

## MEMORANDUM

TO: Planning Commission  
FROM: Tommy Carroll – Yakima County Planning Division  
DATE: March 9, 2022  
RE: LRN2022-00005 Proposed McHenry Text Amendment

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### Background

On January 31, 2022, Yakima County Public Services received a text amendment request to Yakima County Code (YCC) Title 19 from prospective applicant Kent McHenry. Under YCC Title 16B.10.040(6) development regulation text amendments may be proposed by any party, including County staff, at any time to the Administrative Official. All such amendments, shall be forwarded to the Planning Commission for its docketing consideration *at the discretion of the Administrative Official*, unless an amendment is requested by the Board of County Commissioners necessary to remain consistent with state requirements.

The Administrative Official will compile a list of suggested changes, and will recommend to the Planning Commission which should be docketed for further consideration during the current amendment cycle, deferred for future research and consideration, or not pursued, each in accordance with his/her determination in YCC 16B.10.095(6). The Administrative Official shall provide the Board of County Commissioners with the Planning Commission's recommendations regarding deferred items when setting the Planning Division work program for the next budget cycle.

### Proposed Text Amendments

The McHenry text amendment request is the addition of three new sections to the YCC Title 19.18 Special Uses and Standards. The three requests represent new approaches to utilizing agricultural and rural lands for more commercial and industrial uses.

#### McHenry Request #1

1. Agricultural Lands that have been out of Production for 5 or More Years
  - a. Legislative Intent. This Section is intended to:
    - i. Provide methods to re-designate lands zoned as Agriculture but have not been used for agricultural production for 5 or more years.
    - ii. Provide an administrative process for the re-designation without requiring an amendment to the zoning maps.
    - iii. Ensure that the proposed designation does not negatively impact the neighboring land uses.
    - iv. Ensure that proper infrastructure is in place or proposed to be in place to support the proposed designation.
  - b. Applicability

- i. Lands must be currently zoned as "AG", but lands cannot have been used for agricultural purposes for 5 or more years.
  - ii. The requested Land Use must be a Rural Land Use, unless allowed in other sections of this code.
  - iii. Minimum lot size will be the minimum lot size of the requested Land Use.
- c. Public Notice
  - i. Notice of the proposed Land Use change mailed under YCC Title 16B shall be sent to owners of property within 300 feet of the proposed use.
- d. Information Requirements
  - i. In addition to the requirements of chapter 19.31 and the application procedures in YCC Title 16B, the application shall include the following information:
    1. Information on the last year that the property was used for agricultural purposes.
    2. The last agricultural use.
    3. Reasons for not currently using the land for agricultural purposes.
- e. Approval Requirements
  - i. Findings
    1. The proposed property currently has a land use designation of "AG".
    2. The Property has not been used for agricultural purposes for 5 or more years.
    3. The proposed use does not limit the current use of adjoining properties.
    4. There is sufficient infrastructure to support the proposed use.
  - ii. Review Criteria. In making such findings the Reviewing Official shall consider the following criteria, based on evidence provided by the applicant.
    1. Compatibility with the current uses of adjoining properties.
    2. Capacity on operation of the roadways serving the subject property.
    3. Adequate water supply for the proposed use.
    4. Adequate sewerage disposal for the proposed use.
    5. Suitability of the land for the proposed use.
    6. Whether a hazard to life, limb, or property, because of the proposed use is created which or which might be reasonably be created as a result of the proposed use, and what measures would mitigate any such hazards.
    7. What restrictions should or should not be imposed to secure the purpose of this section and to protect the public and surrounding property owners.
- f. Ownership
  - i. No approval shall be issued for a premise, except with written consent of the owner or owners.
- g. Restriction upon operations
  - i. Reasonable restrictions upon the operations may be imposed that are calculated to secure the for the purposed of the Section, the

Comprehensive Plan, and this Title. Such restrictions may relate to any activity anticipated from the proposed use. Examples would be; hours of operation, traffic volume; setbacks; etc.

**Planning Official Recommendation on Request #1 above:** The proposed text amendment, if approved, unfortunately would constitute a violation of the Growth Management Act (GMA), therefore not recommended for consideration. When Yakima County adopted a GMA compliant comprehensive plan in 1997, a significant requirement was to designate agricultural lands of long-term commercial significance. To designate these lands, Yakima County was required to use the criteria outlined in WAC 365-190-050. One of the overall directives established by the WAC is that the designation of agricultural lands is not solely dependent on whether the land is being used for agricultural.

The proposed amendment request is asking for the County to view non-productive agricultural lands differently than those that are productive. This can't be done. GMA specifically limits non-agricultural uses on lands designated as agriculture and prohibits counties from de-designating ag lands based on current use. This proposed amendment should not be moved forward for Planning Commission consideration.

## **McHenry Request #2**

2. Transportation Related Businesses in Rural Zones
  - a. Legislative Intent. This Section is intended to:
    - i. Provide methods for the approval of Transportation Related Businesses in the Rural Zoning Districts.
    - ii. Provide an administrative process for the approval of Transportation Related Businesses with the Rural Zoning districts
    - iii. Ensure that the approval of Transportation Related Businesses does not have a negative impact on the adjacent land uses.
    - iv. Ensure that the proper infrastructure is in place or proposed to be in place to support the proposed use.
  - b. Applicability
    - i. Permit Required
    - ii. Transportation businesses that do not require parking of vehicles on the property, such as dispatch operations.
    - iii. Transportation businesses that require the parking of vehicles, such as brokerages.
    - iv. Storage of vehicles used seasonally, whether agriculture related or not.
  - c. Public Notice
    - i. Notice of the proposed Land Use change mailed under YCC Title 16B shall be sent to owners of property within 300 feet of the proposed use.
  - d. Information Requirements

- i. In addition to the requirements of chapter 19.31 and the application procedures in YCC Title 16B, the application shall include the following information:
  - 1. Information on the vehicle trips per day that would be generated as a result of this proposed use.
  - 2. The size of the parking lot, if applicable, including the layout and number of parking spaces.
  - 3. Circulation Plan, including locations of ingress and egress.
- e. Approval Requirements
  - i. Findings
    - 1. The current Land Use Designation.
    - 2. The proposed use does not limit the current use of adjoining properties.
    - 3. There is sufficient infrastructure to support the proposed use.
  - ii. Review Criteria. In making such findings the Reviewing Official shall consider the following criteria, based on evidence provided by the applicant.
    - 1. Compatibility with the current uses of adjoining properties.
    - 2. Capacity on operation of the roadways serving the subject property.
    - 3. Adequate water supply for the proposed use.
    - 4. Adequate sewerage disposal for the proposed use.
    - 5. Suitability of the land for the proposed use.
    - 6. Whether a hazard to life, limb or property, because of the proposed use is created which or which might be reasonably be created as a result of the proposed use, and what measures would mitigate any such hazards.
    - 7. What restrictions should or should not be imposed to secure the purpose of this section and to protect the public and surrounding property owners.
- f. Ownership
  - i. No approval shall be issued for a premise, except with written consent of the owner or owners.
- g. Restriction upon operations
  - i. Reasonable restrictions upon the operations may be imposed that are calculated to secure the for the purposed of the Section, the Comprehensive Plan, and this Title. Such restrictions may relate to any activity anticipated from the proposed use. Examples are, hours of operation, traffic volume; setbacks; etc.

**Planning Official Recommendation on Request #2:** Proposed text amendment #2 would allow transportation related businesses in the rural zoning districts under a specific set of criteria. There is no specific land use type proposed. Whether the uses would be a Type 1, 2, 3, or 4 is not discussed in the amendment but will need to be. This would need to be analyzed by staff and ultimately vetted by the Planning Commission. Presently, Yakima County has several code violations directly related to the unpermitted use of

heavy equipment and trucking related businesses in the rural and agricultural areas. Many of these uses support the neighboring agricultural businesses. This proposed text amendment may warrant further view and discussion at the Planning Commission level to determine whether these types of uses could possibly be sited in the rural areas without violating GMA's strict requirement for Yakima County to maintain the rural character in the rural zoning district. This amendment may proceed to the Planning Commission's docketing meeting for their consideration to be docketed for the 2022 amendment cycle.

### **McHenry Request #3**

3. Other Businesses and Manufacturing in Rural Zones
  - a. Legislative Intent. This Section is intended to:
    - i. Provide methods for the approval of businesses and manufacturing in the Rural Zoning Districts. These uses may include, but is not limited to; Agricultural support, cement or concrete production, explosives/ammunition production, building products, grain mill products, slaughterhouses, sawmills, wood working, agricultural implements, building and trade, convenience stores, heavy construction equipment & storage, vehicle maintenance and repair.
    - ii. Provide an administrative process for the approval of businesses and manufacturing in the Rural Zoning Districts.
    - iii. Ensure that the approval of businesses or manufacturing does not have a negative impact on the adjacent land uses.
    - iv. Ensure that proper infrastructure is in place or proposed to be in place to support the proposed use.
  - b. Applicability
    - i. Permit Required
      1. A conditional Use Permit shall be required for the proposed use, in addition to all applicable Federal, State, and other required Local permits for the proposed use.
      2. Operation of the proposed use is not allowed until such site has obtained all applicable permits.
  - c. Public Notice
    - i. Notice of the proposed Land Use change mailed under YCC Title 16B shall be sent to owners of property within 300 feet of the proposed use.
  - d. Information Requirements
    - i. In addition to the requirements of chapter 19.31 and the application procedures in YCC Title 16B, the application shall include the following information:
      1. A narrative detailing the reasons for locating the proposed business at this location, including reasons why it could not be located within an Urban Zoning District.
      2. Water usage requirements.

3. Information of the vehicle trips that would be generated daily as a result of this proposal.

e. Approval Requirements

i. Findings

1. The Land Use Designation.
2. That there are sufficient reasons that the proposed business cannot be located within an Urban Zoning District.
3. The proposed use does not limit the current use of adjoining properties.
4. There is sufficient infrastructure to support the proposed use.

ii. Review Criteria. In making such findings the Reviewing Official shall consider the following criteria, based on evidence provided by the applicant.

1. Compatibility with the current uses of adjoining properties.
2. Capacity on operation of the roadways serving the subject property.
3. Adequate water supply for the proposed use.
4. Adequate sewerage disposal for the proposed use.
5. Suitability of the land for the proposed use.
6. Whether a hazard to life, limb or property, because of the proposed use is created which or which might be reasonably be created as a result of the proposed use, and what measures would mitigate any such hazards.
7. What restrictions should or should not be imposed to secure the purpose of this section and to protect the public and surrounding property owners.

f. Ownership

i. No approval shall be issued for a premise, except with written consent of the owner or owners.

g. Restriction upon operations

i. Reasonable restrictions upon the operations may be imposed that are calculated to secure the for the purposes of the Section, the Comprehensive Plan, and this Title. Such restrictions may relate to any activity anticipated from the proposed use. Examples would be; hours of operation, traffic volume, setbacks, etc.

**Planning Official Recommendation on Request #3:** The proposed text amendment, as written, unfortunately could constitute a violation of the Growth Management Act (GMA), therefore will require edits to be recommended for consideration. When Yakima County adopted a YCC Title 19 in 2015, the County conducted an extensive public participation process utilizing multiple citizen working groups, representatives from the development community and numerous Planning Commission study sessions. During that process, Title 19's Allowable Land Use Table was exhaustively evaluated to determine if more land uses should be allowed in more zoning districts. It was determined that industrial/manufacturing related uses contradicted GMA's mandate for counties to maintain rural character in rural zoning districts. However, since agriculture is

allowed in all zoning districts in the County, some ag related industrial uses were allowed as Type 3 uses in the R/ELDP zone and Type 2 uses in the R-10/5.

The McHenry proposal is requesting the inclusion of the following land uses in the Allowable Land Use Table: Agricultural support, cement or concrete production, explosives/ammunition production, building products, grain mill products, slaughterhouses, sawmills, wood working, agricultural implements, building and trade, convenience stores, heavy construction equipment & storage, vehicle maintenance and repair. This a very specific list of land uses and many are already allowed in some of the rural zoning districts (convenience stores, building and trade contractors, certain vehicle repair services). In addition, some of the listed uses are allowed in the Industrial zones, but are so extensive they are Type 3's in those zones (sawmills, slaughterhouse, explosives and ammunition). This makes those types of uses almost impossible to allow in the rural zones.

Yet, heavy construction equipment and storage is allowed in some rural zones, but is excluded from the R/ELDP zone and the R-10/5. This proposed text amendment may warrant further view and discussion at the Planning Commission level to determine whether these types of heavy equipment and storage related uses could possibly be sited in the rural areas without violating GMA's strict requirement for Yakima County to maintain the rural character in the rural zoning district. This amendment may proceed to the Planning Commission's docketing meeting for their consideration to be docketed for the 2022 amendment cycle.

#### **Administrative Official's Recommendation**

Move forward for docketing consideration the McHenry proposed text amendment #2 and the portion of text amendment #3 regarding the inclusion of Heavy Equipment and Storage land use in the R/ELDP and R-10/5 zoning districts.