AGENDA REQUEST FORM

Return completed form and complete agenda item to the Clerk of the Board
Yakima County Commissioners' Office, Room 232

Prepared by: Tua Vang

Department: Public Services

Requested Agenda Date: 12/27/2022

Presenting: Lisa Freund

Board of County Commissioners Record Assigned

011-2022

APPROVED FOR AGENDA:

☐ Consent ☐ Regular

Board of County Commissioners Determined

Document Title:

IN THE MATTER OF AMENDING BOTH THE YAKIMA COUNTY COMPREHENSIVE PLAN - HORIZON 2040 AND YAKIMA COUNTY CODE TITLE 19 – UNIFIED LAND DEVELOPMENT CODE PERTAINING TO THE 2022 BIENNIAL MAP AMENDMENT CYCLE.

Action Requested: *Check Applicable Box*

☐ PASS RESOLUTION ☐ EXECUTE or AMEND **AGREEMENT** CONTRACT or GRANT

☐ ISSUE PROCLAMATION ☒ PASS ORDINANCE ☐ OTHER_____

Describe Fiscal Impact:

None.

Background Information:

Per Yakima County Code 16B.10.040(3), Yakima County shall accept paid applications for Biennial Comp Plan amendments for consideration. The Planning Commission held open record public hearings for the four map amendments and submitted their recommendations to the Board. The Board held a public hearing to take testimony on December 13, 2022 and deliberated on December 23, 2022. This ordinance will finalize the 2022 Biennial proposals.

Summary & Recommendation:

Pass this ordinance as decided upon for each map amendment (LRN21-005, LRN22-002, -003, & -004) by the Board to finalize this action and sign the development agreements.

Motion:

I move to approve Ordinance 7-2022 as decided upon by the Board for the 2022 Biennial Map Amendments.

Department Head/ Elected Official

Signature

AGREEMENT Attached Is Approved as to Form

Corporate Counsel Initial TC

Late Agenda Requests Require BOCC Chairman Signature:

BOARD OF YAKIMA COUNTY COMMISSIONERS

ORDINANCE 11-2022

IN THE MATTER OF AMENDING BOTH THE YAKIMA COUNTY COMPREHENSIVE PLAN - *HORIZON 2040* AND YAKIMA COUNTY CODE TITLE 19 – UNIFIED LAND DEVELOPMENT CODE PERTAINING TO THE 2022 BIENNIAL MAP AMENDMENT CYCLE.

GENERAL

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 development regulations – Yakima County Code (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, the GMA, RCW 36.70A.130(2)(b), requires Yakima County to establish procedures and schedules whereby comprehensive plan amendments are considered by the Board; **and,**

WHEREAS, under YCC 16B.10.040, applications for plan amendments, apart from Urban Growth Area (UGA) boundaries, will be considered on a biennial basis starting 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, Resolution No. 439-2012 suspended the 2013 biennial plan amendment cycle in accordance with 16B.10 to allow for the Code Update/Simplification Project (CU/SP) and update of the County-wide Planning Policies (CWPP), and rescheduled the biennial amendment cycle to start in the 2014 calendar year; **and,**

WHEREAS, Resolution No. 103-2015 resolved a scheduling conflict between the 2016 biennial amendment cycle and June 30, 2017, deadline for the GMA periodic update cycle, by moving up the next scheduled biennial amendment cycle from 2016 to 2015, thus keeping the next biennial amendment cycle for the calendar year 2018, then every other year after that; **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 minimum requirements for ensuring adequate public notification and opportunities for comment and participation in the amendment process; **and,**

2022 BIENNIAL MAP AND TEXT AMENDMENTS

WHEREAS, on December 13, 2021, the Yakima County Planning Division published in the Yakima Herald-Republic a legal notice and display ads to inform the public of the opportunity to submit formal applications for comprehensive plan map & text and development regulation text amendments by the January 31, 2022, deadline; **and,**

WHEREAS, prior to the deadline, four applications were submitted for proposed site-specific map amendments to ***Horizon 2040***: LRN2021-00005/SEP2020-00004 (Caton/Strutner), LRN2022-00002/SEP2022-00004 (Granite/Rowley Family Trust), LRN2022-00003/SEP2022-00005 (Jr. Achievement/Borton), and LRN2022-00004/SEP2022-00006 (Arellano, formerly Orozco); **and,**

WHEREAS, in accordance with YCC 16B.10.040, on March 09, 2022, the Planning Commission was presented the following site-specific map amendment; **and,**

LRN2021-00005/SEP2020-00004 (Caton/Strutner)

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

WHEREAS, in accordance with said public participation program, a Notice of Open Record Public Hearing was mailed on October 7, 2022, to interested agencies and to property owners within 300 feet of the subject parcels and the contiguous parcels owned by the applicants; **and,**

WHEREAS, on October 14, 2022, Yakima County provided a 60-day notice to the Department of Commerce for LRN2021-00005, as required by RCW 36.70A.106; **and,**

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

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

WHEREAS, the Planning Commission, having carefully considered the applicants' justifications, the staff recommendation, and the written and oral testimonies in its deliberations, approved their Findings and Recommendation on November 9, 2022, for the LRN2021-00005 comprehensive plan map amendment; **and,**

State Environmental Protection Act (SEPA)

WHEREAS, site-specific map amendments must be processed in compliance with the SEPA; **and,**

WHEREAS, the Yakima County SEPA Responsible Official issued a Determination of Nonsignificance on November 18, 2020 for LRN2021-00005 (SEP2020-00004); **and,**

WHEREAS, all SEPA reviews analyzed the environmental and growth management impacts of all proposed actions and considered all submitted comments from agencies and parties of record; **now, therefore,**

BE IT HEREBY ORDAINED by the Board of Yakima County Commissioners:

Section 1. Reasons for Action. The 2022 biennial amendment before the Board of Yakima County Commissioners are as follows:

A. LRN2021-00005/SEP2020-00004 is a fee-paid site-specific comprehensive plan map amendment submitted as part of the 2022 Yakima County biennial plan amendment cycle.

B. The Planning Commission held an open record public hearing on this legislative map amendment proposal before providing recommendations to the Board of Yakima County Commissioners.

C. The Planning Commission presented their Findings of Fact and Recommendation to the Board of Yakima County Commissioners for their consideration.

D. The Board of Yakima County Commissioners reviewed said amendment request, held a public hearing, and decided to approve, modify and/or deny the proposed amendments.

Section 2. Findings.

A. Compliance with Growth Management Act. The Board of Yakima County Commissioners find that the amendments to Yakima County Comprehensive Plan - ***Horizon 2040***, and YCC Title 19, adopted by this ordinance are in substantial compliance with RCW 36.70A, the Growth Management Act. The Comprehensive Plan is internally consistent and policies within and among elements are complementary, not contradictory. The Comprehensive Plan contains policies, implementation measures, and procedures which provide for its review and adjustment if internal conflicts are discovered.

B. State Environmental Policy Act (SEPA). Yakima County adopted ***Horizon 2040*** on June 27, 2017, and adopted by reference ***Plan 2015's***, Chapter III Environmental

Analysis. ***Plan 2015*** was originally designed to integrate SEPA and GMA consistent with the provisions of WAC 197-11-210 through 197-11-235. The proposed comprehensive plan map amendment was reviewed for environmental impacts and issued a Final Determination of Nonsignificance (DNS).

C. The Board of Yakima County Commissioners accepted oral and written comments at a properly advertised public hearing held on December 13, 2022, on the proposed map amendment to ***Horizon 2040*** and the YCC Title 19 zoning map.

D. The Board of Yakima County Commissioners deliberated on December 23, 2022, regarding LRN2021-00005/SEP2020-00004.

E. The Board of Yakima County Commissioners having carefully considered the record and all public comments and testimony in its deliberations hereby makes the following decision regarding LRN2021-00005, the proposed site-specific comprehensive plan map amendment, as follows:

   i. LRN2021-00005/SEP2020-00004 (Caton/Strutner) to add the Mineral Resource Overlay (MRO) on 18 parcels totaling 744 acres (see Exhibit 1).

Section 3. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the resolution, or the validity of its application to any other persons or circumstances.

Section 4. Effective Date. Pursuant to the Growth Management Act (RCW 36.70A), Yakima County must publish a Notice of Adoption within 10 days after the Board's approval of this ordinance, thus starting the required 60-day appeal period. Therefore, this ordinance becomes effective after the later of the following dates:

1. 60 days after the date of publication of notice of adoption as provided in RCW 36.70A.290(2); or

2. If a petition for review to the growth management hearings board is timely filed, upon issuance of that board's final order.

3. The Mineral Resource Overlay shall be effective upon recording of a development agreement that is in substantial conformance with the draft development agreement hereto as Exhibit 2.

BOARD OF YAKIMA COUNTY COMMISSIONERS

APPROVE _____ DENY ✓ MODIFY _____

DONE DEC 2 7 2022

Amanda McKinney, Chair

Attest:

Julie Lawrence, Clerk of the Board
Erin Franklin, Deputy Clerk of the Board

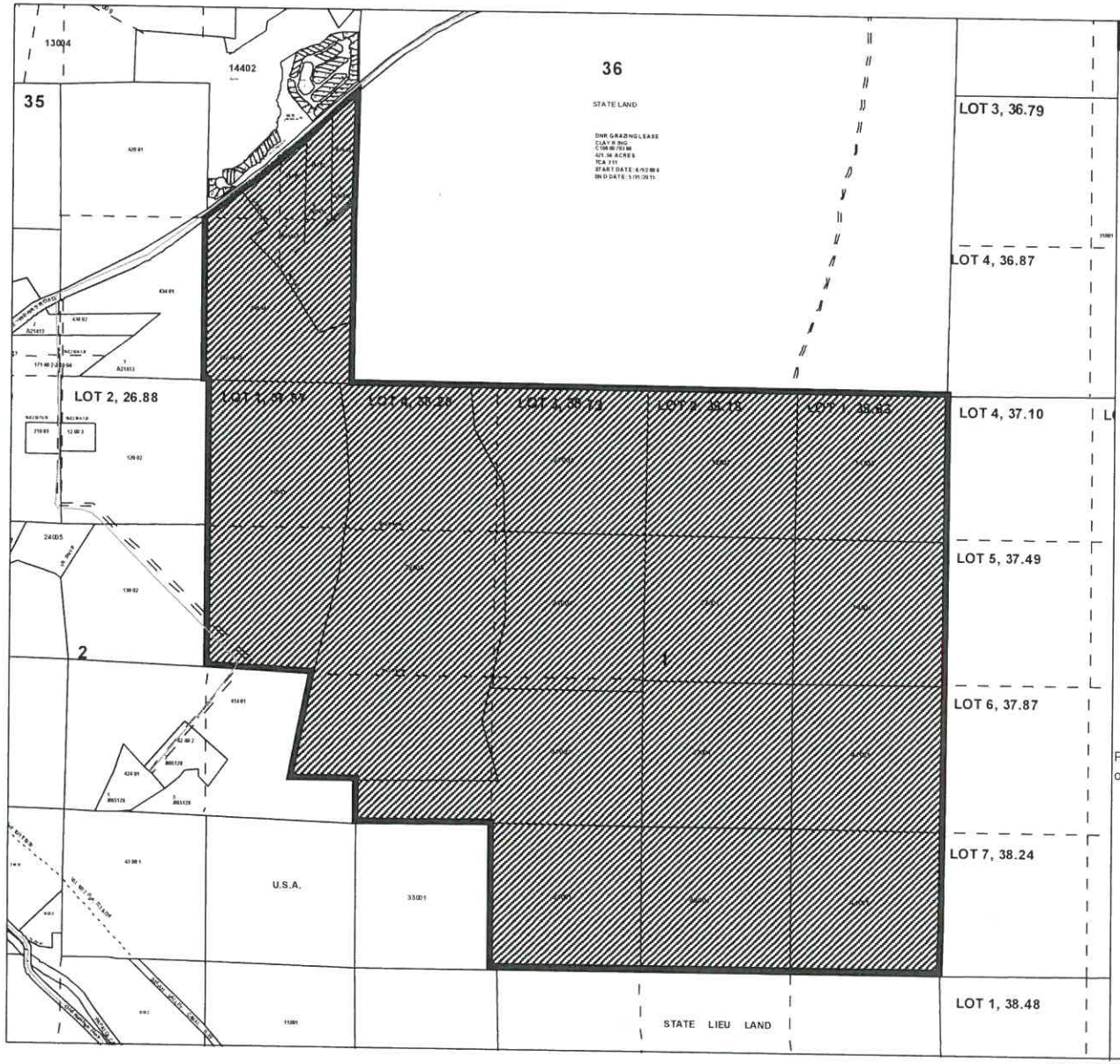
LaDon Linde, Commissioner

Ron Anderson, Commissioner
Constituting the Board of County Commissioners for Yakima County, Washington

SEAL OF THE BOARD OF YAKIMA COUNTY COMMISSIONERS STATE OF WASHINGTON

Exhibit 1 – LRN21-005 Caton/Strutner Map

Exhibit 2 – Draft Development Agreement



YAKIMA COUNTY

GEOGRAPHIC INFORMATION SERVICES

Exhibit 1

LRN21-005 - Caton/Strutner

Add MRO

Parcel Nos.: 171401-11003, 171401-12001, 171401-13001, 171401-14001, 171401-21001, 171401-22003, 171401-24001, 171401-31001, 171401-34001, 171401-41001, 171401-42001, 171401-43001, 171401-44001, 171402-11003, 171535-41401, 171535-41402, 171535-41403, and 171535-44404

Parcel Lot lines are for visual display only. Do not use for legal purposes.

0 500 1000 1500 Feet

1" = 1200 feet

Yakimap.com

Copyright (C) 2022 Yakima County
This map was derived from several databases. The County cannot accept responsibility for any errors. Therefore, there are no warranties for this product.

Plot date: Dec 19, 2022; LRN21-005 Caton/Strutner Comp Plan Amendment

Exhibit 2

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

DEVELOPMENT AGREEMENT
BETWEEN
CHARLOTTE CATON, HARVEST VIEW ESTATES LLC, KRISTOFFER & JESSICA STRUTNER and YAKIMA COUNTY

Parties:	Charlotte Caton, Harvest View Estates LLC, Kristoffer & Jessica Strutner and Yakima County, a municipal corporation
Abbreviated Legal Description:	The SE¼ and the NE¼ of SE¼ of Sec. 35, T.15N., R.17E.W.M.; and the NE¼ of NE¼ and the SE¼ of SE¼ of Sec. 1, T. 14N., R.17E.W.M.
Additional Legal Description:	As described in attached Exhibit A "Subject Property"
Assessor's Property Tax Parcel Account Numbers:	171535-44404, 171535-41401, 171535-41402, 171535-41403, 171401-11003, 171401-44001. "Subject Property"

THIS DEVELOPMENT AGREEMENT ("Agreement"), is entered into between YAKIMA COUNTY, a municipal corporation duly organized and existing under the laws of the State of Washington, and CHARLOTTE CATON, HARVEST VIEW ESTATES LLC, and KRISTOFFER & JESSICA STRUTNER, the owners of the property described herein ("Subject Property"), and is specifically conditioned on the amendment of the Official Yakima County Comprehensive Plan – ***Horizon 2040*** with respect to Subject Property per the decision in Ordinance No. 11-2022 (Exhibit C) for case LRN2021-00005/SEP2020-00004.

This Agreement is entered into based on the following understanding of the parties for the purposes of implementing:

I. Description of Property

1.1 The property subject to this Agreement ("Subject Property") is legally described in Exhibit A and its location is depicted on the map in Exhibit B, both of which are attached and incorporated in this agreement. It is located on the south side of Naches-Wenas Road, approximately 1 to 2 miles northeast of the Town of Naches.

II. Purposes

2.1 Yakima County Ordinance No. 11-2022 adopts a comprehensive plan amendment that – subject to this agreement – would designate Subject Property as Mineral Resource Overlay, which establishes a 500 foot setback on adjacent external land for Especially Sensitive Land Uses (ELSU) per YCC 19.18.205.

2.2 The parties do not want this 500 foot setback to apply to adjacent private properties not currently owned by Subject Property owners. Instead, the parties want to keep the setback on Subject Property in these areas.

III. Conditional Approval

3.1 Yakima County Ordinance No. 11-2022 approves a Mineral Resource Overlay on Subject Property, conditioned on the execution of this agreement;

3.2 This Agreement must be executed and recorded with the Yakima County Auditor prior to becoming effective;

3.3 None of the following land uses, which are listed on YCC Table 19.14-1 (Allowable Land Uses) will be conducted, or be permitted, on the Subject Property within 500 feet of adjacent private properties not owned by Charlotte Caton, Harvest View Estates LLC, Kristoffer & Jessica Strutner or their successors and assigns:

- Chemical washing, blending, or extraction of precious or semi-precious minerals.
- Manufacture, fabrication and sale of concrete, asphalt, and mineral products.
- Mineral batching (Long-term).
- Mineral batching (Temporary).

- Mineral processing, mining site/operation (Long-term or temporary).

- Recycled asphalt or concrete, stockpiling or storage of, (when accessory to an approved mining site/operation).

3.4 It is understood that the MRO plan designation will be applied to the Subject Property; but because of the land use restrictions described in section 3.3, that the 500 foot resource setback will not apply on adjacent private lands not owned by the Charlotte Caton, Harvest View Estates LLC, Kristoffer & Jessica Strutner or their successors and assigns.

3.5 This Agreement will be effective in perpetuity unless modified or repealed as provided below in Section V (General Provisions).

IV. Applicability

4.1 The implementation of designating the Mineral Resource Overlay is incorporated into this agreement under section "III. Conditional Approval" above.

4.2 The designation of the Mineral Resource Overlay shall be effective in accordance with the terms of Ordinance No. 11-2022 and after the recording of this agreement.

V. General Provisions

5.1 This Agreement may be amended only upon mutual written agreement of the parties following public review and comment period and the procedures for a major rezone provided in YCC 19.36.040 and 16B.10.090.

5.2 In accordance with RCW 36.70B.190, this Agreement shall be recorded with the Yakima County Auditor promptly after execution; and during the term of the agreement, the agreement is binding on the parties and their successors.

5.3 Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement. Only a majority vote of a quorum of the Yakima County Board of County Commissioners has the authority to waive any term or condition of this Agreement on behalf of the County.

5.4 If any term of this Agreement is held invalid by any court, the remainder of the Agreement remains valid and in full force and effect.

5.5 This Agreement shall be governed by the laws of the State of Washington. Any action, suit, or judicial proceeding for the enforcement of this Agreement shall be brought in the Superior Court for the State of Washington in Yakima County, Washington.

5.6 This Agreement contains all terms and conditions agreed upon by the parties. No change or addition to this Agreement shall be valid or binding upon either party unless such change or addition is in writing and executed by both parties.

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

List of Exhibits:
Exhibit A – Legal Description of Subject Property
Exhibit B – Map of Subject Property
Exhibit C – Ordinance No. 11-2022

DONE this day of 2022

BOARD OF YAKIMA COUNTY COMMISSIONERS

_____
Amanda McKinney, Chair

_____
LaDon Linde, Commissioner

_____
Ron Anderson, Commissioner

DATED:

Attest:

_____
Julie Lawrence, Clerk of the Board
Erin Franklin, Deputy Clerk of the Board

Approved as to Form:

_____
Deputy Prosecuting Attorney

Charlotte Caton, individually and as
director and agent of Harvest View Estates, LLC

Kristoffer Strutner

Jessica Strutner

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On this ____ day of _____, 2022, before me, a Notary Public in and for the State of Washington, personally appeared Amanda McKinney, LaDon Linde, and Ron Anderson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Board of Commissioners of County of Yakima to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

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

_____

NOTARY PUBLIC in and for the State of Washington, residing at _____

My appointment expires_____

Print Name _____

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On this ____ day of _____, 2022, before me, a Notary Public

in and for the State of Washington, personally appeared _____

_____ ,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they executed the instrument as a voluntary act for the uses and purposes mentioned in the instrument.

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

_____

NOTARY PUBLIC in and for the State of Washington, residing at _____

My appointment expires_____

Print Name _____

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On this ____ day of _____, 2022, before me, a Notary Public

in and for the State of Washington, personally appeared _____

_____ ,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they executed the instrument as a voluntary act for the uses and purposes mentioned in the instrument.

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

_____

NOTARY PUBLIC in and for the State of Washington, residing at _____

My appointment expires_____

Print Name _____

Exhibit 2
Exhibit A

Legal Description of Subject Property

Map of Subject Property

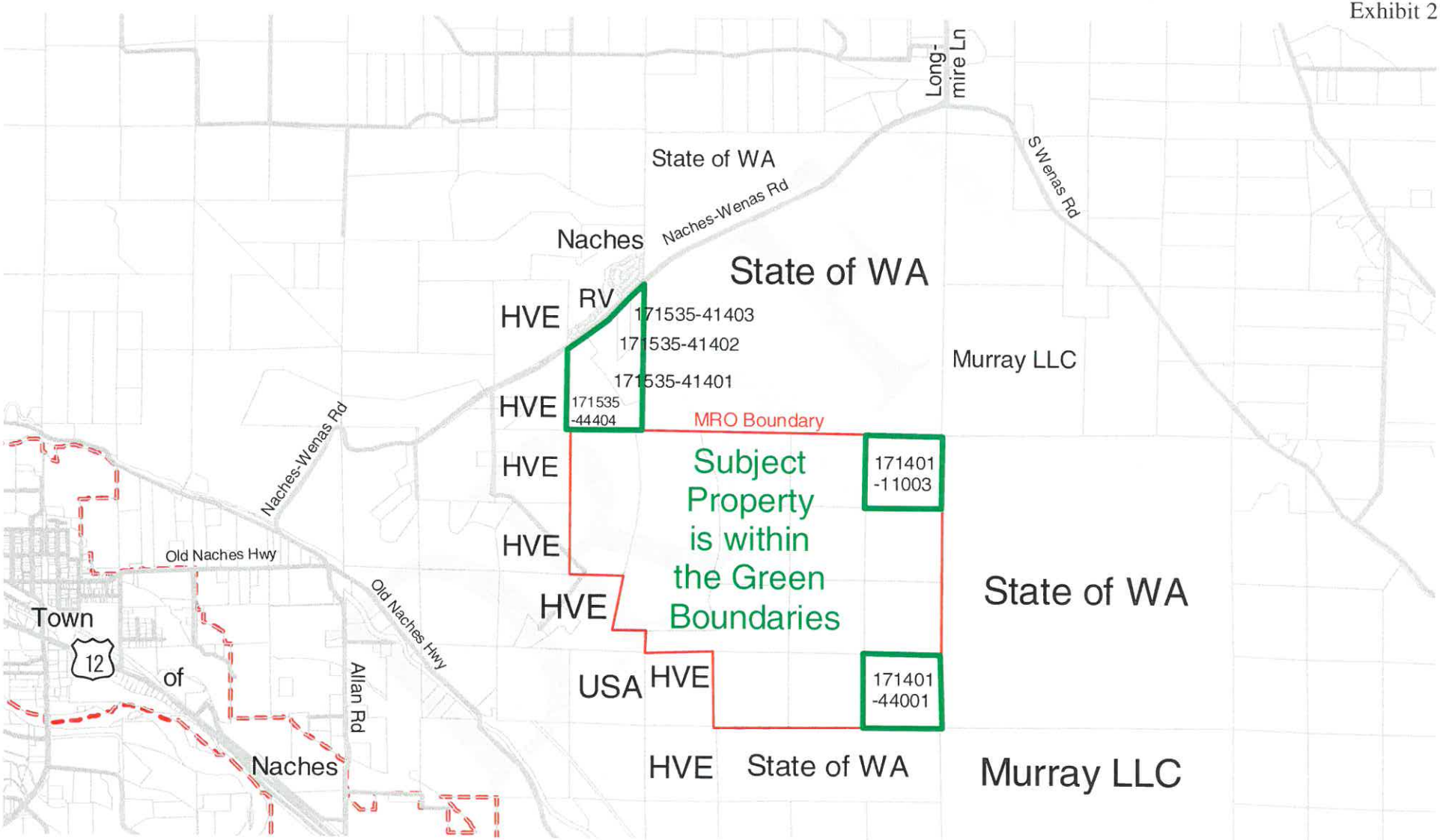

Long-
mire Ln
S Wenas Rd
State of WA
Naches-Wenas Rd
Naches
State of WA
RV
HVE
171535-41403
171535-41402
171535-41401
Murray LLC
HVE
171535
-44404
MRO Boundary
Naches-Wenas Rd
HVE
Subject
Property
is within
the Green
Boundaries
171401
-11003
HVE
Old Naches Hwy
Old Naches Hwy
State of WA
Town
12
of
HVE
USA
171401
-44001
Allan Rd
Naches
HVE
State of WA
Murray LLC

Exhibit 2
Exhibit C

Ordinance No. 11-2022