

COUNTY OF YAKIMA, WASHINGTON HEARING EXAMINER'S DECISION

September 25, 2025

In the Matter of an Application for a)	
Plat Alteration with an Administrative)	
Adjustment Submitted by:)	
)	LSP2025-00001
Bruce Seghers)	ADJ2025-00008
)	
To Alter a Building Envelope and to)	
Reduce a Setback from an Easement)	
On Lot 42 of the Basalt Springs II)	
Subdivision in the Rural-10/5 Zoning)	
District at 2086 South Naches Road)	

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

(1) The Hearing Examiner conducted an open record public hearing regarding this application on September 11, 2025.

(2) The thorough staff report prepared and presented by Yakima County Project Planner III David Lukaczer detailed pertinent considerations and recommended approval of this proposal, subject to conditions.

(3) The applicant Bruce Seghers, testified about the history of the structures that are currently outside the designated building envelope shown on the face of the Basalt Springs II plat for his Lot 42 and indicated that he would be OK with just moving the west line of the

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building envelope and the building setback distance from the centerline of the access, utility and irrigation easement across the rear of his lot back to the east edge of the easement.

(4) Douglas Barrett, President of the Basalt Springs Homeowners Association, testified that he does not object to moving the west line of the building envelope and the building setback from an easement across the rear westerly portion of Lot 42 to the east side of the easement, but that he does object to the removal of the entire building envelope on the lot because of the precedent it would set for all of the other lots in the subdivision to request that the County also remove their building envelopes which were also established to provide and preserve views and privacy for residents; because of the precedent it would set to require the County to also remove each of the other building envelopes without a showing of unusual circumstances since no unusual circumstances are shown for the removal of any of the building envelopes on Lot 42 other than the rear portion and part of the north portion of the building envelope; and because property owners purchased their lots and located their homes in reliance upon the continued existence of the building envelopes shown on the face of the plat. A complete explanation of his opposition to the complete removal of the entire building envelope on the applicant's lot is set forth in his written comment of July 17, 2025, that is in the record.

(5) No one else testified at the open record public hearing. A written public comment in addition to Mr. Barrett's written comment was dated July 7, 2025, from Rob and Linda Spence to confirm their understanding from Mr. Lukaczer that the easement would not be moving and that the road would be put in the easement where it was initially designated. A written agency comment dated July 15, 2025, from the State of Washington Department of Ecology (DOE) stated that DOE does not require soil sampling of the property, but that there is a high likelihood of elevated concentrations of lead and arsenic in the soil due to the prior orchard use of the property and that DOE has available on-line information regarding precautions that can be taken to avoid exposure.

(6) This decision has been issued within ten business days of the open record public hearing.

B. Summary of Decision. These applications for elimination of the building envelope shown on the plat for Lot 42 and for reduction of the building setback from the centerline of an easement across the rear of Lot 42 are partially approved subject to conditions.

C. Basis for Decision. Based on a view of the site and surrounding area of the subject property with no one else present on September 9, 2025; a consideration of the staff report, exhibits and testimony presented at the open record public hearing on September 11, 2025; and a review of the Yakima County Comprehensive Plan and the Yakima County Unified Land Development Code, Yakima County Code (YCC) Title 19; the Hearing Examiner makes the following:

FINDINGS

I. Applicant/Property Owner. The applicant and property owner who testified at the hearing is Bruce Seghers, 2086 South Naches Road, Naches, WA 98937.

II. Location. The subject lot is located at 2086 South Naches Road on the west side of the road and is accessed by an unnamed private road entering South Naches Road approximately 1,000 feet north of its intersection with the Schuller Grade Road that is about 2 miles northwest of the Yakima city limits. The Assessor's Parcel No. is 181306-24418.

III. Hearing Examiner's Jurisdiction. The proposal is subject to the Yakima County Unified Land Development Code, Title 19 of the Yakima County Code (YCC). The Hearing Examiner's jurisdiction to hear and decide this matter may be described as follows:

(1) According to YCC 19.34.070(7), once a plat has been recorded with the County Auditor, "it shall remain as the official plat covering the land. If a person proposes to alter or vacate the plat in whole or part, the procedures in Chapter 58.17 RCW shall be followed . . ."

(2) RCW 58.17.215 states that, upon receipt of an application to alter a plat, the legislative body (Yakima County) shall provide notice of the application to all owners of

property within the subdivision. The notice shall also either establish a date for public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.

(3) YCC 19.30.030(3)(b)(iii) states that plat vacations and alterations under Chapter 58.17 RCW are subject to a Type 3 review. YCC 19.30.080(7) specifies the Type 3 review criteria. YCC 16B.03.030(1)(c) states that Type 3 review is a quasi-judicial review that requires public notice and an open record public hearing by the Hearing Examiner. The Hearing Examiner's decision can be appealed to Yakima County Superior Court.

(4) Administrative Adjustments are normally subject to Type 2 administrative review, but this application for an adjustment to the building setback from an easement across the rear of Lot 42 to allow for the location of several existing accessory structures has been consolidated with this application for a plat alteration of the building envelope so that both applications will be decided by the Hearing Examiner as a single consolidated application.

IV. Application. The description and history of Basalt Springs II subdivision and of the requested plat alteration may be described as follows:

(1) The existing Basalt Springs II Planned Unit Development consisting of 45 total lots within a planned residential development which range in size from one-half of an acre to approximately 4 acres in size was established in 1981 while the property was within the County's Planned Unit Development zoning district. It was recorded as SUBAA-46 under Auditor's File No. 7288130. The Basalt Springs II plat which was recorded under Auditor's File No. 2611029 established a building envelope on each of the lots to protect views and privacy within the planned development.

(2) Lots within the Basalt Springs II subdivision are located on the southwest edge of a valley through which the Naches River flows. Lots range from moderately to severely sloped, with portions being mapped as having potentially oversteepened slopes of an intermediate risk. Portions of the Basalt Springs II subdivision are located within mapped oversteepened slopes, but the mapped oversteepened slopes are only located on the portion of Lot 42 that is within the access easement across the rear of the lot. The requested alteration and administrative adjustment would not result in any changes or impacts to the identified oversteepened slopes located within the plat. According to Yakima County Critical Areas maps, there are no Shorelines or other Critical Areas located on Lot 42.

(3) Several rural private roadways in access easements that are from 40 to 80 feet wide were provided to serve the lots in the subdivision, including the 40-foot-wide access easement running along the rear (western) portion of Lot 42. Some of the roads are paved and some are gravel or dirt. The majority of the lots within the plat have been developed for low to moderate density residential uses consisting primarily of single-family residences with associated accessory structures.

(4) Lot 42 of the plat is approximately 0.81 of an acre in size and is located near the southern boundary of the subdivision. It is developed with a single-family residence and an attached 528-square-foot single-car garage which were permitted under building permit number BLD2007-01184 and were issued a certificate of occupancy on August 20, 2008. An additional multiple-car garage approximately 960 square feet in size was approved under building permit number BLD2021-00823, with a final inspection completed on April 12, 2022. According to the site plan submitted for this application, the northeastern portion of this second garage was located partially outside the building envelope shown on the face of the Basalt Springs II plat which was recorded under Auditor's File No. 2611029. According to County records, this was not discovered at the time and the building permit was issued and finalized despite this error.

(5) In addition to the permitted structures located on the property, the applicant has constructed a patio cover that is approximately 256 square feet in size, as well as a lean-to addition to the garage that is approximately 210 square feet in size at the rear of the lot which are not noticeable from the private drive along the front of the lot. These two structures were constructed under the belief that they were exempt from Yakima County's building permitting requirements, but they were reported to the County's code enforcement division and it was determined that both new structures were outside the western building envelope line and were within the required 50-foot setback from the centerline of the 40-foot-wide access easement running along the western rear portion of Lot 42.

(6) Lot 42 is generally flat within the area that is developed with a moderate slope in other areas except for the retaining wall and steep hill where the access, utility and irrigation easement is located across the rear of the lot. A neighboring property owner has recently begun grading and earth moving work in preparation to extend the existing private road network within the existing 40-foot-wide easement so as to serve a proposed new home being constructed to the southwest of Lot 42.

(7) The requested plat alteration would be limited to the removal of the building envelope associated with Lot 42 as established on the face of the plat. The requested plat

alteration would not modify any other building envelope on any other lot within the Basalt Springs II subdivision, or modify how any of the lots are provided access, water, or sewage disposal service. Nor would any of the easements or other dedications within the plat be vacated or modified.

(8) In addition to the requested plat alteration, the applicant is requesting an administrative adjustment to the County's 50-foot building setback requirement from the centerline of an access easement serving an existing or proposed private road. The requested adjustment is required in order to allow several existing structures, including a deck and a lean-to addition to the previously permitted garage, which have been constructed between the home and the retaining wall and steep hill that are located at the edge of the 40-foot-wide access easement across the rear of Lot 42. This access easement does not serve the subject property and is significantly elevated above the developed portion of the property.

V. Notice of Application and Public Hearing. The application was processed in the following manner per YCC Title 16B, including notices of the open record public hearing which were provided as follows:

(1) After the consolidated application was submitted, an internal notice of project review was emailed to representatives of the Building and Fire Safety Division, the Code Enforcement Division, the Long-Range Planning Section, the Water Resources Division, the Transportation Division and the Yakima Health District. Their comments are attached to the staff report and are addressed in the findings of this decision.

(2) On July 3, 2025, a combined Notice of Application, Notice of Completeness, and Notice of Future Hearing was mailed to adjoining property owners within 300 feet of Lot 42, to the owners of all of the lots within the Basalt Springs II plat and to agencies having jurisdiction or an interest in the proposal. The combined notice informed the recipients of an opportunity to comment during a comment period that ended on July 17, 2025.

(3) A Notice of the Public Hearing scheduled for September 11, 2025, was provided in accordance with applicable ordinance requirements in the following ways:

Hearing Notice mailed to property owners w/i 300 feet and agencies:	August 9, 2025
Hearing Notice published in the Yakima Herald-Republic:	August 9, 2025
Hearing Notice posted on the property:	August 21, 2025

(4) An outside agency comment was submitted by the Washington State Department of Ecology (DOE) regarding their Toxics Cleanup Program. DOE noted that historical aerial photos indicate that the subject property was occupied by orchard when the pesticide lead arsenate was applied, which often resulted in shallow soil contamination from lead and/or arsenic. DOE indicated that they do not require soil sampling for this project, but that there is a high likelihood that this property has soil with elevated concentrations of lead and arsenic and that the applicant should consider resources provided through DOE's website.

Staff and Hearing Examiner Findings: The applicant is encouraged to review the full comments submitted by the Washington State Department of Ecology attached to the staff report and contact Hector Casique with DOE's Toxic's Cleanup Program if there are any questions.

(5) Comments were submitted by neighboring property owners Rob and Linda Spence to confirm their understanding that the existing 40-foot-wide access easement would not be modified or relocated closer to their existing drainfield.

Staff and Hearing Examiner Findings: The proposed plat alteration and associated administrative adjustment will not modify the existing 40-foot-wide access easement that is located adjacent to the Spence's property line and will not result in the construction of any additional structures within the established setback area serving the Spences' septic facilities.

(6) Comments were submitted by Doug Barrett, a resident of the Basalt Springs II development and the president of the Basalt Springs Homeowners Association. Besides pointing out that the easement across the rear of Lot 42 is 40 rather than 30 feet wide, the comments were generally supportive of the request to move the rear (western) building envelope line established and shown on the plat to the edge of the access easement, as well as the requested administrative adjustment. But he expressed concern that removal of the full building envelope (including the side and front building envelope lines established by plat) could impact the view from properties located to the rear of Lot 42 due to possible future construction on the lot and would set a precedent for the owners of other lots to apply to the County for the removal of their building envelopes as well.

Staff and Hearing Examiner Findings: Notice of the requested plat alteration that would remove the building envelope was provided to the owners of all lots created as a result of the Basalt Springs II subdivision and the County did not receive any objections from neighboring property owners or claims that their views may be impacted by future

construction outside of the established building envelope. This would suggest that the adjacent property owners directly impacted by the potential alteration do not object to the alteration as proposed. Additionally, the subject property and all of the other properties located within the Basalt Springs community are subject to the covenants established within the "Declaration of Restrictive and Protective Covenants and Subjection to Assessment and Utility Liens" recorded under Auditor's File No. 2610982 which establish an Architectural Control Committee tasked specifically to review construction located within the development, and to approve any new structures constructed within the plat. Specifically, one of the considerations that the Architectural Control Committee is expected to review is "The orientation and location of dwellings with the intent of preserving the views from any other dwelling, and of keeping all dwellings as compatible as possible with their natural surroundings and with each other... ". The requested plat alteration would not modify the declaration of restrictive and protective covenants that the property in question is subject to, and as such will not prevent the Homeowners Association through its architectural committee from preserving the views from adjacent properties should they determine future construction on the property would inappropriately block (or otherwise impact) neighboring property owner's views. Removing the building envelopes on the face of the plat would not prevent the Homeowners Association from enforcing their covenants, conditions, and restrictions and would permit it to enforce their own restrictions on a case by case basis in a manner that could take into account the specific design and location of the proposed structure(s) rather than requiring the County to hold the property owner to a building envelope that may (or may not) reflect current conditions.

***Staff Recommendation:** The Planning Official is recommending approval of the plat alteration removing the entire building envelope rather than only partially approving the removal of the rear (western) setback line. However should the Hearing Examiner feel that removal of the entire envelope is not warranted, the decision can be modified to only remove the rear building envelope line as requested by Mr. Barrett, leaving the side building envelope lines established on the plat unchanged. In an email received on July 28, 2025 and attached to the staff report, the applicant indicated that an alteration that only partially modified the building envelope rather than removed the full envelope from the plat would be acceptable to the property owner if that was the ultimate decision*

VI. Environmental Review. The County's State Environmental Policy Act (SEPA)

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Responsible Official determined that this proposal is exempt from SEPA review because approval of up to 20 residential dwelling units outside of Urban Growth Areas is considered exempt under YCC 16.04.100(1) and this consolidated application does not seek to add any dwelling units or lots within the plat.

VII. Plat Amendment Review Criteria Required by YCC 19.34.070(7) and Chapter 58.17 RCW. The requisite plat alteration criteria that are required by YCC 19.34.070(7) and Chapter 58.17 RCW apply as follows to the circumstances involved in this request:

(1) The Hearing Examiner shall approve a project or approve it with modifications if an applicant has demonstrated that the proposal complies with the applicable decision criteria of the Yakima County Code. The Hearing Examiner's findings and conclusions set forth the manner in which the decision would carry out and conform to the County's comprehensive plans and development regulations. YCC 19.34.070(7) states that "If a person proposes to alter or vacate the plat in whole or in part, the procedures in Chapter 58.17 RCW shall be followed . . ." YCC 19.30.030(3)(b)(iii) states that plat alterations reviewed under Chapter 58.17 RCW are subject to Type 3 review. RCW 58.17.215 requires the following for plat alterations:

- (a) The signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered;
- (b) Public notice and a hearing;
- (c) A determination that the alteration is in the public use and interest; and
- (d) A revised drawing of the approved alteration of the final plat which is to be filed to become the lawful plat of the property.

Staff and Hearing Examiner Findings: *The Yakima County Assessor's Office indicates that Lot 42 of the Basalt Springs II Plat is owned by Bruce A. and Kym Seghers. This consolidated application received by the Yakima County Planning Division includes the signature of Bruce Seghers on behalf of both himself and his wife. This satisfies the first requirement since Lot 42 is the only portion of the plat of Basalt Springs II that would be*

altered. As stated above, this plat alteration request is also being reviewed under the Type 3 process which requires the public notice that has been given and an open record public hearing which has been conducted. The Hearing Examiner will have to decide whether the requested plat alteration is in the public use and interest. If a plat alteration is approved, the applicant will be required to submit a final plat alteration prepared by a licensed surveyor in the State of Washington signed by both Bruce and Kym Seghers. The requirements of RCW 58.17.215 are therefore satisfied for this request.

(2) YCC 19.34.050(5)(a) and RCW 58.17.110 require for the approval of plats, and therefore for the approval of plat alterations, that appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication. Provisions for these features as a result of the requested plat alteration are as follows:

(a) Relative to appropriate provisions for the public health, safety and general welfare, Assistant Building Official Richard Hembre of the Building Division provided the following comments:

“Based upon the information submitted, a building permit is required for proposals to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed require Building, Fire, Mechanical and/or Plumbing Permits (IRC S.R105.1). All construction is required to comply with all applicable provisions of the current adopted International Building Codes (IRC S.R101.2) with Washington State Amendments and Washington State Energy Code-Residential (WSEC-R, S.R101.2). Building permits and Building Codes are based on the building's use and construction type. A complete building code compliance plan review will be performed when construction drawings are submitted for building permits. Adopted applicable Washington State and Yakima County Amended Codes: Building: International Residential Code (IRC); Mechanical: International Mechanical Code (IMC); Plumbing: Uniform Plumbing Code; Fire: International Fire Code

(IFC); Energy Codes, Residential: Washington State Energy Code-Residential (WSEC-R); Electrical: Washington State Department of Labor and Industries.”

Senior Project Coordinator Jessica Pearson of the Building Division provided the following comments:

“Proposed Land Use does not appear to require any building permits based on proposal of project at this time. No other structures/permits were researched. If you want additional research on permits for the Parcel, please submit a Public Disclosure Request.”

The Fire Safety Division provided the following comments:

“Based on the information submitted, all new construction and modifications to existing structures require fire permits. All construction or use changes must comply with all applicable provisions of the currently adopted International Fire Codes with Washington State Amendments and the currently adopted Yakima County Ordinances. Fire Permits and Codes are based on the building’s use and construction type.”

The Code Enforcement Division provided the following comments:

“LSP application related to partial compliance with COD2024-00087 violations. Will also need final approvals with BLD24-548 and -549 prior to closing code case.”

Staff and Hearing Examiner Findings: All structures on the property must be adequately permitted prior to closure of the open code case, which will include ensuring compliance with all adopted applicable Washington State and Yakima County Amended Building and Fire Safety Codes. Please contact the Yakima County Building and Fire Safety Division at (509) 574-2300 with any questions regarding the building permit process.

(b) Relative to appropriate provisions for streets or roads, this requested plat alteration would not modify or vacate any streets or roads or any easements for street or roads. The applicant intends to continue utilizing the existing private shared driveway for access that is located to the southeast of the subject property and which intersects with the South Naches Road approximately one hundred (100) feet southeast of Lot 42. The applicant likewise does not intend to affect in any way the existing 40-foot-wide access easement across the rear of Lot 42. The Transportation Division provided the following comments:

“The reduction of setbacks in an established development has no impact on the

county road system. Yakima County Roads has no conditions or mitigation for this LSP.”

Staff and Hearing Examiner Findings: *The subject property accesses South Naches Road by means of a private shared driveway serving a total of four lots. The applicant is not proposing any modification to the existing shared private driveway. The comments received from the Yakima County Roads Department indicate that the requested plat alteration can be served with existing County roads and that no additional roadway improvements would be required if the plat alteration is approved. The following notes applicable to the original plat must also be included on the face of the final plat alteration that is signed and submitted for approval and recording:*

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

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

(c) Relative to appropriate provisions for drainage, the Water Resources Division provided the following comments:

“Ongoing Conditions:

Stormwater must be retained on site.

Any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250.”

Staff and Hearing Examiner Findings: *All stormwater generated within the altered plat shall be retained on site and natural drainages must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found in YCC Chapter 12.10. The applicant shall ensure that the following plat note applicable to the original plat is set forth on the face of the final amended*

plat map:

General drainage - The owners shown hereon, their grantees and assignees in interest hereby covenant and agree to retain all surface water generated within the altered portion of the plat on-site. Any natural drainageways must not be altered or impeded.

(d) Relative to appropriate provisions for potable water supplies, the subject property is currently served by an individual well that was permitted at the time of its construction. The applicant is not proposing any changes to the water system serving the existing residence on the property. YCC Table 19.25-1 provides that subdivisions in the Rural-10/5 (R-10/5) zoning district that establish nine or more new lots or connections have two options for domestic water, in order of priority: (i) Yakima County or Nob Hill Water SMA or (ii) other State-approved SMA. YCC 12.08.050 states that “All applicants for a building permit or other development permit requiring potable water must provide evidence of an adequate water supply to the county prior to the issuance of the permit. Applicants for a building permit to improve, repair, or replace a residential structure permitted prior to January 1, 2018 that is served by an existing permit exempt well are exempt from this requirement.” YCC Chapter 19.25 entitled Water and Sewer is in part intended to provide a framework for the future location of facilities to assist developers and property owners in design of their projects (YCC 19.25.010). Proper utility easement placement can assist with this.

Staff and Hearing Examiner Findings: The proposed plat alteration will not modify how each individual lot is served with domestic water and will not result in the establishment of any new lots or structures that will require domestic water. Owners of individual lots within the Basalt Springs II plat will be responsible for providing evidence of an adequate water supply at the time of future application for building and/or land use permits associated with the construction of additional structures and/or further development that will require additional domestic water. The applicant likewise is not proposing the modification of any utility easements or the establishing of any new utility easements serving Lot 42 or serving any portion of the plat. That will not be required in order to approve the requested plat alteration.

(e) Relative to appropriate provisions for sanitary wastes, the altered lot and the other lots within the plat will continue to be served by individual on-site septic systems.

Staff and Hearing Examiner Findings: YCC Table 19.25-2 requires that the lots within subdivisions that establish more than nine (9) new lots in the Rural-10/5 zoning district are to be connected to a County sewer system if the lots are located within the service area of a County sewer system. Since the requested plat amendment will not establish any new lots or structures that will require sewage disposal services, this criterion is not applicable.

(f) Relative to appropriate provisions for other features for plats listed in RCW 58.17.110, appropriate provisions for those features were determined when the original plat was approved.

Staff and Hearing Examiner Findings: The requested plat alteration for Lot 42 would not in any way affect any of the other features listed in RCW 58.17.110 either on that lot or on any of the lots within the Basalt Springs II plat..

VIII. Type 3 Review Criteria Required by YCC 19.30.080(7) for Type 3 Uses.

Besides the plat amendment review criteria required by YCC 19.34.070(7) and Chapter 58.17 RCW, YCC 19.30.030(3)(b)(iii) requires a consideration of the Type 3 review criteria in determining whether a requested plat alteration should be approved. The Type (3) review criteria in YCC 19.30.080(7) apply to this requested plat alteration in the following ways:

(1) The present and future needs of the community will be adequately served by the proposed development and the community as a whole will be benefited rather than injured (YCC 19.30.080(7)(a)): The community of Basalt Springs II will be adequately served and will be benefited rather than injured by a partial alteration of the building envelope on Lot 42 rather than a complete removal of the building envelope on that lot for the following reasons:

(a) The Basalt Springs II plat has been developed with a goal of preserving exceptional views of the valley through which the Naches River flows. Some of the lots are developed on a slope within the planned development. Building envelopes that were established and shown on the face of the plat were relied upon by purchasers in choosing which lot to purchase and how to orient their home within the building envelope on the lot in relation to the other nearby building envelopes in order to maximize their view and their privacy. The present and future needs of this

community would not be served by removing all of the lines of the building envelope on Lot 42 because no special circumstances exist to support a removal of the southern, eastern and most of the northern building envelope lines. The applicant commented in a July 28, 2025, email that “I am ok with just moving the back (WEST) set back like [line] to the easement. Whatever will allow me to keep my ‘unpermitted structures’ that is my only goal.”

(b) The evidence indicated that no views or privacy interests would be affected in any way by moving the rear (western) building envelope line westerly to the edge of the 40-foot wide access easement where a retaining wall and a steep hillside begins or by including a small portion of the garage that was constructed outside the northeastern portion of the building envelope pursuant to a building permit mistakenly issued by the County. To allow any other portions of the building envelope on Lot 42 to be removed or altered without special circumstances would set a precedent for the owners of all of the other lots within the subdivision to submit applications likewise requesting the County to completely remove all of their building envelopes without the need to show any special circumstances.

(c) This Hearing Examiner has previously approved a request to move one side of a building envelope in this plat because of special circumstances (*In the Matter of Kerry E. Stout, SUB 08-082 and PRJ 08-1216 dated February 9, 2009*). There the special circumstances were that the property owner desired to build a home outside a building envelope closer to two adjacent lots that were designated as common open space areas where no views would be potentially obstructed and no privacy interests would be harmed at that time or potentially in the future and where the Homeowners Association which also at that time was represented by Mr. Barrett had no objection. That decision did not set a precedent leading to the wholesale removal of all of the building envelopes established on the face of the plat, and this decision likewise is limited to special circumstances that avoid setting such a precedent.

(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 (YCC 19.30.080(7)(b)): A partial rather than complete alteration of the building envelope on Lot 42 would satisfy this criterion for the following reasons:

(a) With regard to the compatibility of the alteration of the Lot 42 building envelope with neighborhood land uses, moving the western (rear) portion of the building envelope line westerly to the edge of the 40-foot-wide access easement that

runs across the rear of Lot 42 and allowing it to include the northeastern portion of the approved garage that is currently outside the established building envelope would be compatible with neighborhood land uses because it would not affect views or privacy in any way at the present time or potentially in the future and because it would not set a precedent for the wholesale removal of all of the building envelopes on all of the other lots in the plat which have been relied upon to protect views and privacy by those who have purchased and developed lots in the plat in the past. Even though the Architectural Control Committee has the authority to make decisions regarding the placement of structures, building envelopes provide existing definite, fixed, measurable boundaries for the placement of structures that are known and fixed when one purchases a lot and which provide inherently consistent treatment that is difficult to achieve and maintain by means of Architectural Control Committee decisions that are made on a case-by-case basis under different sets of circumstances after a lot has already been purchased.

(b) With regard to the compatibility of the alteration of the Lot 42 building envelope with the goals, objectives and policies of the Comprehensive Plan, limiting the alteration of the building envelope on Lot 42 to the portion that clearly will not potentially affect views or privacy at the present time or potentially in the future because of the topography of the lot or other special circumstances is compatible with Goal LU-R 10 which is to provide areas where an independent, private lifestyle can be sustained. Even though Lot 42 was established in 1981 as part of a planned unit development and was considered to be legally established at that time, it was subsequently removed from that zoning district and is currently located within the R-10/5 zoning district and in the Rural Self-Sufficient Comprehensive Plan designation.

As such the lot is a legally established non-conforming lot even though it has a smaller lot size and a higher residential density than permitted under the Yakima County Code for properties located within the R-10/5 zoning district. The requested plat alteration will not modify the size of the lot, adjust the density of the plat as a whole or increase the lot's non-conformance with Yakima County Code, but will instead be consistent with the Rural Self-Sufficient Comprehensive Plan designation by providing areas where an independent, private lifestyle can be sustained by permitting property owners to better utilize undersized lots to suit their family's needs.

(c) With regard to compatibility of the alteration of the Lot 42 building envelope with the legislative intent of the zoning district, the site is within the Rural-

10/5 (R-10/5) zoning district. Surrounding parcels are also within that zoning district and vary in size from 0.9 acres to 2.24 acres. The area has been primarily developed with moderate-to-low density residential uses consisting of single-family residences and associated accessory buildings. An alteration of a portion of the existing building envelope on Lot 42 that would not potentially affect views or privacy would be compatible with the legislative intent of the Rural-10/5 zoning district which is in part to maintain the rural character of the area.

(3) The site of the proposed use is adequate in size and shape to accommodate the proposed use (YCC 19.30.080(7)(c)): The 0.81-acre lot is more than adequate in size and shape to allow the rear western building envelope line to be moved further westerly to the edge of the access easement across the rear of the lot and to include the portion of the garage that was issued a building permit to be located partially outside the northeastern portion of the building envelope without affecting any views or the privacy of any residents.

(4) All setbacks, spaces, walls and fences, parking, loading, sitescreening, landscaping and other features required by this Title (YCC 19.30.080(7)(d)): Other than the applicant's request for an Administrative Adjustment of the 50-foot building setback from the centerline of the access easement across the rear of the lot, a partial alteration of the building envelope on Lot 42 would not affect the lot's compliance with the requirements of YCC Title 19 relative to spaces, walls, fences, parking, loading, sitescreening, landscaping and its compliance with other features required by YCC Title 19.

(5) The proposed use complies with other development and performance standards of the zoning district and this Title (YCC 19.30.080(7)(e)): Other than the applicant's request for an Administrative Adjustment to the setback from the centerline of the access easement, a partial alteration of the building envelope on Lot 42 would not affect the lot's compliance with other development and performance standards of the Rural-10/5 zoning district and of YCC Title 19.

(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 (YCC 19.30.080(7)(f)): A partial alteration of the building envelope on Lot 42 would not affect the adequacy of the width and pavement type of streets and highways to carry the quantity and quality of traffic generated by Lot 42 or by the Basalt Springs II plat.

(7) The proposed use will have no substantial adverse effect on abutting property or the permitted use thereof (YCC 19.30.080(7)(g)): A total removal of the building

envelope on Lot 42 could have a substantial adverse effect on abutting property and the permitted use thereof by eventually resulting in the removal of other building envelopes in the plat without a showing of special circumstances even though they have been relied upon to preserve views and privacy by purchasers and developers in the past. Even though the Homeowners Association has an Architectural Control Committee with authority to review the proposed construction of structures within the plat, the existing building envelopes provide a much more definite, consistent and enforceable method of preserving the existing views and privacy features of the plat that are understandably relied upon by purchasers and developers. The partial alteration of the building envelope on Lot 42 to move the rear building envelope line westerly to the edge of the access easement that runs across the rear of the lot and to include the portion of the garage that was partially located outside the northeastern portion of the building envelope pursuant to an approved building permit would be based on special circumstances such as the topography of that portion of the lot and the fact that it would not affect views or privacy in any way.

(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 adjacent properties (YCC 19.30.080(7)(h)): A partial alteration of the building envelope on Lot 42 that is limited to the westerly line and a portion of the northerly line would not add a residential use or be adverse to the public health, safety and general welfare for the area because it would be based on special circumstances and would not adversely affect any views or privacy interests.

(9) The development complies with all criteria in Chapter 19.18 applicable to the proposed use, unless otherwise administratively adjusted (YCC §19.30.080(7)(i)): There are no criteria set forth in YCC Chapter 19.18 that are applicable to the requested plat alteration.

IX. Administrative Adjustment Criteria Required by YCC 19.35.020. The Yakima County Code requires a fifty (50) foot building setback from the centerline of an easement for a private road. The applicant is requesting an Administrative Adjustment to this requirement to permit residential accessory structures up to the edge of the existing 40-foot-wide access easement over the rear portion of Lot 42 which in effect would reduce the

setback by 30 feet. Approval of this Administrative Adjustment is required in order to implement the requested plat alteration to move the western rear building envelope line further west to the edge of the private road easement. The existing single-family residence located on the lot was constructed approximately 37.5 feet from the centerline of the easement, and a deck and a lean-to have been constructed even closer to the edge of the easement. In order to approve an Administrative Adjustment of the YCC Table 19.11.030-2 setback standards, YCC 19.35.020 requires that it must be consistent with:

(1) The purpose and intent of Comprehensive Plan policies that relate to the specific adjustment being proposed and this Title. An adjustment of the setback from the centerline of the access easement across Lot 42 to allow structures up the edge of the 40-foot-wide access easement where a retaining wall and the steep slope of a hill are located and where no views or privacy interests would be adversely affected at the present time or potentially in the future would be consistent with Goal LU-R 10 which is to provide areas where an independent, private lifestyle can be sustained. The requested setback adjustment would also be consistent with the purpose and intent of YCC Title 19 so long as it satisfies the criteria for approval of an Administrative Adjustment.

(2) The purpose and intent of the specific zoning district and the standard being adjusted. An adjustment of the rear setback of Lot 42 to allow structures up to the edge of an access easement where there is a retaining wall and a steep slope that would not potentially affect views or privacy would be consistent with the purpose and intent of the Rural-10/5 zoning district which is in part to maintain the rural character of the area and would also be consistent with the purpose and intent of the applicable setback standard to require buildings to be a sufficient distance away from travelled ways. Here the retaining wall and the steep slope which are at the east edge of the access easement and at the west edge of the developed portion of the back yard would serve that purpose.

(3) Maintaining the minimum administrative adjustment necessary to accommodate the proposed use. Since the covered deck and the lean-to addition to an attached garage are shown on the site plan to be between the rear of the home and about one foot from the eastern edge of the access easement, allowing such structures between the home and the easement is the minimum Administrative Adjustment necessary to accommodate the location of those structures.

(4) Balancing the flexibility of the administrative adjustment with the health, safety and general welfare of individual neighborhoods and the community. As part of the Administrative Adjustment process, neighboring property owners within 300 feet of the subject property were notified of the project, as were various agencies. No comments were received from neighboring residents or from notified agencies in opposition to the setback adjustment. The harmless nature of the normal and usual accessory residential structures shown on the site plan to be located between the applicant's home and the eastern edge of the access easement which are not noticeable from the private road in front of the home, which are located near a retaining wall and a steep hill, which will not potentially affect any views or privacy interests of any homes further up the hill, and which have not been opposed by any neighbors or agencies are special circumstances which on balance outweigh any adverse effect they could possibly be imagined to have on the health, safety and general welfare of the neighborhood or the community.

(5) The placement or design of structures will maximize solar access for the production of solar energy. This requested adjustment to the setback requirement from the centerline of the access easement on Lot 42 does not involve an adjustment to the placement or design of structures to maximize solar access for the production of solar energy.

X. Consistency of the Proposed Use with Development Regulations and the Comprehensive Plan (YCC 16B.06.020 and RCW 36.70B.040): A partial alteration of the building envelope on Lot 42 of the Basalt Springs II subdivision and an Administrative Adjustment of the setback distance from the centerline of an access easement across the rear of that lot must be consistent with applicable development regulations and the adopted Comprehensive Plan. RCW 36.70B.040 provides that this consistency should be determined in the project review process by considering four factors which are found in applicable plans and regulations. Those four factors include consistency with the type of land use and level of development permitted at the site, as well as provisions for needed infrastructure and compliance with development standards. Those factors apply to the requested plat alteration and the requested setback adjustment in the following ways:

(1) The type of land use permitted at the site: The residential use of Lot 42, the alteration of a building envelope on Lot 42, and the adjustment of a setback on Lot 42 are all permitted at the site so long as the criteria for approval are satisfied.

(2) The level of development, such as units per acre, density of residential development or other measures of density: The proposal is not increasing residential density. The level of development consists of permissible legal nonconforming lot sizes due to the change in the zoning of the plat from the former Planned Unit Development zoning to the Rural-10/5 zoning.

(3) Infrastructure, including public facilities and services needed to serve the development: The lots within the plat of Basalt Springs II are provided with the necessary infrastructure, public facilities and services, and neither the plat alteration nor the setback adjustment will require additional infrastructure, public facilities or services.

(4) The characteristics of the development, such as development standards. The characteristics of the development will be consistent and compatible with applicable development standards, including the adjusted setback standard, and with the purpose and intent of the Rural-10/5 zoning district so long as all conditions are met and all applicable development requirements are continually adhered to.

CONCLUSIONS

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

(1) The Hearing Examiner has jurisdiction to approve a Type 3 Plat Alteration with an Administrative Adjustment under the circumstances prescribed by the Yakima County Unified Land Development Code, which circumstances here warrant approval of a partial alteration to move the western building envelope line at the rear of Lot 42 to the eastern edge of the access, utility and irrigation easement across the rear of Lot 42 and to include the northeastern portion of an approved garage to be included within the existing building envelope, as well as to adjust the setback from the centerline of the easement on Lot 42 in order to allow structures to be located between the home and the retaining wall and hillside.

(2) The public notice requirements for the open record public hearing which were required for Type 3 review of the requested plat alteration and for consideration of the consolidated Administrative Adjustment application have been satisfied.

(3) The application materials and comments received include evidence and analysis that support a conclusion that a partial alteration of the building envelope shown on Lot 42 of the Basalt Springs II plat and an adjustment of the building setback distance from the centerline of an access easement across that lot, if appropriately conditioned, will be consistent with the development standards in YCC Title 19.

(4) A partial alteration of the Lot 42 building envelope and an adjustment of the building setback distance from the centerline of an access easement across that lot, as conditioned by this decision, satisfy the criteria for their approval set forth in YCC 19.34.070(7), RCW 58.17.215, YCC 19.30.030(3)(b)(iii), YCC 19.30.080(7), YCC 19.35.020 and YCC 16B.06.020.

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

DECISION

A Type 3 Plat Alteration to move the rear western building envelope line on Lot 42 of the Basalt Springs II plat further west to the eastern edge of the 40-foot-wide access, utility and irrigation easement across the rear of the lot and to include within the building envelope the northeastern portion of a garage that was constructed partially outside the building envelope pursuant to a building permit that was issued by mistake, as well as an Administrative Adjustment of the building setback distance from the centerline of the access easement across the rear of the lot to allow structures to be located between the home and the

eastern edge of said access easement, are **APPROVED** subject to compliance with the following conditions:

(1) The conditions of approval must be completed within five (5) years of the date of this Hearing Examiner's decision. *Please note that this Hearing Examiner's decision with this time limit pertains to this conditional land use action authorized for the plat amendment and the setback adjustment only, and does not include timelines associated with other permits (for example building permits).* Failure to comply with all conditions will result in the revocation of this permit. This Hearing Examiner's Final Decision includes the following conditions and the above findings as described.

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

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

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

(5) The Final Subdivision Application showing the altered building envelope on Lot 42 shall consist of:

(a) A survey of Lot 42 of the final amended plat meeting the requirements of YCC 19.34.070 and consisting of the original Mylar (or equivalent material, paper or other form acceptable to the County Auditor) and five paper copies (YCC 19.34.070(4));

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

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

(6) 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 this decision and any authorized extensions.

The property is subject to the notes of the original plat, which must be placed on the face of the final Lot 42 Plat Amendment, except as amended below. The following notes are to amend the original notes and must be placed on the final plat amendment by the surveyor:

(1) Lot 45 is open space and is reserved for the benefit of the BASALT SPRINGS home owners as described in the final Planned Development Plan and Progress recorded under Auditor's File No. 2611028 and not for sale or lease.

(2) Purchasers and lessees of property in the Basalt Springs Planned Development shall take such property subject to, and hereby are notified that, agricultural and horticultural operations are being conducted upon land in the immediate vicinity of the Basalt Springs Planned Development. Such operations include those activities which are normally associated with agricultural and horticultural operations, and may result in the emission of mechanical sounds, the emission of odors, periodic blowing dust, spraying, the drifting or deposit of agricultural chemicals, the generation of agricultural traffic, and other physical, visual, auditory, and olfactory effects normally associated with such pursuits. The agricultural and horticultural operations in the immediate vicinity of the Basalt Springs Planned Development, and the resulting effects of them, are likely to continue and expand.

(3) The private roads serving this planned development will be maintained by the BASALT SPRINGS HOMEOWNERS ASSOCIATION and will not be maintained by Yakima County until sufficient right-of-way is dedicated, said roads are improved to minimum County standards, and accepted by Yakima County.

(4) The recorded plat of BASALT SPRINGS II is subject to the Basalt Springs Planned Development Plan and Program, which controls the development and usage of property within the recorded plat, unless explicitly modified as a result of the plat amendment and administrative adjustment approved by the recording of this plat amendment.

The property will be subject to the following additional notes which must be placed on the final Lot 42 Plat Amendment by the surveyor:

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

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

(7) In accordance with the procedures set forth in RCW 58.17.215, the Yakima County Hearing Examiner approved this plat alteration of the building envelope on Lot 42 of the Basalt Springs II subdivision and approved a requested administrative adjustment of the setback distance from the centerline of the access easement across the rear of said Lot 42 by a decision dated September 25, 2025. As approved, the rear western building envelope line was moved further west to the east edge of the 40-foot-wide access, utility and irrigation easement across the rear of the lot and was also enlarged to include the northeasterly portion of an approved garage that was constructed partially outside the original northeastern portion of the building envelope line. The building setback distance from the centerline of the access easement across the rear of Lot 42 was also adjusted to allow structures to be located between the home and the east edge of said access easement across the rear of said lot. The approved alterations to the subject plat are limited to Lot 42 of the plat, and should not be considered to be applicable to other lots or parcels within the plat.

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

(9) In accordance with the procedures set forth in RCW 58.17.215, the Yakima County Hearing Examiner approved this plat alteration by a decision dated September 25, 2025. In that decision, the Hearing Examiner authorized the Subdivision Administrator to sign the final Lot 42 Plat Amendment for the amended plat of Basalt Springs II in lieu of the Hearing Examiner.

DATED this 25th day of September, 2025.



Gary M. Cuillier, Hearing Examiner