to consider this site as a mineral
22 resource was denied by the County in the recent past.
- 23 8. I find that no testimony was presented that there were changes to the site since
24 the last application was denied.
- 25 9. Testimony was presented that the site contained topsoil, sand and gravel.
26 Testimony was presented that the surrounding area is also topsoil, sand and
27 gravel. No testimony was presented on the thickness of sand, gravel, or bedrock
28 deposit that exceed 25 feet or that the stripping ratio is less than one to three. I
29 find that the site does not meet the requirements in volume of resources.
- 30 10. Testimony was presented that the minerals on the site would meet the
31 requirements for state and local road projects. The staff report presented that
32 the 2020 application narrative submitted stated that the gravels have
33 commercial value for use in non-commercial government projects, primarily the
34 residential and building market. No testing result of an analysis performed by a
35 testing lab was presented. I find that information was not presented to
36 determine that the site meets the "quality of Mineral Resources" Criteria.
- 37 11. Testimony was presented that topsoil was removed from the site as a result of the
38 permitted activity taking place on the site.
- 39 12. A map presented showed that the property on 3 sides is mostly adjacent to
40 state lands. I find that the surrounding properties uses will not impact the use of
41 the site for soil removal that is taking place on the site as a result of an existing
42 permit.
- 43 13. Yakima County Land Use Code under the definition for Mining site/operation
44 includes that: "For the purposes of this Title, the leveling, grading, filling, or

1 removal of materials during the course of normal site preparation for an
2 approved use (e.g. residential subdivision, commercial development, etc.) does
3 not constitute a mining site/operation, if: processing of the materials does not
4 occur on the site, the activity is completed quickly, does not occur over an
5 extended period of time and on-site stockpiles are fully depleted; and a mining
6 permit is not required from the Department of Natural Resources."

7 14. Testimony was presented that a 240 site RV park is located north of the site.
8 Testimony was also presented that the developer of the park was aware of the
9 existing permitted material disposal site, but was not aware of possible mining
10 operation. A residential development is not compatible with a mineral extraction
11 operation. I find that a mining operation, other than the existing soil removal of
12 part of an existing permit, would impact the use of the RV park.
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15 **III. RECOMMENDATION**
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17 Based on the above findings and the information presented, the Planning Commission
18 recommends to the Board of Yakima County Commissioners as follows:
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20 • **DENY** the request to add the Mineral Resource Overlay to the comprehensive
21 plan's Mineral Resource Overlay Map, as proposed by the application known as
22 "LRN2021-00005/SEP2020-00004 Caton-Strutner MRO."

23
24 **Therefore, the Planning Commission recommended in a 4 to 1 vote to DENY the**
25 **proposed Comprehensive Plan map amendment.**
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1 Voting in favor of the findings and recommendations:

2 Doug Mayo, Chair Doug Mayo

3 Kyle Curtis, Vice Chair _____

4 Michael Shuttleworth _____

5 Jerry Craig Jerry Craig

6 Holly Castle Holly Castle

7 Robert Tree Robert Tree Opposed

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17 Attest:

N. Mader

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21 Noelle Madera, Secretary

22 Dated: November 9, 2022